MISSOURI'S FREE-MARKET POLICY GUIDE

UNLOCKING THE BLUEPRINT

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The Show-Me Institute is dedicated to promoting liberty and individual responsibility by advancing market-based solutions to Missouri's most pressing policy challenges. We believe in a future where Missourians are empowered to pursue their dreams, where families have the freedom to choose the best education for their children, and where a thriving economy provides opportunities for all to prosper.

Missouri's Free-Market Policy Guide outlines key areas where targeted, well-researched reforms can make a meaningful difference in the lives of Missourians. From expanding educational opportunities and empowering parents to choose their children's schools to fostering greater economic freedom and accountability in government spending, the policies in this plan aim to create a more prosperous and dynamic Missouri. Each section offers a clear analysis of current challenges, explores solutions grounded in research and facts, and presents actionable recommendations for policymakers.

At the Show-Me Institute, we believe that with these reforms, Missouri can look forward to a future of greater opportunity, stronger communities, and a more vibrant economy.

EXPANDING ACCESS TO CHARTER SCHOOLS

The Policy

Education entrepreneurs throughout the state should be able to go to the Missouri Public Charter School Commission for sponsorship and not be limited to their local school board.

The Facts

Across the U.S. there are nearly 1,000 rural charter schools and over 2,000 suburban charter schools. Of the 43 states with charter schools, Missouri is the only one with no rural or suburban charters.

A 2023 Stanford University study found that "the typical charter school student had reading (16 days of learning) and math (6 days of learning) gains that outpaced their peers in the traditional public schools that they would have attended."

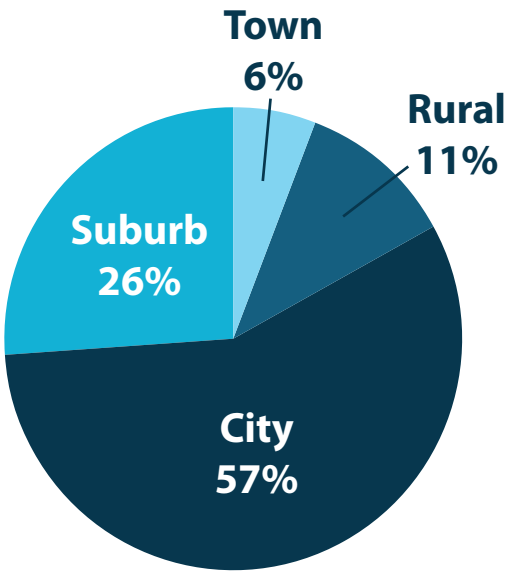
According to a recent survey, 65 percent of all Missouri adults and 71 percent of Missouri parents support charter schools.

Two of the top 10 high schools in the United States, according to the U.S. News 2024 High School Rankings report, are charter schools.

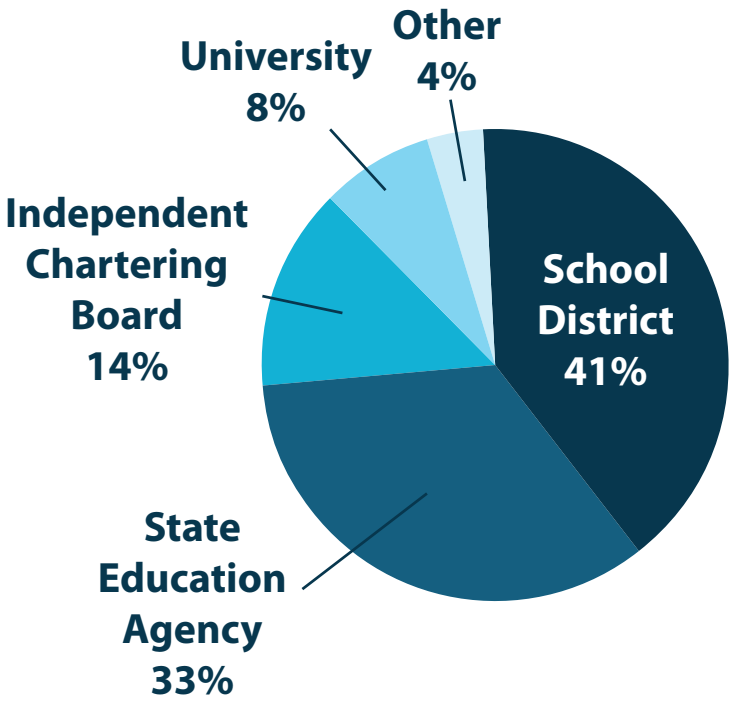
Charter School Policy Checklist

- No limits on the number of charter schools or charter school students
- No restrictions on where charter schools can be located
- Fully funding charter school students just like their peers in traditional public schools
- An appeals process for charter school applicants denied sponsorship by their local school board in fully accredited districts

Nearly Half of All Charter Schools Are Outside of Urban Areas



Almost Half of All Charter Schools Are Authorized by Local School Boards



Show-Me Institute
Where Liberty Comes First

Talk to a Policy Expert

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EXPANDING CHARTER SCHOOLS THROUGHOUT MISSOURI

By Susan Pendergrass

KEY TAKEAWAYS

- Charter schools are public schools that operate independently of a school district school board. They are authorized (sponsored) for a limited period of time during which they must demonstrate success if they are to continue. They offer families a public school option other than their assigned public school.
- One out of every 12 U.S. public schools is now a charter school, and these schools enroll 3.7 million public school students.
- While charter schools may be sponsored by universities, state charter school boards, or state departments of education, approximately half of them are sponsored by local school districts.
- Last year, there were over 2,100 suburban charter schools and over 1,400 in rural and small-town school districts across the United States. Missouri is the only state with charter schools that has no suburban or rural charter schools.
- A high-quality 2023 study by Stanford University found that charter school students have higher academic growth in reading and math than they would have had if they had attended their assigned traditional public schools. A 2021 study by researchers at Northwestern University found that competition from the opening of a new charter school improves reading performance and decreases absenteeism among students who remain in their traditional public school.

BACKGROUND

Charter schools were first proposed in the late 1980s as a way for teachers to become education entrepreneurs. The idea was to give those with innovative education proposals a charter to run a school for a limited period of time while freeing them from many state and local regulations. It was up to the operator and board of the chartered school to fill the seats and meet specified performance goals or face closure. Since the first charter school opened in 1992, this sector of the public education system has grown to nearly 7,850 schools serving 3.7 million students.

Charter schools are, by definition, unique. In a recent study, about one third were found to have a specialized curriculum, such as STEM (science, technology, engineering, and math), STEAM (STEM plus arts), classical, language immersion, or career and technical education.[1] Another third of charter schools were found to have a specialized approach to teaching and learning, such as personalized learning, "no excuses," project-based learning, or Montessori. A third type of charter school was identified as serving a specific student population, such as dropout recovery, single sex, or students with disabilities.

In every state other than Missouri that has charter schools, they can be found in all community types. In the 2022–23 school year, there were over 2,100 suburban charter schools and over 1,400 charter schools in rural and small-town school districts.[2] A study of rural

charter schools found that the number of schools grew by 22 percent in the decade between 2007 and 2017, while the number of students attending rural charters grew by 64 percent.[3]

Key factors for successful charter schools, according to this research, are strong ties to the local community, filling a gap in the education offered, and consistent school leadership.

Research has found that curriculum really matters to suburban parents, and suburban charter schools often offer a curriculum that is more rigorous or open and creative than in traditional public schools.[4] As an example, BASIS Charter Schools offers a "STEM-infused, liberal arts curriculum." All 11 of its high schools are nationally ranked, with 10 in the top one percent of high schools, according to US News & World Report in 2022.[5] Over 86 percent of BASIS high school students passed an Advanced Placement exam in 2021, compared to just 12 percent of all Missouri high school students, and they have a 100 percent college acceptance rate.

Because of the wide variation among charter schools in instruction methods and subject specialties, it can be difficult to determine if charter schools outperform traditional public schools. However, the Stanford Center for Research on Education Outcomes (CREDO) has been studying this issue for over 15 years. Their approach is to create a "virtual twin" for each charter school student by matching their characteristics and academic achievement to several students from the traditional public school to which the charter student would otherwise be assigned. Differences in academic growth can then be attributed to the type of school attended. The most recent study found that, on average, charter school students gained an additional six days of learning in math and 16 days of learning in reading (based on a typical 180-day school year) over what they would have received if they had attended their assigned public school.[6] This finding applies to the entire sector of charter schools, not just those in low-performing districts.

Equally important is the impact that opening a charter school can have on traditional public schools. In a 2021 study of Florida conducted by researchers at Northwestern University, it was found that opening a charter school significantly improved reading scores and decreased absenteeism in the traditional public schools in the same district.[7]

A second study on the competitive effects of charter schools found that once charter schools enroll 10 percent of a district's students, graduation rates along with math and reading scores in all schools, charter and traditional, improve.[8] The authors of this study tested and confirmed that the opening of a charter school may lead to the closing of a traditional public school. Not surprisingly, it is most likely that low-performing schools will close, as those are the ones that students are most eager to leave. When a low-performing district school is replace by a higher-quality charter school, overall performance of the students in the district improves.

What Does This Mean for Missouri?

The law allowing charter schools in Missouri was passed in 1998 and focused on providing options for students in our lowest-performing districts beyond transferring to another district. The original law was amended in 2012 to allow charter schools to open in any district, but there was a condition attached: in fully accredited districts, the local school board had to be the sponsor of any charter schools. Unfortunately, the first decade of charter schools in Missouri created a mindset that the purpose of charter schools is to punish low-performing schools or to provide a way for students to escape them. Twenty-five years later, Missouri finally amended the law to allow charter schools to open in Boone County (only) without local school board sponsorship. It's time to drop any geographic restrictions and allow all Missourians, regardless of where they live, to take advantage of the benefits and opportunities that charter schools can provide.

Ideally, this mindset change would happen within the existing law by breaking the entrenched attitude toward district sponsorship. Imagine a suburban Missouri district that is slowly bleeding students, as most districts in the state are. Bringing in a high-quality charter operator with a proven track record, such as a classical school or a STEM school, could provide a whole-school setting, not just a program within a school, that attracts families to the community. A forward-thinking school board could see the opportunity to be a leader in its region.

Surprisingly, this has not yet happened. Unfortunately, education entrepreneurs, including local parent groups, who want to open a charter school must ask their local school board to sponsor the school. While that is the most common arrangement nationwide, the early

approach to charter schools in Missouri rendered this a non-starter. The need to apply only to the local school board in order to open a charter school in an accredited district should be eliminated from the law.

CONCLUSION

In the past two years, dozens of states have expanded education options for parents. Several of Missouri's neighbors, including Iowa, Arkansas, Oklahoma, and Kansas, have extended school choice to nearly every family in these states. Yet Missouri continues to stand on the increasingly lonely hill of "assigned school only." Missouri families can choose a full-time virtual option, and a few thousand students can now get publicly funded scholarships to private schools. However, 99 percent of Missouri children outside of Kansas City and St. Louis continue to have exactly one in-person option, whether it's a good fit for them or not.

To be clear, this is not a discussion of whether a school is "good" or "not good." Rather, the issue is whether that school is a good fit for a particular student. One can easily imagine a school that is too big, too small, too impersonal, has the wrong social environment, or doesn't offer the needed coursework for a given child.

Charter schools offer a way to expand options within the public school system. They can be an addition to a traditional school district's offerings, not a competitor. In many districts, charters share transportation, special education, and other services. Missouri can help change the perspective on charter schools by allowing applicants outside of the lowest-performing districts to go around the local school board for sponsorship.

Susan Pendergrass is the director of education policy for the Show-Me Institute

NOTES

1. Jamison White and Lifei Huang. A Census of All Specialized Charter School Foci and Models

   Journal of School Choice 16 (1) 2021; https://www.tandfonline.com/doi/full/10.1080/15582159.2021.1995692.

2. U.S. Department of Education, National Center for Education Statistics (NCES). Common Core of Data (CCD), 2021–22: https://nces.ed.gov/ccd.

3. Kelly Robson. Three Factors Critical to Rural Charter School Success. Education Next, September 11, 2019; https://www.educationnext.org/three-factors-critical-rural-charter-schools-success.

4. Susan Pendergrass. "Charter Schools 101: Why Would We Need Charters in Suburban, Rural, or "Good" Districts?" Show-Me Institute, March 15, 2018.

5. USNews & World Report. Find the Best High Schools; https://www.usnews.com/education/best-high-schools.

6. Margaret Raymond et al. As a Matter of Fact: The National Charter School Study III 2023. Stanford CREDO, June 19, 2023; https://ncss3.stanford.edu/wp-content/uploads/2023/06/Credo-NCSS3-Report.pdf.

7. David N. Figlio et al. Competitive Effects of Charter Schools. Institute of Labor Economics, July 2021, https://conference.iza.org/conference_files/edu_2021/karbownik_k7512.pdf

8. Douglas Harris and Feng Chen. The Bigger Picture of Charter School Results. Education Next, April 18, 2022; https://www.educationnext.org/bigger-picture-charter-school-results-national-analysis-system-level-effects-test-scores-graduation-rates.

CHARTER SCHOOL MODEL POLICY

Missouri has several options for expanding charter schools if it has the will to do so. One simple option is to modify existing law to allow the Missouri Public Charter School Commission to review charter school applications that have been rejected by local school boards.

In the model policy that follows, **bold type** *is used to indicate text added to a current statute, and* ~~[struck through text enclosed within brackets]~~ *indicates material that would be removed.*

160.400. Charter schools, defined, St. Louis City and Kansas City school districts — sponsors — use of public school buildings — organization of charter schools — affiliations with college or university — criminal background check required. —

1. A charter school is an independent public school.

2. Except as further provided in subsection 4 of this section, charter schools may be operated **in any district in the state.**~~[only:~~

~~(1) In a metropolitan school district;~~

~~(2) In an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants;~~

~~(3) In a school district that has been classified as unaccredited by the state board of education;~~

~~(4) In a school district that has been classified as provisionally accredited by the state board of education and has received scores on its annual performance report consistent with a classification of provisionally accredited or unaccredited for three consecutive school years beginning with the 2012-13 accreditation year under the following conditions:~~

~~(5) In a school district that has been classified as fully accredited.~~

~~(a) The eligibility for **charter school**s of any school district whose provisional accreditation is based in whole or in part on financial stress as defined in sections 161.520 to 161.529, or on financial hardship as defined by rule of the state board of education, shall be decided by a vote of the state board of education during the third consecutive school year after the designation of provisional accreditation; and~~

~~(b) The sponsor is limited to the local school board or a sponsor who has met the standards of accountability and performance as determined by the department based on sections 160.400 to 160.425 and section 167.349 and properly promulgated rules of the department; or~~

~~(6) In a school district that has been accredited without provisions, sponsored [only] by the local school board~~ **except for charter school applicants denied by the local school board which appeal to the Missouri Charter Public School Commission for sponsorship and are approved;** ~~provided that no [board]~~ **district** ~~with a current year enrollment of one thousand five hundred fifty students or greater shall permit more than thirty-five percent of its student enrollment to enroll in charter schools [sponsored by the local board under the authority of this subdivision], except that this restriction shall not apply to any school district that subsequently becomes eligible under subdivision (3) or (4) of this subsection or to any district accredited without provisions that sponsors charter schools prior to having a current year student enrollment of one thousand five hundred fifty students or greater.]~~

3. Except as further provided in subsection 4 of this section, the following entities are eligible to sponsor charter schools:

(1) The school board of the district in any district which is sponsoring a charter school as of August 27, 2012, as permitted under subdivision (1) or (2) of subsection 2 of this section, the special administrative board of a metropolitan school district during any time in which powers granted to the district's board of education are vested in a special administrative board, or if the state board of education appoints a special administrative board to retain the authority granted to the board of education of an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants, the special administrative board of such school district;

(2) A public four-year college or university with an approved teacher education program that meets regional or national standards of accreditation;

(3) A community college, the service area of which encompasses some portion of the district;

(4) Any private four-year college or university with an enrollment of at least one thousand students, with its primary campus in Missouri, and with an approved teacher preparation program;

(5) Any two-year private vocational or technical school designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended, and accredited by the Higher Learning Commission, with its primary campus in Missouri;

(6) The Missouri charter public school commission created in section 160.425.

4. Changes in a school district's accreditation status that affect charter schools shall be addressed as follows, except for the districts described in subdivisions (1) and (2) of subsection 2 of this section:

(1) As a district transitions from unaccredited to provisionally accredited, the district shall continue to fall under the requirements for an unaccredited district until it achieves three consecutive full school years of provisional accreditation;

(2) As a district transitions from provisionally accredited to full accreditation, the district shall continue to fall under the requirements for a provisionally accredited district until it achieves three consecutive full school years of full accreditation;

(3) In any school district classified as unaccredited or provisionally accredited where a charter school is operating and is sponsored by an entity other than the local school board, when the school district becomes classified as accredited without provisions, a charter school may continue to be sponsored by the entity sponsoring it prior to the classification of accredited without provisions and shall not be limited to the local school board as a sponsor.

(4) A charter school operating in a school district identified in subdivision (1) or (2) of subsection 2 of this section may be sponsored by any of the entities identified in subsection 3 of this section, irrespective of the accreditation classification of the district in which it is located. A charter school in a district described in this subsection whose charter provides for the addition of grade levels in subsequent years may continue to add levels until the planned expansion is complete to the extent of grade levels in comparable schools of the district in which the charter school is operated.

5. The mayor of **any** [~~a~~] city [~~not within a county~~] may request a sponsor under subdivision (2), (3), (4), (5), or (6) of subsection 3 of this section to consider sponsoring a "workplace charter school", which is defined for purposes of sections 160.400 to 160.425 as a charter school with the ability to target prospective students whose parent or parents are employed in a business district, as defined in the charter, which is located in the city.

6. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

7. The charter school shall be organized as a Missouri nonprofit corporation incorporated pursuant to chapter 355 . The charter provided for herein shall constitute a contract between the sponsor and the charter school.

8. As a nonprofit corporation incorporated pursuant to chapter 355, the charter school shall select the method for election of officers pursuant to section 355.326 based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030.

9. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

10. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 3 of this section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. A university, college or community college may not charge or accept a fee for affiliation status.

11. The expenses associated with sponsorship of charter schools shall be defrayed by the department of elementary and secondary education retaining one and five-tenths percent of the amount of state and local funding allocated to the charter school under section 160.415 , not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. The department of elementary and secondary education shall remit the retained funds for each charter school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship obligations under sections 160.400 to 160.425 and 167.349 with regard to each charter school it sponsors, including appropriate demonstration of the following:

(1) Expends no less than ninety percent of its charter school sponsorship funds in support of its charter school sponsorship program, or as a direct investment in the sponsored schools;

(2) Maintains a comprehensive application process that follows fair procedures and rigorous criteria and grants charters only to those developers who demonstrate strong capacity for establishing and operating a quality charter school;

(3) Negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences based on the annual performance report, and other material terms;

(4) Conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law; and

(5) Designs and implements a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions.

12. Sponsors receiving funds under subsection 11 of this section shall be required to submit annual reports to the joint committee on education demonstrating they are in compliance with subsection 17 of this section.

13 No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

14. No sponsor shall grant a charter under sections 160.400 to 160.425 and 167.349 without ensuring that a criminal background check and family care safety registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incor-

poration, nor shall a sponsor renew a charter without ensuring a criminal background check and family care safety registry check are conducted for each member of the governing board of the charter school.

15. No member of the governing board of a charter school shall hold any office or employment from the board or the charter school while serving as a member, nor shall the member have any substantial interest, as defined in section 105.450 , in any entity employed by or contracting with the board. No board member shall be an employee of a company that provides substantial services to the charter school. All members of the governing board of the charter school shall be considered decision-making public servants as defined in section 105.450 for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489.

16. A sponsor shall develop the policies and procedures for:

(1) The review of a charter school proposal including an application that provides sufficient information for rigorous evaluation of the proposed charter and provides clear documentation that the education program and academic program are aligned with the state standards and grade-level expectations, and provides clear documentation of effective governance and management structures, and a sustainable operational plan;

(2) The granting of a charter;

(3) The performance contract that the sponsor will use to evaluate the performance of charter schools. Charter schools shall meet current state academic performance standards as well as other standards agreed upon by the sponsor and the charter school in the performance contract;

(4) The sponsor's intervention, renewal, and revocation policies, including the conditions under which the charter sponsor may intervene in the operation of the charter school, along with actions and consequences that may ensue, and the conditions for renewal of the charter at the end of the term, consistent with subsections 8 and 9 of section 160.405;

(5) Additional criteria that the sponsor will use for ongoing oversight of the charter; and

(6) Procedures to be implemented if a charter school should close, consistent with the provisions of subdivision (15) of subsection 1 of section 160.405.

The department shall provide guidance to sponsors in developing such policies and procedures.

17. (1) A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.425 and section 167.349. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.425 and 167.349 for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board shall evaluate sponsors to determine compliance with these standards every three years. The evaluation shall include a sponsor's policies and procedures in the areas of charter application approval; required charter agreement terms and content; sponsor performance evaluation and compliance monitoring; and charter renewal, intervention, and revocation decisions. Nothing shall preclude the department from undertaking an evaluation at any time for cause.

(2) If the department determines that a sponsor is in material noncompliance with its sponsorship duties, the sponsor shall be notified and given reasonable time for remediation. If remediation does not address the compliance issues identified by the department, the commissioner of education shall conduct a public hearing and thereafter provide notice to the charter sponsor of corrective action that will be recommended to the state board of education. Corrective action by the department may include withholding the sponsor's funding and suspending the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school until the sponsor is reauthorized by the state board of education under section 160.403.

(3) The charter sponsor may, within thirty days of receipt of the notice of the commissioner's recommendation, provide a written statement and other documentation to show cause as to why that action should not be taken. Final determination of corrective action shall be determined by the state board of education based upon a review of the documentation submitted to the department and the charter sponsor.

(4) If the state board removes the authority to sponsor a currently operating charter school under any provision of law, the Missouri charter public school commission shall become the sponsor of the school.

18. If a sponsor notifies a charter school of closure under subsection 8 of section 160.405, the department of elementary and secondary education shall exercise its financial withholding authority under subsection 12 of section 160.415 to assure all obligations of the charter school shall be met. The state, charter sponsor, or resident district shall not be liable for any outstanding liability or obligations of the charter school.

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(L. 1998 S.B. 781 § 4, A.L. 2005 S.B. 287, A.L. 2009 S.B. 291, A.L. 2012 S.B. 576, A.L. 2016 S.B. 638)

IMPROVING THE MOSCHOLARS PROGRAM

The Policy

Empowerment scholarship accounts (ESAs) allow families to use their state education dollars to tailor their children's education, either by paying for private school tuition or by covering educational costs associated with homeschooling or microschools.

The Facts

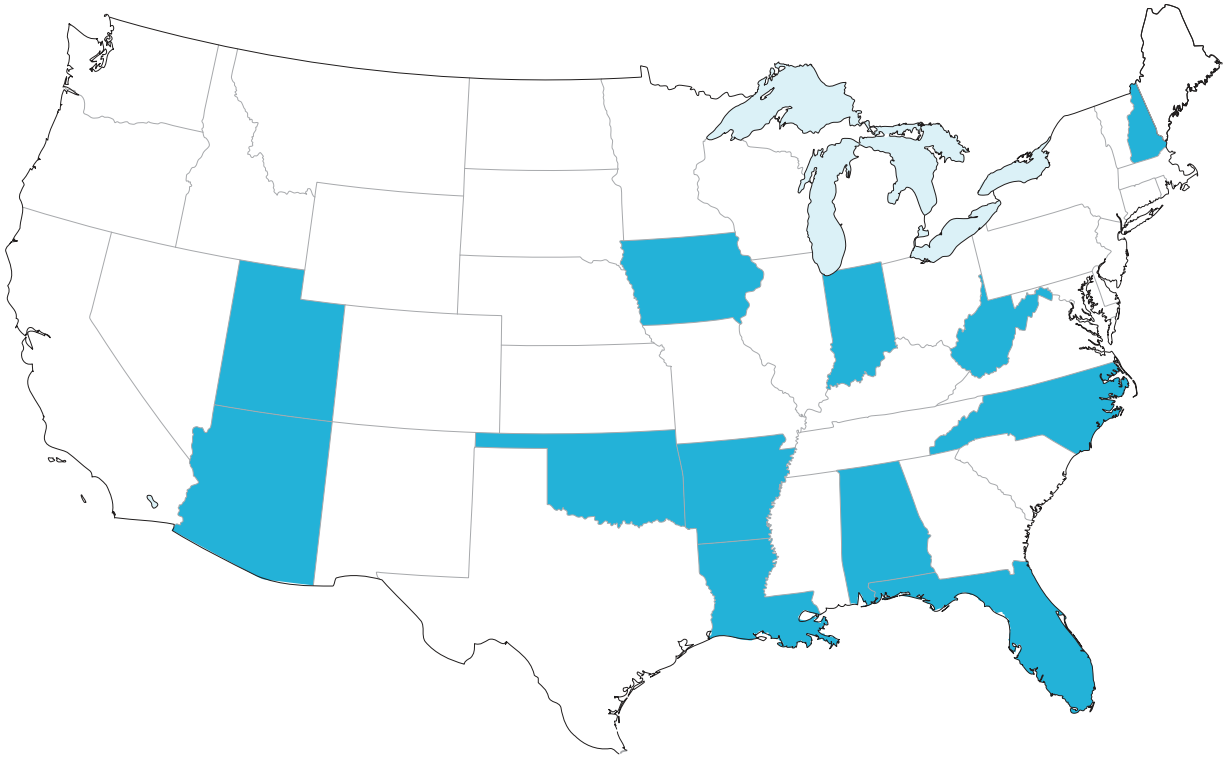
The existing MOScholars program requires scholarship-granting organizations to raise the scholarship dollars by soliciting tax-credit-eligible donations.

The state's current formula for determining the amount of state funds a district receives sends $175M to $200M per year to districts for students that are no longer attending school. This money could publicly fund at least 25,000 ESAs.

Good ESA Policy Checklist

✔ Missouri should commit to publicly funding at least the first $75 million in scholarships.

Within the last four years, twelve states - Alabama, Arizona, Arkansas, Florida, Indiana, Iowa, Louisiana, New Hampshire, North Carolina, Oklahoma, Utah, and West Virginia - have passed laws to give all parents access to their state dollars for school choice.



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KEY TAKEAWAYS

- Although the MOScholars scholarship program has no public funding, it was able to award scholarships to 2,000 students in the 2023–24 school year. For that year, only $16.6 million in donations was received—not even close to the $25 million limit.
- In the last four years, 13 states have enacted universal school choice programs that allow every, or nearly every, family to take their state funding to the school of their choice. These states are Alabama, Arizona, Arkansas, Florida, Indiana, Iowa, Louisiana, New Hampshire, North Carolina, Oklahoma, Tennessee, Utah, and West Virginia.
- Shortcomings in Missouri's foundation funding formula resulted in $200 million in state funds being directed to districts for students who were not enrolled there. A portion of these funds could be used to publicly fund the first $75 million in MOScholars scholarships.

BACKGROUND

In 2021, the Missouri Legislature passed House Bill 349 and Senate Bill 86. These bills established the Missouri educational scholarship program, MOScholars. The program gives dollar-for-dollar tax credits to individuals and businesses that donate to one of six approved scholarship-granting organizations, also known as educational assistance organizations (EAOs). These EAOs can then give scholarships to qualified students who apply for them.

Initially, scholarship recipients had to live in one of five counties with a charter form of government or in one of the 10 cities in the state that have at least 30,000 residents. Eligibility was also restricted to students who lived in a family with a household income that is no more than 185 percent of the federal poverty line (the same threshold to qualify for free or reduced-price lunch) or be identified as having a disability. In 2024, the legislature expanded the program statewide and raised the income limitation to a level that makes 85 percent of students in the state eligible.

While it is good that most Missouri students can now access this program, limitations built into the law make it unlikely to reach many families. The major limitation is requiring EAOs to raise money for the scholarship funds. Although EAOs were able to raise over $16 million last year, that was still well below the (at the time) $25 million limit. The limit has since been raised to $75 million, but for the program to be financially secure, reliable government funding is needed. As is evident from the past two years, private donations can't always be counted on. This is especially true during economic downturns, when the need for scholarship assistance is greatest.

One source of funds that would be appropriate for this program is the hold-harmless provision in the foundation formula that protects districts with declining enrollment. Missouri has the most generous enrollment-related revenue

protections of any state in the nation. By allowing districts to use the highest average daily attendance of the prior three years, the state knowingly sends foundation-formula funds to districts for students who are not enrolled there. If Missouri had just changed this policy to the highest average daily attendance of the prior two years, rather than three, there would have been $30 million available last year to publicly fund MOScholars scholarships.

Alternatively, Missouri could revise the program so that the tax credits are issued directly to the parents rather than requiring the involvement of EAOs. In Oklahoma's program, passed this year, families can take a refundable tax credit of at least $5,000 and up to $7,500 to cover private school tuition.

What Does This Mean For Missouri?

There are several options for improving the MOScholars program:

- First, Missouri should make a public funding commitment to this program rather than leaving the fundraising of $75 million to just six nonprofit organizations. This could be done by redirecting foundation-formula funds from students who don't exist to families that need the funds by limiting foundation average daily attendance to the higher of the prior two years. Minimally, the state could use this redirected money to fund the first $75 million in scholarships with any additional funds raised adding to the total cost of the program.
- In the absence of a commitment to publicly fund the program, Missouri could shift the tax credit directly to parents.

CONCLUSION

Missouri is now practically surrounded by states that allow their families to choose their children's school, with state money following them. Iowa and Arkansas have passed publicly funded universal school choice programs that allow families to choose any public or private school. Oklahoma pays the first $5,000 to $7,500 in private school tuition for its families through refundable tax credits. Kansas greatly strengthened its public school choice program last year. Missouri's first attempt at giving families similar choices is too small and too weak. It's time to fix the shortcomings and make sure that the program can survive and grow.

Susan Pendergrass is the director of education policy for the Show-Me Institute

Simple revisions to existing law could increase the funding for, and expand the availability of, the MOScholars program.

In the model policy that follows, **bold type** *is used to indicate text added to a current statute, and* ~~[struck through text enclosed within brackets]~~ *indicates material that would be removed.*

166.700. Definitions. — As used in sections 166.700 to 166.720, the following terms mean:

(1) "Curriculum", a complete course of study for a particular content area or grade level, including any supplemental materials;

(2) "District", the same meaning as used in section 160.011;

(3) "Educational assistance organization", the same meaning as used in section 135.712;

(4) "Parent", the same meaning as used in section 135.712;

(5) "Private school", a school that is not a part of the public school system of the state of Missouri and that charges tuition for the rendering of elementary or secondary educational services;

(6) "Program", the same meaning as used in section 135.712;

(7) "Qualified school", a home school as defined in section 167.031 or any of the following entities that is incorporated in Missouri and that does not discriminate on the basis of race, color, or national origin:

(a) A charter school as defined in section 160.400;

(b) A private school;

(c) A public school as defined in section 160.011; or

(d) A public or private virtual school;

(8) "Qualified student", any elementary or secondary school student who is a resident of this state ~~[and resides in any county with a charter form of government or any city with at least thirty thousand inhabitants]~~ who:

(a) Has an approved «individualized education plan» (IEP) developed under the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400, et seq., as amended; or

(b) Is a member of a household whose total annual income does not exceed an amount equal to ~~[two]~~ **three** hundred percent of the income standard used to qualify for free and reduced price lunches, and meets at least one of the following qualifications:

a. Attended a public school as a full-time student for at least one semester during the previous twelve months; or

b. Is a child who is eligible to begin kindergarten or first grade under sections 160.051 to 160.055.

166.705. Missouri empowerment scholarship account, written agreement, contents — renewal — withdrawal from program, effect of — moneys tax exempt to parents. — 1. A parent of a qualified student may establish a Missouri

empowerment scholarship account for the student by entering into a written agreement with an educational assistance organization. The agreement shall provide that:

(1) The qualified student shall enroll in a qualified school and receive an education in at least the subjects of English language arts, mathematics, social studies, and science;

(2) Except for a qualified student who is in the custody of the state, the qualified student shall not be enrolled in a public school operated by, or a charter school located within, the qualified student›s district of residence and shall release the district of residence from all obligations to educate the qualified student while the qualified student is enrolled in the program. This subdivision shall not be construed to relieve the student›s district of residence from the obligation to conduct an evaluation for disabilities;

(3) The qualified student shall receive a grant, in the form of moneys deposited in accordance with section 135.714, in the qualified student's Missouri empowerment scholarship account **equal to the current year student adequacy target (SAT) multiplied by any applicable foundation formula weights for low-income students, students with disabilities, or English-language learners;**

(4) The moneys deposited in the qualified student›s Missouri empowerment scholarship account shall be used only for the following expenses of the qualified student:

(a) Tuition or fees at a qualified school;

(b) Textbooks required by a qualified school;

(c) Educational therapies or services from a licensed or accredited practitioner or provider including, but not limited to, licensed or accredited paraprofessionals or educational aides;

(d) Tutoring services;

(e) Curriculum;

(f) Tuition or fees for a private virtual school;

(g) Fees for a nationally standardized norm-referenced achievement test, advanced placement examinations, international baccalaureate examinations, or any examinations related to college or university admission;

(h) Fees for management of the Missouri empowerment scholarship account by firms selected by the educational assistance organization;

(i) Services provided by a public school including, but not limited to, individual classes and extracurricular programs;

(j) Computer hardware or other technological devices that are used to help meet the qualified student›s educational needs and that are approved by an educational assistance organization;

(k) Fees for summer education programs and specialized after-school education programs;

(l) Transportation costs for mileage to and from a qualified school; and

(5) Moneys deposited in the qualified student›s Missouri empowerment scholarship account shall not be used for the following:

(a) Consumable educational supplies including, but not limited to, paper, pens, pencils, or markers;

(b) Tuition at a private school located outside of the state of Missouri; and

(c) Payments or reimbursements to any person related within the third degree of consanguinity or affinity to a qualified student.

2. Missouri empowerment scholarship accounts are renewable on an annual basis upon request of the parent of a qualified student. Notwithstanding any changes to the qualified student›s multidisciplinary evaluation team plan, a student who has previously qualified for a Missouri empowerment scholarship account shall remain eligible to apply for renewal until the student completes high school and submits scores to the state treasurer from a nationally standardized norm-referenced achievement test, advanced placement examination, international baccalaureate examination, or any examination related to college or university admission purchased with Missouri empowerment scholarship account funds.

3. A signed agreement under this section shall satisfy the compulsory school attendance requirements of section 167.031.

4. A qualified school or a provider of services purchased under this section shall not share, refund, or rebate any Missouri empowerment scholarship account moneys with the parent or qualified student in any manner.

5. If a qualified student withdraws from the program by enrolling in a school other than a qualified school or is disqualified from the program under the provisions of section 166.710, the qualified student's Missouri empowerment scholarship account shall be closed and any remaining funds shall be returned to the educational assistance organization for redistribution to other qualified students. Under such circumstances, the obligation to provide an education for such student shall transfer back to the student's district of residence.

6. Any funds remaining in a qualified student›s Missouri empowerment scholarship account at the end of a school year shall remain in the account and shall not be returned to the educational assistance organization. Any funds remaining in a qualified student›s Missouri empowerment scholarship account upon graduation from a qualified school shall be returned to the educational assistance organization for redistribution to other qualified students.

7. Moneys received under sections 166.700 to 166.720 shall not constitute Missouri taxable income to the parent of the qualified student.

166.710. Annual audits of accounts — disqualification from program, when — referral for misuse of money — rulemaking authority. — 1. Beginning in the 2023–24 school year and continuing thereafter, the state treasurer shall conduct or contract for annual audits, and may conduct or contract for random and quarterly audits as needed, of Missouri empowerment scholarship accounts to ensure compliance with the requirements of subsection 1 of section 166.705.

2. A parent, qualified student, or vendor may be disqualified from program participation if the state treasurer, or the state treasurer›s designee, finds the party has committed an intentional program violation consisting of any misrepresentation or other act that materially violates any law or rule governing the program. The state treasurer may remove any parent or qualified student from eligibility for a Missouri empowerment scholarship account. A parent may appeal the state treasurer›s decision to the administrative hearing commission. A parent may appeal the administrative hearing commission›s decision to the circuit court of the county in which the student resides.

3. The state treasurer may refer cases of substantial misuse of moneys to the attorney general for investigation if the state treasurer obtains evidence of fraudulent use of an account.

4. The state treasurer shall promulgate rules containing the following to implement and administer the program:

(1) Procedures for conducting examinations of use of account funds;

(2) Procedures for conducting random, quarterly, and annual reviews of accounts;

(3) Creation of an online anonymous fraud reporting service;

(4) Creation of an anonymous telephone hotline for fraud reporting; and

(5) A surety bond requirement for educational assistance organizations.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

166.715. Misuse of moneys, penalty — financial institutions immunity from liability, when. — 1. A person commits a class A misdemeanor if the person is found to have knowingly used moneys granted under section 135.714 for purposes other than those provided for in sections 166.700 to 166.720.

2. No financial institution shall be liable in any civil action for providing a scholarship account›s financial information to the state treasurer unless the information provided is false and the financial institution providing the false information does so knowingly and with malice.

166.720. Government control or supervision over qualified schools prohibited, when — qualified schools not agents of state — transfer of student, effect of. — 1. Sections 166.700 to 166.720 shall not be construed to permit any governmental agency to exercise control or supervision over any qualified school in which a qualified student enrolls other than a qualified school that is a public school.

2. A qualified school, other than a qualified school that is a public school, that accepts a payment from a parent under sections 166.700 to 166.720 shall not be considered an agent of the state or federal government due to its acceptance of the payment.

3. A qualified school shall not be required to alter its creed, practices, admissions policy, or curriculum in order to accept students whose parents pay tuition or fees from a Missouri empowerment scholarship account to participate as a qualified school.

4. (1) Any qualified student receiving a Missouri empowerment scholarship who leaves a public school or charter school, as such terms are defined in chapter 160, in the qualified student's resident school district to enroll in a qualified school that is not the qualified student's resident school district shall continue to be counted in the resident public school or charter school's weighted average daily attendance as a resident student for the purposes of determining state and federal aid for the qualified student's resident school district or charter school.

(2) The qualified student will continue to be counted for such purpose as provided:

(a) For [~~five~~] **two** years after the qualified student no longer attends school in the qualified student's resident school district;

(b) Until any calendar year that the qualified student no longer receives grant money in their scholarship account;

(c) Until the qualified student is counted in the weighted average daily attendance for a public school or charter that they are a resident student in; or

(d) Until the qualified student graduates.

(3) The educational assistance organization and the state treasurer shall provide the necessary information to the department of elementary and secondary education to allow the federal and state aid to continue to the public school or charter school in the qualified student›s resident school district previously attended by the qualified student.

(4) The provisions of this subsection shall terminate five years after August 28, 2021.

5. In any legal proceeding challenging the application of sections 166.700 to 166.720 to a qualified school, the state shall bear the burden of establishing that the law is necessary and does not impose any undue burden on qualified schools.

6. The provisions of section 23.253 of the Missouri sunset act shall not apply to sections 166.700 to 166.720.

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OPEN ENROLLMENT

The Policy

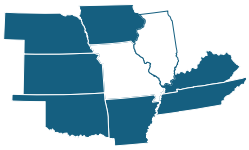
Open-enrollment policies allow families to choose their public school either within their home school district (intradistrict choice) or in a different district (interdistrict choice).

The Facts

75 percent of parents support open-enrollment policies.

Nationwide, the percentage of students attending their assigned public school has been declining since the early 1990s, while the percentage of students attending a chosen public school has steadily increased.

Since 1989, 43 states have passed open-enrollment policies, and in 25 of those, districts are required to participate by accepting students who want to transfer in.



Of the eight states that neighbor Missouri, only Illinois does not offer open enrollment to families.

Good Open Enrollment Policy Checklist

- Mandatory cross-district open enrollment
- Mandatory within-district open enrollment
- Thorough reporting on program participation by dese
- Transparent reporting by participating districts on available seats
- No transfer tuition

Open Enrollment Benefits Rural Students, Too

Minnesota has maintained open enrollment for **30+ years**, and 15 percent of rural students participate—the highest rate of all community types.

Students in some of our lowest-performing rural schools could benefit from open enrollment by moving to better-performing schools nearby.

Over half of Missouri's high school students would have to travel less than 20 miles to attend school in another district.

SHOW-ME INSTITUTE
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Talk to a Policy Expert

Susan Pendergrass
Director of Education Policy
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OPEN ENROLLMENT

By Susan Pendergrass

KEY TAKEAWAYS

- The percentage of students attending their assigned public school has been declining since the early 1990s, while the percentage of students attending a chosen public school has steadily increased.
- All but one of Missouri's eight neighboring states allow parents to choose a school outside their resident school district, and all require districts to accept nonresident transfer students.
- Sixty percent of Missouri's high schools are considered rural, and they have an average size of just 284 students. Sixty-four have fewer than 100 students, and 11 have fewer than 50 students. Students in these schools could benefit from more options than their schools can offer.
- Over half of Missouri's rural high schools have at least two other high schools from other districts within 20 miles.
- Even in the most remote areas of the state, students could access multiple options within a reasonable driving distance, including higher-performing schools.

THE CHANGING K-12 ENROLLMENT LANDSCAPE

When public schools were locally controlled and mostly locally financed, it made sense that district and school lines would be drawn to determine which public school a student would attend. Funds raised by taxing the property within the district line paid for the school. This practice was called into question when issues of school resource inequity began to emerge. In particular, the *Brown v. Board of Education* decision and the federal government's entry into public education financing as part of the War on Poverty represented efforts to alleviate disparities and unfairness in school assignment.[1]

Beginning in the late 1980s and early 1990s, however, a new approach to creating equity in educational opportunity emerged: letting families choose their public schools rather than having their children be assigned to a specific school. Public schooling, in general, is now less than 50 percent locally funded.[2] District lines have increasingly become barriers to entry rather than a logical extension of property taxes funding schools.[3]

It is no surprise that this idea is popular with families. It is unrealistic to assume that most families can simply "vote with their feet" by moving into the district of the school they would like their children to attend. For that matter, it can't even be assumed that the public school of one's choice is the same for every child in a family, as different children have different needs. Housing needs can also change during the twelve or so years that children are in school. Finally, 60 years ago nearly 80 percent of households did not own two or more cars, a number that has essentially flipped since then.[4] Schooling decisions can be more flexible now that most families have access to two or more cars and needn't be restricted by school bus routes.

In the National Household Education Survey (Figure 1), conducted periodically by the U.S. Department of Education, the percentage of families nationwide

with children attending their assigned public school was below 70 percent in 2016 (the questionnaire was changed in 2019, so results from that year are not comparable).[5] Conversely, almost one in five families reported that their children attended a chosen public school. Chosen public schools can be charter schools, magnet schools, or schools chosen through open enrollment.

OPEN ENROLLMENT POLICIES

Open enrollment policies allow families to choose their public school either within their home school district (intradistrict choice) or in a different district (interdistrict choice). The first interdistrict choice policy was enacted in 1989 in Minnesota.[6] Since then, 43 states have passed open-enrollment policies, and in 25 of those states district participation as both senders and receivers of students is mandatory.[7]

Of the eight states that neighbor Missouri, only Illinois does not offer open enrollment to families (see Table 1 in the Appendix). The other seven have mandatory open enrollment. While Kansas has had a voluntary open-enrollment program, meaning districts do not have to accept nonresident transfer students, a more expansive and mandatory policy was passed in 2022.[8] In all cases, acceptance of nonresident transfer students is dependent on available seats. In some states, capacity limitations are overridden for students in foster care and/or students in failing schools (Arkansas), or children of teachers in the school (Tennessee).

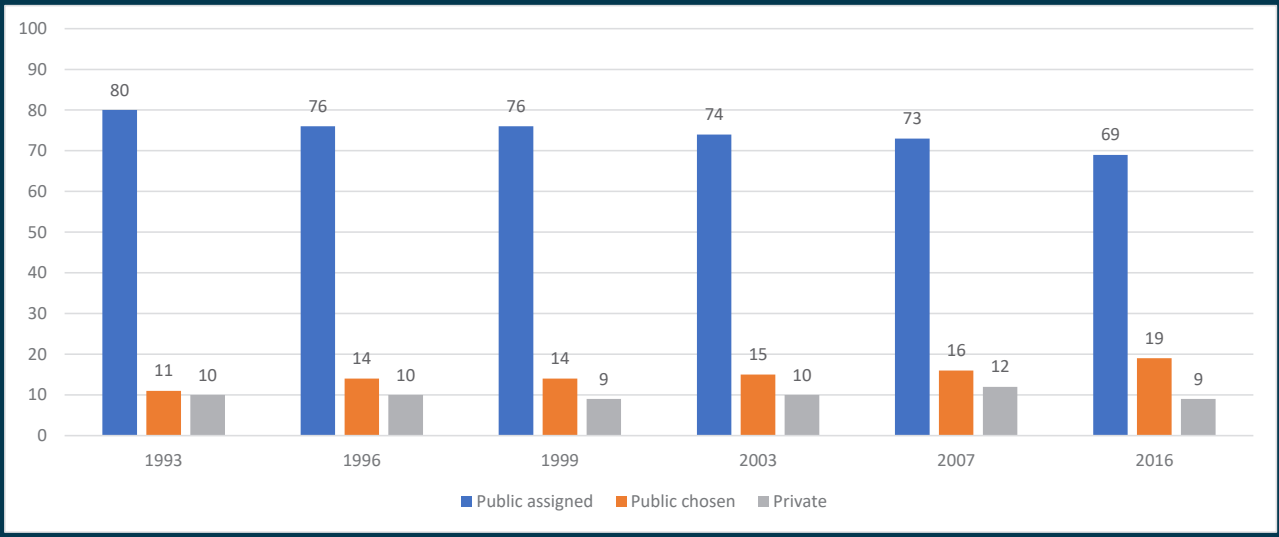
THE POTENTIAL FOR OPEN ENROLLMENT IN MISSOURI

While there is an open enrollment policy in Missouri, it is very limited.[9] If a district does not have a high school, it must pay tuition and provide transportation to a high school in another district in the same county or an

Figure 1

Nationwide percentage distribution of students ages 5 through 17 attending kindergarten through 12th grade, by school type—selected years, 1993 through 2016

The percentage of students nationwide attending a public school of their choice has increased from 1993 through 2016.



Source: U.S. Department of Education, National Center for Education Statistics (NCES), Parent Survey and Parent and Family Involvement in Education Survey of the National Household Education Surveys Program (Parent-NHES: 1993, 1996, 1999 and PFI-NHES 2003, 2007, and 2016).

adjoining county. Groups of two or more districts are also allowed to create enrollment option plans. However, districts can deny transfer applications of students who live more than 10 miles from the receiving district or if their home is closer to their assigned school than to the school of their choice. Finally, families can request to transfer to a nonresident district school provided that they pay tuition.

There may be some concern that open enrollment would not be feasible in much of Missouri due to the prevalence of rural communities with high schools spaced far apart. In 2022, Missouri had 309 rural high schools enrolling 90,000 students.[10] These schools represent 60 percent of all high schools in the state and they enroll one third of all high school students.[11] While the average enrollment at a rural Missouri high school was 284 students in 2022, 64 of these high schools had fewer than 100 total students and 11 had fewer than 50. So, it is true that they are rural and small. It is not necessarily true, however, that they are too far apart for open enrollment to work (Figure 2).

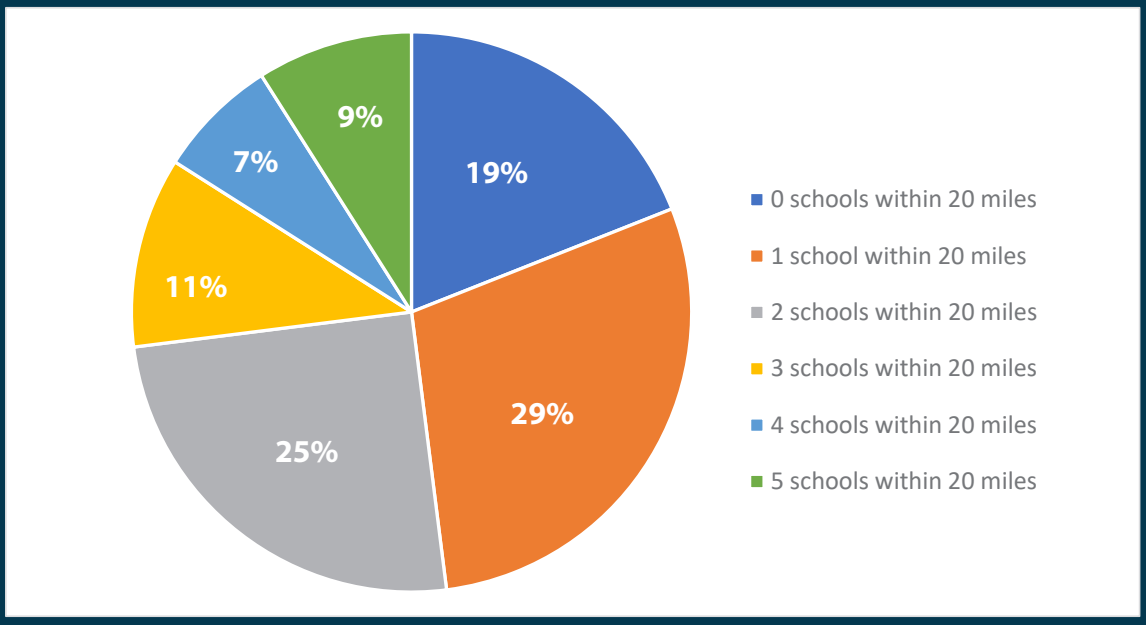
Over 80 percent of rural high schools in Missouri have a high school in another district within 20 miles, which generally translates to 20 minutes of driving. Over half of these schools have two within 20 miles. One of the most rural areas of the state is the northwest corner, and the high schools in this area tend to be small and relatively far apart. Fairfax High School in Fairfax, Missouri, for example, is near the borders of both Nebraska and Iowa and has just 64 students. However, there are three other high schools within 20 minutes of Fairfax (see Table 2 in the Appendix). While these schools may be academically similar, open enrollment not only would allow Fairfax students to transfer to a larger high school, but it would also allow Fairfax to grow its enrollment.

Similarly, students in some of our lowest-performing rural high schools could benefit from open enrollment by moving to higher-performing high schools nearby. Hayti Senior High School in the bootheel of Missouri is in a district that has been provisionally accredited for more than a decade. In 2021, just two percent of

Figure 2

Percentage of rural Missouri high schools with a high school in another district within 20 miles

Over half of rural high schools in Missouri are within 20 miles of at least two high schools in other districts.



Source: The high school addresses were obtained from National Center for Education Statistics (NCES), Common Core of Data (CCD), "State Nonfiscal Survey of Public Elementary/Secondary Education," 2021–22. Nces.ed.gov/ccd and the miles and driving distances were determined using Google Maps.

its students scored Proficient or higher on the Missouri Assessment Program (MAP) test. However, there are more than a dozen high schools in other districts that are within a reasonable distance to Hayti Senior High (see Table 3 in the Appendix). And while many of them may not be high performing, they would still be an improvement.

CONCLUSION

Public education has been moving slowly but steadily from a system of assignment to a system of choice. As these policies have spread, families have increasingly grown to like them. In fact, a national survey of parents in January 2023 found that 75 percent of parents support open enrollment policies.[12] Further, some states have had open enrollment and other school choice programs for over 30 years. This means that many of today's parents may be second-generation school choosers. If Missouri continues to stay with Illinois as a school-assignment state, even as it is otherwise surrounded by school-choosing states, its attractiveness to families will continue to diminish.

Susan Pendergrass is the director of education policy for the Show-Me Institute

NOTES

1. Richard Rothstein, "*Brown v. Board* is 63 years old. Was the Supreme Court's school desegregation ruling a failure?" Economic Policy Institute, May 16, 2017, https://www.epi.org/blog/brown-v-board-is-63-years-old-was-the-supreme-courts-school-desegregation-ruling-a-failure/; Patrick McGuinn and Jack Van der Silk, "Elementary and Secondary Education Act of 1965," Center for the Study of Federalism, February 2018, http://encyclopedia.federalism.org/index.php/Elementary_and_Secondary_Education_Act_of_1965.

2. National Center for Education Statistics (NCES), Digest of Education Statistics latest tables, Table 235.10 Revenues for public elementary and secondary schools, by source of funds: Selected school years, 1919–20 through 2019–20, https://nces.ed.gov/programs/digest/d22/tables/dt22_235.10.asp?current=yes.

3. "New Research on the Impact of Redlining on Educational Outcomes," National Low Income Housing Coalition, April 12, 2021, https://nlihc.org/resource/new-research-impact-redlining-educational-outcomes.

4. Mark J. Perry, "Chart of the Day: Rising Household Vehicle Ownership over Time Belies the "Middle Class Stagnation" Narrative," AEI, September 24, 2013, https://www.aei.org/carpe-diem/chart-of-the-day-rising-household-vehicle-ownership-over-time-belies-the-middle-class-stagnation-narrative/.

5. Ke Wang and Amy Rathbun, "School Choice in the United States: 2019," National Center for Education Statistics (NCES), September 2019, https://nces.ed.gov/pubs2019/2019106.pdf.

6. Jim Bencivenga, "Multiple choice. Minnesota opens enrollment – and eyes reform," *The Christian Science Monitor*, June 10, 1988, https://www.csmonitor.com/1988/0610/dminn.html.

7. "50-State Comparison: Open Enrollment Policies," Education Commission of the States (ECS), https://www.ecs.org/50-state-comparison-open-enrollment-policies.

8. Kynala Phillips and Katie Bernard, "Gov. Kelly signed Kansas' school choice bill. Here's what that means for your student," The Kansas City Star, May 17, 2022, https://www.kansascity.com/news/local/education/article261389602.html.

9. "50-State Comparison: Open Enrollment Policies," Education Commission of the States (ECS), https://www.ecs.org/50-state-comparison-open-enrollment-policies.

10. National Center for Education Statistics (NCES), Common Core of Data (CCD), "State Nonfiscal Survey of Public Elementary/Secondary Education," 2021-22. Nces.ed.gov/ccd.

11. Susan Pendergrass, "An In-depth Look at Missouri's Rural High Schools," https://issuu.com/showmemo/docs/rural_education_booklet.

12. Colyn Ritter, "EdChoice Public Opinion Tracker: General Population and School Parents – January 2023," EdChoice, February 7, 2023, https://www.edchoice.org/engage/edchoice-public-opinion-tracker-general-population-and-school-parents-january-2023.

APPENDIX

Table 1: **Open-enrollment Policies in States Surrounding Missouri**

State	Interdistrict	Mandatory	Limitations
Arkansas	Yes	Yes	Up to capacity. Transfers must not exceed 3% of enrollment, except for students in foster care or students assigned to an "F" school. Students in districts classified as being in facilities distress may transfer to districts not in facilities distress.
Illinois	No	Not permitted	
Iowa	Yes	Yes	Districts must accept up to capacity.
Kansas	Yes	Yes	Beginning in the 2024–25 school year any family can apply to transfer. The state is still developing guidelines for districts to determine their capacity.
Kentucky	Yes	Yes	Every district must have a policy for accepting transfer students up to capacity.
Nebraska	Yes	Yes	Districts may accept or reject transfer students for "specified regulations, requirements, and adopted standards."
Oklahoma	Yes	Yes	The Education Open Transfer Act allows students to transfer to another school at any time, provided the district has capacity. Students may transfer to other districts with the approval of the receiving district's board of education, and boards must automatically approve transfers for students seeking to enroll in a grade not offered by the sending district. Participating school districts must create policies for accepting or rejecting transfer applications, including criteria about the availability of programs, staff, or space.
Tennessee	Yes	Yes	A school district shall not admit a nonresident student seeking to transfer into the local education agency (LEA) from outside the LEA before all within-district applications for transfer have been acted upon. A school district may enroll a nonresident student who is the child of a parent who teaches at the respective school before all applications for transfer have been acted upon.

Source: Education Commission of the States, "50-State Comparison: Open Enrollment Policies," ecs.org/50-state-comparison-open-enrollment-policies.

Table 2: **High Schools within 30 Minutes of Fairfax High School in Rural Fairfax, Missouri**

	Miles	Driving minutes	Enrollment	Low-income enrollment	% low-income enrollment	% prof+ ELA	% prof+ math	ACT comp
Fairfax High School			**64**	**27**	**42%**		**45**	**22.3**
Tarkio High School	7.6	10	173	61	35%	51	44	21.6
Rock Port High School	13.1	18	153	54	35%		40	19.5
West Nodaway High School	25.3	30	123	42	34%	54	50	20.8

Source: The high school addresses were obtained from National Center for Education Statistics (NCES), Common Core of Data (CCD), "State Nonfiscal Survey of Public Elementary/Secondary Education," 2021-22. Nces.ed.gov/ccd and the miles and driving distances were determined using Google Maps. Enrollment and academic data are from the Missouri Department of Elementary and Secondary Education (DESE), dese.mo.gov.

Table 3: **High Schools within 30 Miles of Hayti Senior High School in Southeast Missouri**

	Miles	Driving minutes	Enrollment	Low-income enrollment	% low-income enrollment	% prof+ ELA	% prof+ math	ACT comp
Hayti Sr. High School			**228**	**228**	**100%**	**17**	**2**	**17.1**
Caruthersville High School	8.5	12	256	252	98%			17.2
Delta C-7 High School	12.3	15	84	62	74%		66	17.3
North Pemiscot High School	13.2	16	126	126	100%	23	5	17.9
Cooter High School	17.9	20	135	67.5	50%	54	9	19.9
Portageville High School	15.0	22	388	225	58%	50	37	19.2
South Pemiscot High School	14.6	22	252	252	100%	41	5	19.6
Kennett High School	18.7	24	525	524	100%		28	19.7
Central High School	27.9	28	391	391	100%	30	4	16.8
Gideon High School	24.6	30	115	115	100%		23	18.3
Holcomb High School	28.0	32	224	224	100%	37	21	19.3
Senath-Hornersville High School	27.4	32	186	186	100%		16	19.6
Clarkton High School	28.3	33	149	149	100%	19	9	14.5
Risco High School	29.5	37	111	60	54%	34	31	15.7

Source: The high school addresses were obtained from National Center for Education Statistics (NCES), Common Core of Data (CCD), "State Nonfiscal Survey of Public Elementary/Secondary Education," 2021–22. Nces.ed.gov/ccd. Miles and driving distances were determined using Google Maps. Enrollment and academic data are from the Missouri Department of Elementary and Secondary Education (DESE), dese.mo.gov.

OPEN ENROLLMENT MODEL POLICY

The Reason Foundation issued a report that noted elements of a strong open enrollment policy. Those elements are incorporated in this example of a model policy. Such a policy would allow Missouri to compete with the states that have strong open enrollment laws.

Section 1 – Establishing the Open Enrollment Program

As used in herein, the following terms mean:

(1) "Department", the Department of Elementary and Secondary Education;

(2) "Nonresident district", a school district other than a transferring student's resident district;

(3) "Charter school", a charter school in a district other than a transferring student's resident district;

(4) "Parent", a transferring student's parent, guardian, or other person having custody or care of the student;

(5) "Public school", any school for elementary or secondary education that is supported and maintained from public funds and is conducted and operated within this state under the authority and supervision of a duly elected local board of education of the school district or a special administrative board appointed by the state board of education under section 162.081;

(6) "Resident district", the school district in which the transferring student resides or, in the case of a transferring student who is subject to joint legal custody or joint physical custody awarded by a court, the residence designated as the address of the student for educational purposes;

(7) "Sibling", each of two or more children having a parent in common by blood, adoption, marriage, or foster care;

(8) "Socioeconomic status", the income level of a student or the student's family, which shall be measured by whether a student or the student's family meets the financial eligibility criteria for free and reduced-price meals offered under federal guidelines;

(9) "Superintendent", the superintendent of a school district or the superintendent's designee;

(10) "Transferring student", a child beginning kindergarten in the child's resident district or a public school student in kindergarten to grade twelve who immediately prior to transferring has been enrolled in and completed a full semester in a public school in the student's resident district and who transfers to a nonresident district through a public school open enrollment program under sections 167.1200 to 167.1230;

1. A public school open enrollment program is established to enable a child beginning kindergarten or a student in kindergarten to grade twelve to attend a school, including a charter school, in a nonresident district. Such program is designed to improve quality instructional and educational programs by providing opportunities including, but not limited to, the following:

(1) Providing access to instructional programs and classes that are not available in the resident district; and

(2) Offering parents the opportunity to select curriculum options that align with the parents' personal beliefs.

2. School districts shall be required to participate in the public school open enrollment program.

3. This shall not be construed to require a school district or charter school to add teachers, staff, or classrooms or to in any way exceed the requirements and standards established by existing law or the nonresident district.

4. The department shall develop a model policy within 90 days after the effective date of this bill for determining the number of incoming transfer seats and establishing specific standards for acceptance and rejection of transfer applications. The board of education of each school district and charter school shall, by resolution, adopt the model policy with any changes necessary for a particular district's or charter school's needs within 90 days after the model policy has been finalized.

(1) The specific standards for acceptance and rejection of transfer applications may include, but shall not be limited to:

(a) The capacity of a school building, grade level, class, or program;

(b) The availability of classroom space in each school building;

(c) Any class-size limitation;

(d) The ratio of students to classroom teachers; and

(e) The district's projected enrollment.

(2) The specific standards for acceptance and rejection of transfer applications shall include a statement that priority shall be given to an applicant who has a sibling who:

(a) Is already enrolled in the nonresident district; or

(b) Has made an application for enrollment in the same nonresident district.

(3) The specific standards for acceptance and rejection of transfer applications shall not include an applicant's:

(a) Academic achievement;

(b) Athletic or other extracurricular ability;

(c) Disabilities;

(d) English proficiency level; or

(e) Previous disciplinary proceedings, except that any suspension or expulsion from another district shall be included.

(4) A school district or charter school receiving transferring students shall not discriminate on the basis of gender, national origin, race, ethnicity, ancestry, religion, disability, or whether the student is homeless or a migrant.

5. A nonresident district or charter school shall accept credits toward graduation that were awarded by another district to a transferring student and award a diploma to a transferring student if the student meets the nonresident district's graduation requirements.

6. The superintendent for each school district or charter school shall cause the information about the public school open enrollment program to be posted on the district or charter school website and in the student handbook to inform parents of students of the availability of the program, the application deadline, and requirements and procedures for resident and nonresident students to participate in the program.

7. If a student wishes to attend a school within a nonresident district that is a magnet school, an academically selective school, or a school with a competitive entrance process that has admissions requirements, the student shall furnish proof that the student meets the admissions requirements in the application.

8. A nonresident district or charter school may deny a transfer to a student who, in the most recent school year, has been suspended from school two or more times or who has been suspended for an act of school violence or expelled.

A student whose transfer is initially precluded under this subsection may be permitted to transfer on a provisional basis as a probationary transfer student, subject to no further disruptive behavior, upon approval of the nonresident district's superintendent.

9. A student who is denied a transfer under this subsection has the right to an in-person meeting with the nonresident district's superintendent. The nonresident district shall develop common standards for determining disruptive behavior.

Section 2 – Treatment of transfer students

1. A student who applies to enroll in multiple nonresident districts or charter schools and accepts a public school open enrollment program transfer to a nonresident district or charter school shall accept only one such transfer per school year.

2. A student who accepts a public school open enrollment program transfer to a nonresident district or charter school shall commit to attend and take all courses through the nonresident district or charter school for at least one school year. If a transferring student returns to the student's resident district, the student's transfer shall be void and the student shall reapply if the student seeks a future public school open enrollment program transfer.

3. Except as otherwise provided in this subsection, a transferring student attending school in a nonresident district or charter school may complete all remaining school years in the nonresident district or charter school without reapplying each school year.

Section 3 – Funding and transportation

1. For the purposes of determining state and federal aid, a transferring student shall be counted as a resident pupil of the nonresident district or charter school in which the student is enrolled. The minimum state aid for nonresident districts and charter schools that receive transfer students will be the higher of the full student adequacy target, as annually determined by the legislature, or the average foundation formula amount per student in the nonresident district or charter school.

2. If a nonresident student receives special educational services and participates in the public school open enrollment program, the nonresident district shall receive reimbursement from the parent public school choice fund established in section 167.1212 for the costs of the special educational services for the student with an individualized education program above the state and federal funds received for educating the student. Such reimbursement shall not exceed three times the current expenditure per average daily attendance as calculated on the district annual secretary of the board report for the year in which expenditures are claimed.

3. Except for a transferring student with a socioeconomic status that qualifies the student for transportation costs reimbursement under subsection 5 of this section, the transferring student or the student's parent is responsible for the transportation of the student to and from the school in the nonresident district or charter school where the student is enrolled, except that the nonresident district or charter school may enter into an agreement with the student's parent that the parent may transport the student to an existing bus stop location convenient to the school district or charter school if the school district or charter school has capacity available on a bus serving that location.

4. If transportation is a related service on a student's individualized education program (IEP) and the student is a participant in the public school open enrollment transfer program, the nonresident district or charter school shall not be required to provide such transportation as a related service under the IEP if the nonresident district or charter school and the student's parent have entered into an agreement under this subsection. Such agreement shall contain a statement that the parent is waiving the transportation as a related service under the student's IEP.

5. Any transferring student who qualifies for free and reduced-price meals under federal guidelines and transfers to any nonresident district sharing a border with the student's resident district shall be offered transportation services provided by the nonresident district or may choose to be reimbursed by the parent public school choice fund estab-

lished in section 167.1212 for the costs of transportation of the student as provided in this subsection.

6. The amount of transportation costs eligible for reimbursement shall be the number of days of attendance, the number of miles in a single round trip between the student's residence and the nonresident school or charter school, and a mileage reimbursement rate, as determined annually by the legislature.

7. Nonresident districts or charter schools providing transportation services under this subsection may partner or contract with the resident district or a third-party transportation provider, or both, in providing transportation and shall also be reimbursed by the parent public school choice fund established in section 167.1212 for the costs of transportation of the student as provided under this subsection.

Section 4 – Parent Public School Choice Fund

1. There is hereby created in the state treasury the "Parent Public School Choice Fund", which shall consist of an appropriation by the general assembly of eighty million dollars and any additional appropriations made by the general assembly. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 5 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely as provided in sections 167.1200 to 167.1230.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. Moneys appropriated to and deposited in the fund shall be used to supplement, not supplant, state aid distributed to school districts under chapter 163 and shall be used solely to compensate school districts that participate in the public school open enrollment program established in sections 167.1200 to 167.1230.

5. The department shall annually evaluate the availability and use of moneys from the fund. If the department determines that additional moneys are needed to fulfill the purposes of this section, the department shall, as part of the legislative budget process, annually request such moneys by a specific line-item appropriation.

Section 5 – Determining available seats

1. Before December first annually, each school district and charter school shall set the number of transfer students the district is able to receive for the following school year. The district or charter school may create criteria for the acceptance of students including, but not limited to, the number of students by building, grade, classroom, or program.

2. Each school district and charter school shall publish the number set under this section, notify the department of such number, and shall not be required to accept any transfer students under this section who would cause the district to exceed the published number. The school district or charter school may report the total number of students the district is willing to receive and further delineate the number by building, grade, classroom, or program.

3. Each school district and charter school shall develop a method for the formation and operation of a waiting list for applications that cannot be accepted because the number of transfers applied for exceeds the number of transfers available.

Applications on the waiting list may be given priority for acceptance in the following order and may include other options for priority acceptance:

(a) Siblings of students already enrolled in the district;

(b) Children of an active duty member of the Armed Forces of the United States;

(c) Children of school district employees;

(d) Students who had previously attended school in the district but whose parents have moved out of the district; and

(e) Students whose parents present an employment circumstance for which an open enrollment transfer would be in the student's best interest.

Section 6 – Applying for transfer

1. If a student seeks to attend a school in a nonresident district or nonresident district charter school under sections 167.1200 to 167.1230, the student's parent shall submit an application to the nonresident district or charter school, with a copy to the resident district on a form approved by the department that contains the student's necessary information for enrollment in another district. The application must be postmarked before February first in the calendar year preceding the school year in which the student seeks to begin the fall semester at the nonresident district or charter school.

2. A nonresident district or charter school that receives an application under subsection 1 of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

3. As soon as possible after receiving an application but not later than 10 days after [the deadline for application submissions], the superintendent of the nonresident district or charter school shall review and make a determination on each application in the order in which the application was received by the nonresident district or charter school. Before accepting or rejecting an application, the superintendent shall determine whether one of the limitations under section 167.1225 applies to the application.

4. The superintendent of the nonresident district or charter school may accept an application. If the superintendent rejects an application, the superintendent shall present the rejected application with the superintendent's reasons for the rejection to the school board.

5. Before April first of the school year before the school year in which the student seeks to enroll in a nonresident district or nonresident district charter school, the nonresident district's or charter school's superintendent shall notify the parent and the resident district, in writing, as to whether the student's application has been accepted or rejected. The notification shall be sent by first-class mail to the address on the application and by email if an email is provided. If the application is rejected, the nonresident district's or charter school's superintendent shall state in the notification letter and email the reason for the rejection.

If the application is accepted, the nonresident district's or charter school's superintendent shall state in the notification letter and email a reasonable deadline before which the student shall enroll in the nonresident district or charter school and after which the acceptance notification is void. The nonresident district's or charter school's superintendent shall notify the resident district and the department of the student's participation.

Section 7 – Rejections and appeals

1. A student whose application for a transfer under section 167.1220 is rejected by the nonresident district or charter school may appeal to the department to reconsider the transfer.

2. An appeal to the department shall be in writing and shall be postmarked no later than fifteen calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application by first-class mail under section 167.1220.

3. Contemporaneously with the filing of the written appeal under subsection 2 of this section, the student or the student's parent shall also mail a copy of the written appeal to the nonresident district's or charter school's superintendent.

4. In the written appeal, the student or student's parent shall state the basis for appealing the decision of the nonresident district or charter school.

5. The student or the student's parent shall submit, along with the written appeal, a copy of the notice of rejection from the nonresident district or charter school.

6. As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, health, social, or psychological interest of the student.

7. The nonresident district or charter school may submit in writing any additional information, evidence, or arguments supporting the district's rejection of the student's application by mailing such response to the department. Such response shall be postmarked no later than ten days after the nonresident district or charter school receives the student's or parent's appeal.

8. Contemporaneously with the filing of its response under subsection 7 of this section, the nonresident district or charter school shall also mail a copy of the response to the student or student's parent.

9. If the department overturns the determination of the nonresident district or charter school on appeal, the department shall notify the parent, the nonresident district or charter school, and the resident district of the basis for the department's decision.

Section 8 – Open Enrollment Program website

1. The department shall establish a website that collects, maintains, and displays data from school districts and charter schools on the number of applications for student transfers received, the number accepted, and the number rejected by student subgroup. In addition, all funding, including for transportation, for transfer students will be tracked and displayed for every district and charter school.

2. The department shall track and display the maximum number of transfers and exemptions for both resident and nonresident districts and charter schools for up to two years to determine if a significant racially segregative impact has occurred to any school district.

3. Annually before December first, the department shall report the department's findings from the study of the data under this subsection to the joint committee on education or any successor committee, the house committee on elementary and secondary education or any other education committee designated by the speaker of the house of representatives, and the senate committee on education or any other education committee designated by the president pro tempore of the senate.

4. The department shall annually make a random selection of ten percent of the school districts participating in the public school open enrollment program under sections 167.1200 to 167.1230. The department shall audit each selected school district's transfers approved or denied under policies adopted by the school board under sections 167.1200 to 167.1230. If the department determines that a selected school district is improperly implementing and administering the transfer process established under sections 167.1200 to 167.1230, the department may withhold any state aid provided to the school district under chapter 163 until the school district corrects the transfer process improprieties identified by the department's audit.

MUNICIPAL REFORM

The Policy

Missouri's local governments often enact harmful policies and grant special tax deals. These negative practices, whether initiated locally or authorized by state law, should be reformed to promote freedom and economic growth.

Municipal Policy Checklist

- Remove the Kansas City School District Property Tax Rollback Exemption
- Expand County TIF Commissions
- Give School Districts TIF Opt-Out Authority
- Require True Public Votes for Special Taxing Districts
- Prohibit St. Louis from Collecting Earnings Tax on Remote Work
- Remove Union-Favored Fire District Annexation Rules in St. Louis County
- Prohibit Municipalities from Mandating Landlords Accept Section 8 Vouchers
- Expand County Tax Subsidy Reporting Requirements

Talk to a Policy Expert

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MUNICIPAL REFORM

By David Stokes

KEY TAKEAWAYS

Policies at the county and municipal level that inhibit freedom and economic growth in Missouri should be reformed. Missouri has both the right and the responsibility to change the rules for local governments that have overstepped their authority or enacted policies that will harm the state. Among the most important local changes are:

- Removing the Kansas City school district property tax rollback exemption
- Expanding county-level TIF commissions
- Giving school districts an opt-out on TIFs, like fire districts have
- Requiring true public votes for special taxing districts
- Prohibiting St. Louis from collecting the earnings tax on remote work
- Removing special, union-favored annexation rules for fire districts in St. Louis County
- Prohibiting municipalities from mandating that landlords accept Section 8 vouchers
- Expanding county tax subsidy reporting requirements and include them in the state tax commission's annual report

BACKGROUND

Missouri counties and municipalities are subject to the same special-interest pressures as any other government. Such pressures are often exacerbated by a misguided belief in their own local authority. Too often, local governments grant special tax deals, favor certain interest groups, enact harmful tax policies, and mandate activities that are not within their power to mandate. While the federal government is a union of sovereign states, no such relationship exists for municipalities, despite what some local officials may wish. Cities and counties are creatures of the state, as the Supreme Court explained many years ago.

The model policies discussed here would change, in various ways, harmful local rules that are inhibiting freedom and economic growth in Missouri. Some of these poor policies can be blamed on cities or counties themselves, such as local "source-of-income" rules and earnings taxes on remote work, but many of them have been authorized by state law, and we need state law to change to address these policy failures.

In no particular order, below is a list of reforms that Missouri would benefit from implementing.

Reform: Remove the Kansas City 33 School District's property tax rollback exemption

In recent years, the Kansas City 33 School District (KCSD) has seen tremendous increases in assessed valuation and has chosen not to roll its tax rates back at all. That has led to enormous property tax increases for residents and businesses within KCSD, which includes significant parts of Kansas City within Jackson County. The Kansas City school desegregation case ended a long time ago. It is time to remove this holdover as well.

From 2018 to 2022, Kansas City 33 school district's assessed valuation went up 31%, and its property tax revenues went up 31% as well. In every other taxing entity in Missouri, the tax rate would have been decreased somewhat to offset the property assessment hike. But not in the KCSD. In the 2023 reassessment, the trend continued with the school district's assessed valuation going up 24% while the tax rate remained exactly the same. This resulted in a $49 million increase in property tax revenues, also a 24% increase.

The Kansas City 33 school board has shown no inclination to reduce its tax rate to help homeowners and taxpayers. The constitutional amendment giving the school district this exemption should be repealed.

Reform: Create additional county TIF commissions

The five counties that use the county TIF (tax-increment financing) commission mechanism have been more careful and judicious in their use of TIF.[1]

The implementation of the county TIF commission format in St. Charles, Jefferson, and (to a lesser extent) St. Louis counties has reduced the use of TIF in those counties. Since the county TIF commission law was strengthened in 2016, St. Charles has approved only one TIF, and Jefferson County has approved zero. St. Louis County has approved several, but it has also rejected some (which almost never happened before).

With the more common municipal TIF commission format, TIF decisions are made by cities that do not generally answer to the electorates they are affecting with their decisions. For example, residents of school districts impacted by TIF subsidies often don't live within the city making the decision and have no ability to influence the decision through voting. County officials are much more likely to think regionally and are responsible to a much wider electorate. As seen in the above counties, the adoption of county TIF commission has resulted in a significant reduction of the usage of TIF. (Note that there are two counties, Cass and Clay, that have only recently adopted the county TIF commission format, so it is too soon to judge the effects there.)

Requiring a county TIF commission in the following additional counties (which have regional interests) would impose greater fiscal discipline and accountability to taxpayers in those regions: The change would benefit all counties, but in particular it should be enacted for Jackson, Platte, Camden, Boone, Franklin, and Greene counties.

Reform: Allow School Districts to Opt Out of TIF

School districts are dramatically impacted by tax reductions from TIF and should be allowed to opt-out of TIF subsidies as some other taxing jurisdictions are allowed.[2]

It is often overlooked that TIF diverts property tax revenue away from more than just the city that usually approves it. Cities rely more on sales taxes than property taxes, while other taxing districts depend almost entirely on property taxes. School districts, emergency service districts, and others also lose out on tax revenue when TIF is implemented, but those taxing agencies have very limited say, if any, in the overall process. Overlooking this imbalance can have disastrous effects, especially when TIF is used for projects with a residential component. Residential developments can add dozens of new families to a city and thereby require increased spending on public safety and other services, yet TIF can mean that public safety providers do not receive any increase in tax dollars to account for these new families. Similarly, school districts gain students without gaining the funding to educate them. The state had addressed this need for public safety by allowing certain fire, ambulance, and 911 districts to opt out of TIF proposals.[3] We should do the same thing for school districts.

Reform: Public Votes for Special Taxing Districts

Special taxing districts, such as Community Improvement Districts (CIDs) and Transportation Development Districts (TDDs), are far too easily implemented in Missouri, and often done so in a manner designed to get around the Hancock Amendment.[4]

We need to make new special taxing district taxes subject to the voters of a city or county, not to a vote by signature by a small number of property owners as is frequently the case now. Full public votes should be required for all CIDs, TDDs, etc., within a city or county.[5]

Reform: Exempt Remote Work from the Earnings Tax in the City of St. Louis

During and after the pandemic, St. Louis violated the plain language of the state law and its own ordinances by forcing collection of the earnings tax for remote work. (Kansas City has not has not done this.)

State law should make clear that in no case should existing statutes be construed as allowing the city earnings taxes in St. Louis and Kansas City to be applied to telecommuting nonresidents who work from home. For many years, both cities have recognized that the earnings tax does not apply for earnings related to work done outside of the city limits by nonresidents. This practice comports with the plain language of the applicable statute (emphasis added):

> Salaries, wages, commissions and other compensation earned by nonresidents of the city for **work done or services performed or rendered in the city**. [RSMO 92.111.2(2)]

Despite the clarity of existing law, from 2020 to 2024, the City of St. Louis collected earnings-tax revenue from nonresidents who worked for businesses within the city even if they performed their work from their homes located outside of the city limits. The pandemic posed significant financial challenges for individuals, businesses, and governmental bodies alike, but this decision was misguided and violated the law. If the lawsuits that have been filed against the city are any indication, it seems many workers and businesses agree. Furthermore, in early 2023 a judge ruled that the City of St. Louis acted improperly and owes refunds. The city appealed the decision but eventually stopped the policy on its own. However, without changes to state law, St. Lous (or Kansas City) could in theory return to that policy.

The argument for the earnings tax has always been that people working in the city need to contribute to city coffers. Whatever you think of that rationale, it would be a dramatic and improper expansion of the City of St. Louis' authority to continue to allow it to collect taxes for work performed outside of the city.

Reform: Remove union-favoring fire-district annexation policies in St. Louis County

There are special rules governing the annexation of unincorporated areas served by fire districts in St. Louis County.[6] Special laws like RSMO 72.418 shield fire-protection districts from municipal competition for local tax dollars and harm taxpayers. This law needs to be removed. The law is highly beneficial for the fireman's union and bad for everyone else, especially taxpayers. If residents and voters wish to have municipal annexations or incorporations that include fire protection by municipal fire departments, they should be able to do that throughout Missouri.

Reform: Prohibit municipalities in Missouri from requiring landlords to accept housing vouchers

Certain cities in Missouri, including Kansas City, Columbia, St. Louis, Maplewood, Webster Groves, and Clayton, require landlords to accept housing vouchers for rental property. The housing voucher program, commonly referred to as Section 8 housing, is a federal program. There is no federal requirement that landlords participate in it.[7] The voluntary nature of the program is one of the reasons for its relative success. People are not forced to participate in it, yet many landlords do, and there is no documented shortage of low-income housing in St. Louis County. In fact, the St. Louis metropolitan area was recently ranked as the fourth-most-affordable housing market in the county in one survey.

There are numerous examples of government social programs where participation is voluntary. Doctors are not forced to accept Medicaid payments, yet many do. Grocery stores are not required to accept food stamps, yet many, if not most, do. That is how the housing voucher program has worked for many years. Requiring a local mandate by Missouri municipalities will force landlords either to accept the burden of joining the program against their will or to creatively find other reasons to deny potential renters. The state should ban this practice, in the same manner as it has disallowed municipal rent-control rules in Missouri.

Reform: Expand the requirements for assessors to collect information on tax subsidies and require that the annual report of the State Tax Commission include this information

The goal of this reform is to ensure that information on tax subsidies is reported in a timely fashion and is easily accessible by taxpayers. Tax subsidies authorized under RSMO section 100 should be added to the list of subsidies reported by county assessors. Requiring that the annual State Tax Commission report include this information by county is an easy method of accomplishing these objectives.

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NOTES

1. Stokes, David, "TIF Decisions Should Be Made at the County, Not City, Level," Show-Me Institute, Dec. 19, 2023, https://showmeinstitute.org/blog/subsidies/tif-decisions-should-be-made-at-the-county-not-city-level.
2. RSMO 99.848.
3. SB 362, 2023, and SB 306, 2023.
4. HB 1854, 2020.
5. Renz, Graham and Tuohey, Patrick, "Taxes and Taxing Districts on the Rise in Missouri", Show-Me Institute, June 5, 2019, https://showmeinstitute.org/publication/special-taxing-districts/taxes-and-taxing-districts-on-the-rise-in-missouri.
6. RSMO 72.418.
7. Section 8 Housing Wikipedia article, https://en.wikipedia.org/wiki/Section_8_(housing)#:~:text=Landlords%20are%20not%20required%20to,remains%20voluntary%20in%20most%20places.

MUNICIPAL REFORM MODEL POLICY

Missouri law does not require major revisions to reform municipal policies that inhibit freedom and impede economic growth. Below are examples of ways to achieve the needed reforms, with **boldface type** *used to indicate new or revised text.*

1. Eliminating the Kansas City 33 school district (KCSD) tax rollback exemption

The exemption may be removed by simply repealing Missouri Constitution Article 10, Section 11(g). Such a repeal would require a vote of the people. The repeal of Article 10, Section 11(g) would mean that the rules governing all other taxing jurisdictions in Missouri would apply to KCSD.

2. Expanding TIF commissions to the county level

In order to increase the number of county tax increment financing (TIF) commissions, Section 99.820.3(1) of the Revised Missouri Statutes could be amended along the lines noted below to provide the option to more counties. The primary counties that should be considered include Greene, Platte, Boone, Franklin, and Camden, but all counties could benefit from this change.

> In lieu of a commission created under subsection 2 of this section, any city, town, or village in a county with a charter form of government and with more than one million inhabitants, in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, in a county of the first classification with more than one hundred eighty-five thousand but fewer than two hundred thousand inhabitants, **[Insert the current standard legislative descriptions here for additional counties]** or in a county of the first classification with more than ninety-two thousand but fewer than one hundred one thousand inhabitants shall, prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, create a commission consisting of twelve persons to be appointed as follows . . .

3. Permitting school districts to opt out of TIF.

To protect school districts from the impact of tax reductions from TIF, reforms that allow districts to opt-out of TIF subsidies should be adopted One way to achieve this result is to amend Chapters 99 and 100 of the Revised Missouri Statutes. For example, Section 99.848.1 could provide:

> 99.848. 1. (1) Notwithstanding subsection 1 of section 99.845, any ambulance district board operating under chapter 190, any fire protection district board operating under chapter 321, [or] any governing body operating a 911 center providing dispatch services under chapter 190 or 321 imposing a property tax for the purposes of providing emergency services pursuant to chapter 190 or 321, **and any public school district** shall be entitled to reimbursement from the special allocation fund in the amount of at least fifty percent but not more than one hundred percent of the district's or 911 center's tax increment. This subsection shall not apply to tax increment financing projects or redevelopment areas approved prior to August 28, 2004.

4. Requiring a vote of the public to create special taxing districts.

Special taxing districts, such as Community improvement District (CID) and Transportation Development Districts (TDD), are far too easily implemented in Missouri, and often done so in a manner designed to both get

around the Hancock Amendment and increase corporate welfare. One way to address this issue is to make the following change to RSMO 67.1545[1]:

> Language: 67.1545. Sales and use tax authorized in certain districts — procedure to adopt, ballot language, imposition and collection by retailers — penalties for violations — deposit into trust fund, use — repeal procedure — display of rate by retailer. — 1. Any district formed as a political subdivision may impose by resolution a district sales and use tax on all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, except sales of motor vehicles, trailers, boats or outboard motors and sales to or by public utilities and providers of communications, cable, or video services. Any sales and use tax imposed pursuant to this section may be imposed in increments of one- eighth of one percent, up to a maximum of one percent. Such district sales and use tax may be imposed for any district purpose designated by the district in its ballot of submission to its qualified voters; except that, no resolution adopted pursuant to this section shall become effective unless the board of directors of the district **submits to the qualified voters of the municipality,** or, if the district is in an unincorporated area, **by the qualified voters of the county in which the district is located,** by mail-in ballot or submission of the imposition of the new sales and use tax to the voters on a general election day, a proposal to authorize a sales and use tax pursuant to this section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters are opposed to the sales tax, then the resolution is void.

5. Preventing cities from collecting earnings taxes on remote work.

One way to ensure that cities do not continue to misinterpret existing law is to include clarifiying language in Section 92.112 of the Missouri Revised Statutes along the following lines:

4. For all tax returns filed on or after January 1, 2024, the term "work done or services performed or rendered in the city", as used in sections 92.105 to 92.200, **shall not include any work or services performed or rendered through telecommuting or otherwise performed or rendered remotely unless the location where such remote work or services are performed is located in the city.**

6. Removing special laws that govern fire district annexation in St. Louis County.

There are special rules governing the annexation by municipalities of unincorporated areas served by fire districts in St. Louis County. These special rules are good for the fireman's union, and bad for everyone else, especially taxpayers, as they make it almost impossible for a city to provide fire services instead of the fire district after the annexation within St. Louis County, even if that is what voters want. Hazelwood and Crestwood have been particularly harmed because of this legislation. This reform could be achieved by repealing RSMO 72.418 in its entirety. St. Louis County municipal annexation polities for fire districts would then be governed by 321.322, like the rest of Missouri.

7. Prohibiting municipal ordinances that require landlords to accept Section 8 vouchers.

To protect the property rights of landlords, Missouri needs to make clear that municipalities cannot impose source of income rules. To achieve such protection, Missouri will need to define source of income and specify what is prohibited. Below is some sample language to achieve this objective.

> "Source of income" means the point or form of the origination of legal gains of income accruing to a person in a stated period of time; from any occupation, profession or activity, from any contract, agreement or settlement, from federal, state or local payments, including Section 8 or any other rent subsidy or rent assistance

[1] This reform was proposed in HB1854, 2020, which was passed by the General Assembly but vetoed by the Governor.

program, from court ordered payments or from payments received as gifts, bequests, annuities or life insurance policies.[2]

To protect landlords, language such as the following could be added to the Missouri Revised Statutes.

441.043. No county or city, or county or city with a charter form of government may enact, maintain, or enforce any ordinance or resolution which regulates the amount of rent to be charged for privately-owned, single-family, or multiple-unit residential or commercial rental property. No county or city, or county or city with a charter form of government, shall enact, maintain, or enforce any ordinance or resolution that prohibits landlords from refusing to lease or rent a privately owned, single-family, or multiple-unit residential or commercial rental property to a person because the person's lawful source of income to pay rent includes funding from a federal housing assistance program.

8. Expand the information collected on tax subsidies in Missouri in order to give Missourians better information on the level of tax subsidies in Missouri.

Missouri should also require that the information be included in the State Tax Commission's annual report, in order to make that information easily accessible to people. "Sunlight is the best disinfectant," and public knowledge of the amount of tax subsidies approved in Missouri is important.

Missouri would benefit from expanding the requirements for assessors to collect information on tax subsidies and requiring them to be reported in the annual tax report by the State Tax Commission.

RSMO: 137.237, 138.440 or 138.445

Language:

137.237. Tax-exempt properties, assessor to compile list for state tax commission. — The county assessor of each county and the assessor of any city not within a county shall, beginning January 1, 1989, and every odd-numbered year thereafter, identify, list, and state the true value in money of the property in such county or city not within a county which is totally or partially exempt from ad valorem taxes for such taxable year pursuant to sections 99.700 – 99.715 and 99.800 to 99.865; **section 100.10 to 100.200 and 100.570,** sections 135.200 to 135.260; and section 353.110 to 353.150. Such properties shall be identified and listed, with the true value in money of the property included as well as the number of years of abatement remaining and the percentage of true value exempted for the abated properties, in a report filed with the state tax commission and the assessor of the county or city not within a county on or before November 1, 1989, and November first of every odd-numbered year thereafter. Such report, in summary form, shall be included in each reassessment notice stating said tax abatements in each county or city not within a county and, in addition, include a statement that a list of specific abated property is available for inspection upon request at the county courthouse or city hall of any city not within a county.

There may be other sections of chapter 100 to be included.

138.440. Annual report — content — compensation for extra duties. — 1. A report of the proceedings and decisions of the state tax commission shall be printed annually.

[2] This definition comes from the City of Saint Louis ordinances.

6. The annual report shall include the information on tax-exempt properties complied for each according to section 137.237, and such summary information shall be listed by county in the same format as required for reassessment notices and it shall be totaled for the entire state of Missouri, except that the list of specific, individual abated properties as described in 137.237 is not required for the annual report.

MODERNIZING UNEMPLOYMENT INSURANCE

The Policy

Before Missouri can accomplish any substantive policy reforms to its unemployment insurance system, it must modernize its IT and accounting systems to ensure that technical capability is not the limiting factor. Policymakers can modernize Missouri's outdated unemployment insurance system by implementing key reforms.

Key Reforms

- Prohibit benefits from exceeding paychecks.
- Shorten benefit duration and improve the link with economic conditions.
- Reduce fraud from improper payments through data sharing.
- Broaden the taxable wage base to allow for lower tax rates.
- Streamline short-time compensation.
- Reduce the penalty for part-time work.

Unemployment Insurance Program Checklist

- Front-loaded Payments
- Reemployment Taxes and Bonuses
- Countercyclical Benefit Duration and Generosity
- Robust Monitoring and Job Search Assistance
- Unemployment Insurance Accounts
- Prohibiting the Replacement Rate from Ever Exceeding 100 Percent
- Forward-looking Assessment of Future Program Use

SHOW-ME INSTITUTE
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Talk to a Policy Expert

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MODERNIZING UNEMPLOYMENT INSURANCE

By Aaron Hedlund

KEY TAKEAWAYS

- America's antiquated unemployment insurance system is in need of modernization. Missouri is partially constrained by federal laws but still has some latitude to make positive reforms.
- Prohibiting benefits from exceeding paychecks, tying benefit duration to better measures of labor market slackness, streamlining short-time compensation programs that enable job attachment, reducing the penalty for part-time work, and broadening the unemployment insurance tax base to enable lower tax rates would promote job creation and faster recoveries.
- Missouri can tackle unemployment insurance fraud by participating in multistate data-sharing platforms and by expanding new-hire reporting requirements.

BACKGROUND

In early 2021, the federal government passed the multi-trillion-dollar American Rescue Plan Act (ARPA) with the supposed aim of resuscitating the economy. The problem: the patient—the U.S. economy—was alive, recovering well, and in no need of bad fiscal medicine. By early 2021, gross domestic product was back on track to its pre-COVID trajectory, and the unemployment rate had already fallen from its peak of 14.7% in April 2020 to 6.3% and was still declining. Another measure of labor market tightness—the ratio of unemployed persons to job openings—registered at 1.3 before the implementation of the ARPA. For perspective, since these data started being collected in 2000, the *only* pre-COVID years in which this ratio averaged a value lower than 1.3 were the boom years of 2017, 2018, and 2019.

Given the tightness of the labor market in early 2021, it was a baffling decision for the federal government to inject trillions of dollars of borrowed money, particularly when much of that money went to providing excessively generous unemployment benefits that were paying workers more to remain on the sidelines than they would earn by returning to work, thus kneecapping producers' ability to hire. Since this policy debacle, Americans have paid the price—literally. Inflation reached 40-year highs in summer 2022 and remains troublingly high. The cumulative effect of this persistent inflation has been a decline in purchasing power for the typical family of about $4,000. At the same time, businesses have faced extreme difficulties finding workers when forced to compete against government benefits. Even though the benefit extensions have since run out, they continue to cast a long shadow because of the amount of savings that people were able to accrue from the benefit payments, thus allowing them to delay their return to work.

The twin crises of debilitating inflation and crippling labor shortages are connected—and unemployment insurance is the critical link. Although the ARPA turned on several spigots of money to artificially stimulate demand, unemployment benefits were unique in that they also undermined supply by discouraging work. Earlier in 2023, the Show-Me Institute released a comprehensive report on the structural problems with the existing unemployment insurance system, proposed

some bold long-term reforms, and also identified initial steps that Missouri can take at the state level to reform its own unemployment insurance system without running afoul of federal rules.[1] This brief explains the logic of these state reforms.

MISSOURI UNEMPLOYMENT INSURANCE REFORMS

Before Missouri can accomplish any substantive policy reforms to its unemployment insurance system, it must modernize its information technology (IT) and accounting systems to ensure that technical capability is not a limiting factor. During the COVID-19 pandemic, when federal policymakers were looking at ways to temporarily increase the generosity of weekly unemployment benefits to help workers remain current on their bills while they were living under lockdown orders, the National Association of State Workforce Agencies cited antiquated state IT systems as a reason not to simply raise the replacement rate. Lifting this rate from, say, 50% to 80% would have still meant that workers would earn more money by returning to their jobs once able to do so. Instead, because of antiquated IT, the federal government added a flat $600 supplement to weekly benefit payments, causing many claimants to receive more from benefits than their previous paychecks. To prevent anything like this episode from ever happening again, and to facilitate reforms, Missouri needs a comprehensive examination of its computer and accounting systems to ensure they are capable of executing a wide range of potential policy reforms.

In no particular order, below is an initial slate of worthwhile reforms.

Reform: Prohibit Benefits from Exceeding Paychecks

Current policy stipulates a maximum weekly benefit that is a percentage of a worker's previous earnings, subject to a fixed nominal cap of $320. This cap does not adjust for inflation, and the law makes no explicit mention of the possibility of federal supplemental payments pushing a worker's total benefit amount well above the prescribed maximum. To simultaneously address the ill effects of inflation and preempt future misguided federal interventions, the state can tie the weekly benefit cap to the average annual wage in Missouri and specify that, in the event the federal government institutes supplemental unemployment benefit payments, the state will offset its own weekly payments as needed to ensure that the total benefit a claimant receives does not result in a replacement rate above 100%.

Reform: Shorten Benefit Duration and Strengthen the Link with Economic Conditions

The duration of regular state-provided unemployment benefits currently ranges from 13 to 20 weeks, depending on Missouri's unemployment rate. Unfortunately, recent economics research finds that extending benefits repeatedly based on the unemployment rate can perpetuate high joblessness and slow the pace of recovery.[2] Although the primary purpose of unemployment insurance is to cushion the blow from job loss, it also tends to delay the job search process and, worse still, it discourages job creation by forcing employers to compete with government-provided benefits. Thus, tying the duration of benefits to the unemployment rate can create a partially self-fulfilling phenomenon where a high unemployment rate causes benefits to be extended, which curtails job search and job creation, thereby perpetuating high unemployment.

Missouri can make two improvements to mitigate this problem. First, it can follow the research and tie the duration of benefits to the ratio of unemployed persons to job openings instead of the unemployment rate.[3] Second, the state can modestly but meaningfully reduce the duration of benefits—especially during good economic times—to enhance job creation. A growing body of economics research has found positive labor market effects from previous reductions in benefit duration.[4]

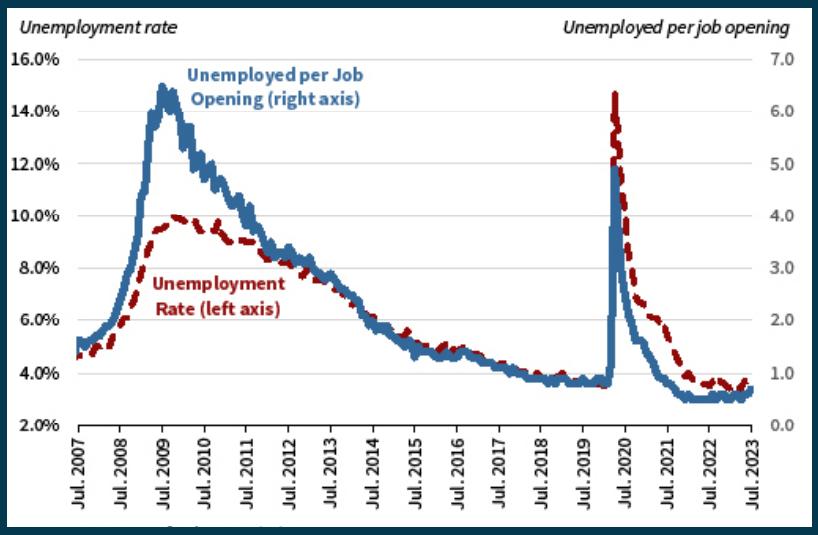
Figure 1 below provides an instructive comparison of the Great Financial Crisis (GFC) that began in 2007 and the COVID-19 recession. During the GFC, the unemployment rate peaked at around 10%, and the ratio of unemployed persons to job openings exceeded six at its worst. Both of these measures of labor market slackness took several years to recover to robust levels, in no small part because of bad federal policy—including excessive unemployment benefit extensions. Research suggests that the recovery could have proceeded at a noticeably quicker pace had there been a faster normalization of benefit duration.

Switching attention to the COVID-19 recession, both measures of labor market slackness exhibit dramatic spikes. Perhaps the most immediate contrast between COVID-19 and the GFC is the speed with which the labor market slackness measures recover—owing in part to the different nature of the economic shocks as well as

Figure 1

Labor Market Slackness: Great Financial Crisis vs. COVID-19

Multi-year unemployment benefit extensions slowed the labor market recovery following the 2007–2009 crisis.

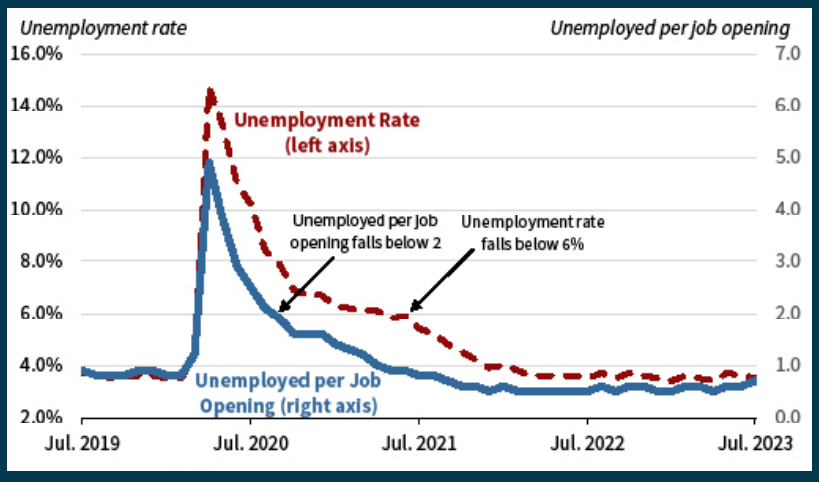


Source: Bureau of Labor Statistics

Figure 2

Comparison of Benefit Triggers

Unemployed per job opening—a better measure of slackness—had returned to healthy levels by fall 2020, arguing against any further "stimulus" or benefit extensions.



Source: Bureau of Labor Statistics

the early federal interventions (e.g., through the Paycheck Protection Program and the Employee Retention Tax Credit) to promote stronger labor market attachment. Less obvious, but importantly for the purposes of this discussion, the figure shows that the ratio of unemployed per job opening has fallen much more quickly than the unemployment rate.

Figure 2 zooms in on the COVID-19 recession and makes the divergence even more clear. Even though the unemployment rate did not fall below 6% until May 2021—not so coincidentally, right around the time several states announced that they would soon be terminating extended unemployment benefits—the unemployed to job openings ratio fell below 2 (the same degree of tightness experienced by the U.S. economy in 2014) in September *2020*. In other words, for all practical purposes, the labor market was no longer slack by early fall 2020, and the economic case for further unemployment benefit extensions could no longer be made. Unfortunately, another year would pass before unemployment benefits returned to their pre-COVID generosity and duration. By that time, the seeds of the labor shortage had been sown. Going forward, Missouri can do its part to avoid a repeat by tying benefit duration to the ratio of unemployed to job openings instead of the unemployment rate.

Reform: Reduce Fraud from Improper Payments through Data Sharing

Unemployment insurance fraud occurs in several ways. For example, workers may misrepresent their job search activities or refuse to accept a suitable job offer. However, research finds that concealed earnings represent the lion's share of fraud at over 60%.[5] This fraud occurs when an unemployed worker does not inform the unemployment office after receiving a new job—thus collecting benefits and a paycheck simultaneously. This type of fraud is especially easy to execute if a worker lives near a state border such that it is feasible for them to live and work in different states. This scenario is salient for Missouri considering that its two largest cities are both on state borders.

One immediate step Missouri can take to reduce unemployment insurance fraud is to pursue participation in the National Association of State Workforce Agencies' State Information Data Exchange System (SIDES) and its Integrity Data Hub (IDH). SIDES facilitates electronic information transmission between agencies and employers regarding unemployment insurance claims, and the IDH is specifically designed to facilitate the detection of unemployment insurance fraud and improper payments.

Missouri can also follow Florida's lead by expanding new hire reporting requirements. In order to comply with federal law—specifically, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996—Missouri has written into state statute that employers have 20 days to report new *employee* hires to the department of revenue. Recently, Florida has gone further by extending this requirement to the hiring of independent contractors that a "service recipient" (not technically an employer) expects to pay more than $600 over the course of the calendar year. This way independent contractors are not able to collect payments for their work while also receiving unemployment benefits. An ancillary benefit is that such an expanded reporting requirement would make it easier for Missouri to detect child support negligence.

Reform: Broaden the Taxable Wage Base to Allow for Lower Tax Rates

It is a well-established fact that tax codes with a broad base and a low rate are less economically damaging than tax codes with a narrow base and a high rate. Unfortunately, Missouri's unemployment insurance tax falls into the second camp. Currently, only the first $10,500 of a worker's wages are subject to the tax, which means that the state must charge higher rates to raise sufficient revenue to fund the program than it would if a greater share of wages were subject to the tax. An easy fix to this problem is for policymakers to set the top end of the taxable wage base equal to the average Missouri annual wage—which is over four times the amount of the current wage base—and then to recalibrate the rates to yield revenue neutrality, leading to dramatic rate reductions.

Reform: Streamline Short-time Compensation

Job loss during recessions has well-known short-term consequences—anxiety, loss of income, and thus lower consumer spending—but it also creates medium-term and long-term economic scars owing to labor market detachment. The longer that a worker is without a job, the greater the difficulty in generating job offers through labor market search. For this reason, the federal government implemented the Paycheck Protection Program during COVID-19 to help employers keep workers on the payrolls and to accelerate the re-hiring process for employees who were laid off. While COVID-19 was a unique event, the federal government has for years enabled states to implement short-time compensation (STC) programs that enable and encourage employers to reduce employee hours instead of headcount during temporary downturns. Germany's *Kurzarbeit* program follows a similar model and has been very successful at limiting unemployment spikes during recessions. Unfortunately, employer uptake of STC in the United States has consistently fallen below expectations, both because of narrow participation criteria in many states and because of red tape involved with the application and approval process.

Broadly speaking, federal law requires that employers submit a work-sharing plan to the state that explains how they will cut employee hours instead of engaging in layoffs, and then those workers can receive pro-rated unemployed insurance for the temporary loss in pay while continuing to show up to work. As with regular unemployment insurance, employers that participate can expect to face a higher unemployment insurance tax rate in the future—just as auto or home insurance premiums increase after a claim—but the tradeoff may still be beneficial to allow the business to make it through a rough patch.

As a condition for participation in Missouri's STC program, employers must cut hours by no less than

20% and no more than 40%, even though federal law allows these bounds to be 10% and 60%, respectively. In other words, Missouri's STC program is unnecessarily restrictive, thus pushing employers more in the direction of engaging in overt layoffs. A sensible reform is for Missouri to conform to the looser federal requirements. In addition, Missouri state government gives itself up to 30 days to render a decision on an employer's STC application and up to seven days to approve subsequent changes requested by an employer to its worksharing plan. These delays disincentivize employer participation. Reducing these periods to ten days for initial approval and three days for approval of changes would increase the appeal of STC participation.

Reform: Reduce the Penalty for Part-time Work

Under current law, if a laid-off worker obtains a part-time job while continuing to search for full-time work, each dollar the worker earns (above $20 per week) is offset by a one-dollar reduction in unemployment benefits, thereby eliminating any incentive for laid-off workers to accept part-time work while maintaining their search for a full-time job. Missouri can partially mitigate this work penalty by reducing the offset from 100% to 50%. Under this reform, each dollar a part-time laid-off worker earns would lead to a 50-cent reduction in unemployment benefits.

Aaron Hedlund is the chief economist for the Show-Me Institute

NOTES

1. Hedlund, Aaron. "The Case for Modernizing Unemployment Insurance," 2023, Show-Me Institute Report.

2. Hedlund (2023). This report provides an extensive discussion of the literature with a more comprehensive list of references.

3. Mitman, Kurt and Stan Rabinovich. "Whether, When and How to Extend Unemployment Benefits: Theory and Application to COVID-19." *Journal of Public Economics,* 2021; Vol. 200.

4. Johnston, Andrew C. and Alexandre Mas. "Potential Unemployment Insurance Duration and Labor Supply: The Individual and Market-Level Response to a Benefit Cut." *Journal of Political Economy,* 2018, Vol. 126(6), pp. 2480–2522; Karahan, Fatih, Kurt Mitman, and Brendan Moore. "Micro and Macro Effects of UI Policies: Evidence from Missouri." 2022. Federal Reserve Bank of New York (working paper).

5. Fuller, David L., B. Ravikumar, and Yuzhe Zhang. "Unemployment Insurance Fraud and Optimal Monitoring." *American Economic Journal: Macroeconomics, 2015,* Vol. 7(2), pp. 249–290.

Tie Benefits to Wages and Prevent Them from Exceeding Paychecks

Adjust the maximum benefit amount from a fixed dollar amount to be a percentage of the average Missouri annual wage and ban the total benefit amount regardless of funding source from ever exceeding the worker's prior paycheck. Such adjustments can be achieved by modifying exisiting law.

In the model policy that follows, **bold type** *is used to indicate text added to a current statute, and* ~~[struck through text enclosed within brackets]~~ *indicates material that would be removed.*

> 288.038. Maximum weekly benefit amount defined. — With respect to initial claims filed during calendar years 2004 and 2005, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were the highest, but the maximum weekly benefit amount shall not exceed two hundred fifty dollars in the calendar years 2004 and 2005. With respect to initial claims filed during calendar years 2006 and 2007 the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were the highest, but the maximum weekly benefit amount shall not exceed two hundred seventy dollars in calendar year 2006 and the maximum weekly benefit amount shall not exceed two hundred eighty dollars in calendar year 2007. With respect to initial claims filed during calendar year 2008 and each calendar year [~~thereafter~~] **through 2023**, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during the average of the two highest quarters of the worker's base period, but the maximum weekly benefit amount shall not exceed three hundred twenty dollars. **With respect to initial claims filed during calendar year 2024 and each calendar year thereafter, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible worker during the average of the two highest quarters of the worker's base period, but the maximum weekly benefit amount shall not exceed one percent of the Missouri average annual wage. Under no circumstance shall claimants receive weekly benefits—inclusive of any supplemental unemployment benefit payments paid by the federal government that are in any way facilitated by the state of Missouri—in excess of seven- and one-half percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were highest. If the federal government institutes supplemental benefit payments that cause the total payment to a claimant to exceed this threshold, the state shall reduce its contribution to the total payment as much as possible to bring the total payment back under this threshold.** If such **state** benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount.

Shorten Benefit Duration and Improve the Link with Economic Conditions

Reduce the number of weeks claimants can receive benefits and adjust the criteria for benefit duration to be based on the ratio of unemployed to job openings instead of the unemployment rate. These adjustments can be achieved by modifying the existing law as follows:

> **288.060. Benefits, how paid — wage credits — limitation on duration of benefits — benefits due decedent — benefit warrants cancelled, when — electronic funds transfer system, allowed — remote claims filing procedures required, contents, duties.**
>
> 5. The duration of benefits payable to any insured worker during any benefit year shall be limited to:
>
> ~~[(1) Twenty weeks if the Missouri average unemployment rate is nine percent or higher;~~

~~(2) Nineteen weeks if the Missouri average unemployment rate is between eight and one-half percent and nine percent;~~

~~(3) Eighteen weeks if the Missouri average unemployment rate is eight percent up to and including eight and one-half percent;~~

~~(4) Seventeen weeks if the Missouri average unemployment rate is between seven and one-half percent and eight percent;~~

~~(5) Sixteen weeks if the Missouri average unemployment rate is seven percent up to and including seven and one-half percent;~~

~~(6) Fifteen weeks if the Missouri average unemployment rate is between six and one-half percent and seven percent;~~

~~(7) Fourteen weeks if the Missouri average unemployment rate is six percent up to and including six and one-half percent;~~

~~(8) Thirteen weeks if the Missouri average unemployment rate is below six percent.]~~

(1) Eighteen weeks if the Missouri average unemployed persons per job opening ratio is higher than five;

(2) Seventeen weeks if the Missouri average unemployed persons per job opening ratio is four and one-half up to and including five;

(3) Sixteen weeks if the Missouri average unemployed persons per job opening ratio is four up to and including four and one-half;

(4) Fifteen weeks if the Missouri average unemployed persons per job opening ratio is three and one-half up to and including four;

(5) Fourteen weeks if the Missouri average unemployed persons per job opening ratio is three up to and including three and one-half;

(6) Thirteen weeks if the Missouri average unemployed persons per job opening ratio is two and one-half up to and including three;

(7) Twelve weeks if the Missouri average unemployed persons per job opening ratio is below two and one-half.

As used in this subsection, the phrase ~~["Missouri average unemployment rate"]~~"**Missouri average unemployed persons per job opening ratio"** means the average of the seasonally adjusted statewide [~~unemployment rates~~] **unemployed persons per job opening ratio** as published by the United States Department of Labor, Bureau of Labor Statistics **as part of its Job Openings and Labor Turnover Survey**, for the time periods of January first through March thirty-first and July first through September thirtieth. The average of the seasonally adjusted statewide [~~unemployment rates~~] **unemployed persons per job opening ratio** for the time period of January first through March thirty-first shall be effective on and after July first of each year and shall be effective through December thirty-first. The average of the seasonally adjusted statewide [~~unemployment rates~~] **unemployed persons per job opening ratio** for the time period of July first through September thirtieth shall be effective on and after January first of each year and shall be effective through June thirtieth;

Reducing Fraud from Improper Payments

Pursue participation in the National Association of Workforce Agencies' State Information Data Exchange System and Integrity Data Hub to reduce multi-state claimant fraudulent activity. In addition, expand new hire reporting

requirements to include independent contractors getting paid more than $600 in a calendar year. These adjustments can be achieved by modifying the existing law as follows:

285.300. Withholding form, completion required — forwarding to state agencies — state directory of new hires, cross-check of unemployment compensation recipients — compliance by employers with employees in two or more states.

1. A service recipient is a person or entity engaged in a trade or business who pays an individual for services rendered in the course of such trade or business.

[~~1.~~]**2.** Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format shall be sent to the department of revenue by the employer or service recipient within twenty days after the date the employer hires the employee**—or the service recipient hires an independent contractor that it expects to pay more than $600 over the calendar year—**or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee **or service recipient hires the independent contractor** shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee **or independent contractor** reports to work, or performs labor or services.

Broaden and Index the Taxable Wage Base

Tie the taxable wage base to the Missouri average annual wage, allowing for a broader base and a lower rate. The adjustment to the taxable wage base can be achieved by modifying the existing language as follows. The unemployment tax rates will need to be adjusted downward to offset the direct effects of the broader tax base.

288.036. Wages defined — state taxable wage base.

2. The increases or decreases to the state taxable wage base for the remainder of calendar year 2004 shall be eight thousand dollars, and the state taxable wage base in calendar year 2005, and each calendar year thereafter, shall be determined by the provisions within this subsection. On January 1, 2005, the state taxable wage base for calendar year 2005, 2006, and 2007 shall be eleven thousand dollars. The taxable wage base for calendar year 2008 shall be twelve thousand dollars. The state taxable wage base for [~~each calendar year thereafter~~] **2009 through 2023** shall be determined by the average balance of the unemployment compensation trust fund of the four preceding calendar quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the preceding calendar year), less any outstanding federal Title XII advances received pursuant to section 288.330, less the principal, interest, and administrative expenses related to any credit instrument issued under section 288.030, and less the principal, interest, and administrative expenses related to any financial agreements under subdivision (17) of subsection 2 of section 288.330. When the average balance of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the preceding calendar year), as so determined is:

(1) Less than, or equal to, three hundred fifty million dollars, then the wage base shall increase by one thousand dollars; or

(2) Six hundred fifty million or more, then the state taxable wage base for the subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall the state taxable wage base increase beyond twelve thousand five hundred dollars, or decrease to less than seven thousand dollars. For calendar year 2009, the tax wage base shall be twelve thousand five hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall the state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven thousand dollars.

The state taxable wage base for each calendar year beginning in 2024 shall be equal to the most recent Missouri average annual wage.

Streamline Short-Time Compensation

Enhance the flexibility of short-time compensation and expedite the approval process for shared work plans. These adjustments can be achieved by modifying the existing law as follows:

288.500. Shared work program created — definitions — plan, requirements — plan denied, submission of new plan, when — contribution by employer, how computed — benefits — severability clause.

4. The division may approve a shared work plan if:

(4) The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than [twenty] **ten** percent and not more than [forty] **sixty** percent;

[~~(5) The shared work plan applies to at least ten percent of the employees in the affected unit;~~]

7. The division shall approve or deny a shared work plan not later than the [~~thirtieth~~] **tenth** day after the day on which the shared work plan is received by the division. The division shall approve or deny a plan in writing. If the division denies a plan, the division shall notify the employer of the reasons for the denial. Approval or denial of a plan by the division shall be final and such determination shall be subject to review in the manner otherwise provided by law. If approval of a plan is denied by the division, the employer may submit a new plan to the division for consideration. [~~no sooner than forty-five calendar days following the date on which the division disapproved the employer's previously submitted plan.~~]

8. The division may revoke approval of a shared work plan and terminate the plan if it determines that the shared work plan is not being executed according to the terms [~~and intent~~] of the shared work unemployment compensation program, or if it is determined by the division that the approval of the shared work plan was based, in whole or in part, upon information contained in the plan which was either false or substantially misleading.

10. An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as originally approved by the division. The employer shall report the changes made to the plan in writing to the division [~~at least seven days~~] before implementing such changes. The division shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection 4 of this section. **The division shall notify the employer of its decision within three days of receipt.** The approval of a modified shared work plan shall not, under any circumstances, affect the expiration date originally set for the shared work plan. If modifications cause the shared work plan to fail to meet the requirements for approval, the division shall deny approval of the modifications as provided in subsection 7 of this section.

12. An individual who is otherwise entitled to receive regular unemployment insurance benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the division finds that:

(3) The individual's normal weekly hours of work have been reduced by at least [~~twenty~~] **ten** percent but not more than [~~forty~~] **sixty** percent, with a corresponding reduction in wages

Reduce the Penalty for Part-Time Work

Instead of reducing the weekly benefit amount by $1 for each $1 of wages that a worker earns in a part-time job while looking for full-time work, this reform would change the offset amount from $1 to $0.50. Such a change may be achieved by revising the existing law as follows:

288.060. Benefits, how paid — wage credits — limitation on duration of benefits — benefits due decedent — benefit warrants cancelled, when — electronic funds transfer system, allowed — remote claims filing procedures required, contents, duties.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and **one half of** that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and **one half of** that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. Pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

HEALTHCARE PRICE TRANSPARENCY

The Policy

Healthcare price transparency is the essential practice of providing clear and accessible information about the costs of medical services and procedures. This empowers Missourians to make informed decisions and encourages competition among healthcare providers to help mitigate high healthcare expenses.

The Facts

Over the past decade, the price of hospital services nationally has skyrocketed by more than 45%.

Despite the federal government requiring hospitals transparency disclose their prices since 2021, estimates suggest that less than 40% of American hospitals are fully compliant today.

In Missouri, the price of a pelvic CT scan at a single hospital can vary by a multiple of 20.

Studies have found wide variation in prices paid for healthcare procedures across regions, among hospitals, and even within the same hospital based on the type of insurance (or lack thereof) a patient has.

Good Price Transparency Policy Checklist

- Codify the federal healthcare price transparency rules into state law.
- Ensure patients have easy access to consumer-friendly and machine-readable price lists.
- Create state-level remedies to strengthen enforcement and noncompliance penalties.
- Protect patients from opaque pricing by banning noncompliant hospitals from pursuing debt collection for unpaid bills.

PUBLIC SUPPORT

88% of Americans favor requiring insurers, hospitals, doctors, and other providers to disclose the cost of their services.

Show-Me Institute
Where Liberty Comes First

Talk to a Policy Expert

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HEALTHCARE PRICE TRANSPARENCY

By Aaron Hedlund

KEY TAKEAWAYS

- Missourians are suffering from an acute cost of living crisis, with rapidly rising healthcare prices long predating the current national inflationary episode.
- Healthcare prices are not just high—they are unpredictable and hidden; patients often don't learn the cost of treatment until after the fact when they get the bill. This lack of clarity undermines patient choice, destroys competition, and causes people to receive less value for the money they spend on healthcare.
- Missouri can pursue healthcare price transparency reforms that build on recent efforts at the federal level, such as codifying regulations into state law, strengthening noncompliance penalties, and shielding patients from debt collections by noncompliant hospitals.

BACKGROUND

Missourians—and Americans, broadly—are contending with a crippling cost of living crisis. The consumer price index has increased by 17% since just the beginning of 2021. While much of the blame for the current inflationary episode can be laid at the feet of reckless fiscal policy, families have grappled with rising costs in healthcare for far longer. Over the past decade, the price of hospital services has skyrocketed by over 45%.

Dysfunction in healthcare pricing runs deeper than just this topline inflation figure. Healthcare prices also vary widely by geography, hospital, and insurance or payment method.[1] For example, a 2014 report from the Government Accountability Office found that the cost for maternity care at selected acute care hospitals in Boston—all rated high quality—varied from $6,834 to $21,554.[2] In Missouri, data from 2021 indicate that the price of a pelvic CT scan within the same hospital can vary by a factor of 20 depending on a patient's insurance, with prices ranging from under $200 to multiple thousands of dollars, as shown in Figure 1.

This state of affairs would be bad enough if patients knew what they were getting into before deciding on a course of treatment. Unfortunately, the pricing information is so confusing that patients—along with their doctors—are making financial decisions in the dark, often only learning the cost after the fact when the bill arrives. This backward sequence makes a mockery of patient choice and leads to an inefficient allocation of healthcare resources. In human terms, this lower bang for the healthcare buck means worse outcomes for patients, both medically and financially. Consumer choice is a fundamental tenet of a functioning free market, just as voter choice is the very essence of democracy. But choice that people can only exercise without the information they need to choose wisely is hollow. In Texas, a recent study found that prices for services like vaginal childbirth or a brain MRI can sometimes vary by over 50% *at the same hospital* depending on whether the patient calls ahead of time to receive a price quote over the phone versus relying just on the internet. "Comparison shopping" is not tenable in such an information void.[3]

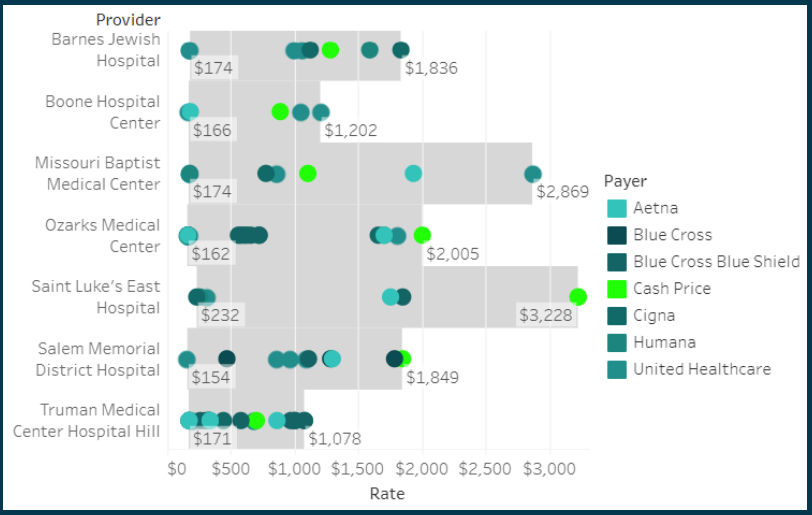
A common refrain from progressives is that the answer to weak market forces is to abandon the market entirely by imposing a centralized, single-payer structure. Beneath the false advertising of "free healthcare," the

reality of single payer entails sacrificing what patient choice currently exists—like the ability to choose from among providers and insurers—and placing healthcare payment decisions at the mercy of government bureaucrats whose judgment cannot be appealed or challenged by a competitor. In reality, the solution to impaired choice is repaired choice, and healthcare price transparency lies at the heart of the matter. This issue brief discusses the need for healthcare price transparency along with recent achievements and roadblocks encountered along the way, and outlines steps Missouri can take to empower patients and other stakeholders with the price information they desperately need.

Figure 1

Price Variation for a Pelvic CT Scan Among Select Missouri Hospitals

Prices for the same procedure—even in the same hospital—can vary by thousands of dollars depending on the type (if any) of insurance the patient has.



Source: Turquoise Health

A HEALTHCARE MARKET BROKEN BY HIDDEN AND OPAQUE PRICING

According to a 2019 Harvard-Harris poll, 88% of Americans favor requiring insurers, hospitals, doctors, and other providers to disclose the costs of their services.[4] The public's support for price transparency is well founded. A growing body of evidence suggests that the U.S. healthcare system suffers from a lack of competition, which enables hospitals in concentrated markets to charge prices that are incommensurate with the quality of care.

One recent study that examines the relationship between prices and the quality of care in hospitals finds that, in less-concentrated markets with more abundant provider choice, being admitted to a hospital that charges higher prices lowers mortality by 37%, but being admitted to a more expensive hospital in an area with high market concentration—that is, low competition—does not lower mortality.[5] What accounts for the superior performance of higher-priced hospitals in the areas with greater competition? In general, they do *not* deliver higher-intensity care or exhibit a greater tendency to engage in surgical interventions on patients admitted to the ER. Nor do these hospitals have higher overhead. Instead, they have a larger share of physicians who graduated from top-25 medical schools. By contrast, expensive hospitals in more concentrated markets are able to charge higher prices because of greater market power—market power that is exacerbated by a lack of price transparency.

Other studies concur, finding that monopoly hospitals charge notably higher prices than do hospitals with several nearby competitors. In a similar vein, prices rise when nearby hospitals merge.[6] Specialty hospitals, such as children's hospitals, also frequently charge a price premium, which might seem intuitive at first. However, this price premium even applies in the case of routine procedures where there is no demonstrated quality advantage of one hospital type over another. Instead, because of the information void that prevents patients from accurately comparing providers, specialty hospitals are able to trade off of their broader reputation in such a way that inoculates them from competition in areas where they lack a comparative advantage.[7]

Making provider decisions based off of vague notions of reputation divorced from measures of true quality is just one way that patients compensate for the lack

of information available to them. Patients also, quite understandably, rely on provider referrals from their physicians. The dilemma is that this reliance is often times an *overreliance*. While it is comforting to assume one's physician thoroughly surveys the provider landscape when referring out, it may simply be the case that the physician happens to be part of a network or has become acquainted with one provider instead of another. Research sheds light on this issue as well. A recent analysis finds that a typical patient will bypass six lower-priced, equally good providers on the drive from their home to where they obtain treatment. This behavior is driven by the referral behavior of physicians, and the pattern persists because neither patients nor their physicians possess systematic information to guide them in a different direction.[8]

THE CASE FOR HEALTHCARE PRICE TRANSPARENCY

As alluded to earlier, the progressive fallacy that market forces cannot drive value in healthcare is just that: a fallacy. There is abundant evidence that higher-quality hospitals outperform their low-quality counterparts in the competition for patients. Even in the hobbled information environment that patients find themselves in, market forces are still able to shift healthcare utilization and resources from worse to better providers. As confirmation, one leading study finds that higher-quality hospitals are able to grow their market share over time and that this relationship is driven by patients who have greater scope for hospital choice.[9] In other words, patient empowerment leads to better resource allocation and outcomes. The idea that the benefits of informed patient choice would ever come into question is a testament to how deeply rooted the false narrative about inherent and pervasive market failures in healthcare has become. The true culprit is *not enough* market forces.

The primary beneficiaries of healthcare price transparency are patients themselves, but they are not the only ones who would benefit from such a transformation. Doctors would be able to act as more effective advocates for those under their care, allowing for more open and frank conversations about the tradeoffs between different treatment plans. Notably, the benefits of price transparency also extend to employers, enabling them to negotiate from a stronger position with insurers and providers and to offer superior healthcare packages to their workers. Lastly, and most importantly, transparency is not just about revealing current prices; it is about *lowering* these prices and enabling the emergence of more innovative payment models through greater competition.

The rationale for pursuing healthcare price transparency is not merely theoretical. Besides the undeniable fact that prices are key to the efficiency of every other market, there is also recent precedent specifically with healthcare. Back in 2007, New Hampshire launched a website, NH HealthCost, that allows individuals considering medical treatment to enter the procedure as well as their insurance information, postal code, and a search radius to obtain information on the expected out-of-pocket price, insurer price, and total price charged by providers in that radius (supplemented also by some quality metrics). One recent study examined the effects of the website and found that, just in the area of medical imaging, patients have saved 5% in out-of-pocket costs, and insurers saved 4% (which ultimately benefits patients through lower premiums). The total savings come out to about $44 million on x-rays, CT scans, and MRI scans over five years.[10] Even so, awareness of the website is not universal. The author estimates in another study that medical imaging prices would fall by 22% if patients had full price transparency.[11]

PROGRESS AND OBSTACLES ON THE ROAD TO HEALTHCARE PRICE TRANSPARENCY

In July 2019, the Trump administration issued an executive order requiring hospital price transparency, and the Centers for Medicare and Medicaid Services (CMS) finalized the rule later that year in November. The rule required hospitals to make pricing information available to the public through two methods: a comprehensive machine-readable file with five types of charges—the gross charge, discounted cash price, payer-specific negotiated charge, and deidentified minimum and maximum negotiated prices—as well as a consumer-friendly list covering 300 shoppable services. The Trump administration also separately issued a "Transparency in Coverage" rule requiring health plans and issuers in the individual and group markets to release their negotiated rates with providers both as a machine-readable file and subsequently as a consumer-facing price comparison tool. Both executive orders contain staggered compliance deadlines, with the hospital price transparency rule kicking in first at the beginning of 2021.

Compliance has been spotty. Right out of the gate, the American Hospital Association sued to stop price transparency from going into effect, but the courts rejected the challenge and upheld the rule. When the Biden administration took office, speculation abounded about which Trump-era executive orders would survive and which would be rescinded, but the new administration opted to keep—and eventually even strengthen—the price transparency rules, making them a bipartisan priority. Nevertheless, multiple studies found that fewer than 6% of hospitals were in full compliance with the transparency requirements after the first six months of implementation.[12] Several factors likely contributed to this outcome, but the extremely modest noncompliance penalties of only $300 per day—amounting to at most $109,500 per year—surely played a role. Another study of early compliance patterns found that a hospital's compliance status was influenced positively by whether its peers in the same market were complying.[13] *The Wall Street Journal* also reported early in the implementation that hundreds of hospitals were embedding code in their price transparency websites that blocked search engines from displaying pages with price lists.[14] Since then, *The Wall Street Journal* has written several exposés on questionable hospital pricing practices based on an analysis of data that only came to light because of the price transparency rule—including that cash payers are often charged more than insurance companies for the same service in the same hospital.[15]

In late 2021, the Biden administration announced that it was hiking noncompliance penalties for larger hospitals to $10 per bed per day, capped at $5,500 per day, leading to a maximum annual fine in excess of $2 million. According to a report in summer 2023, compliance with price transparency requirements now stands at 36%—a considerable jump from under 6%, but still woefully inadequate.[16] CMS has sent out over 700 warning notices and nearly 300 requests for corrective action plans, but it has demonstrated a reluctance to actually levy fines—having penalized only four hospitals as of April 2023.[17] In summer 2023, CMS announced plans to increase enforcement by, among other things, tightening deadlines for noncompliant hospitals and publishing a list of noncompliant hospitals on the CMS website. It is as of yet unclear whether CMS will also ramp up its enforcement of sanctions if hospitals still fail to comply. Separate from the issue of penalties, CMS is also issuing data standardization guidance to simplify the process for hospitals and to enhance the user-friendliness of the data. Congress has also shown an interest in taking legislative action to increase price transparency.

WHAT MISSOURI CAN DO TO ADVANCE HEALTHCARE PRICE TRANSPARENCY

Missouri need not passively wait for action by the federal government. Other states have stepped forward to reinforce the federal price transparency efforts. Most prominently, Texas codified the federal price transparency executive orders into state law in 2021, creating noncompliance penalties that stack on top of federal penalties and making compliance a consideration when hospitals apply for renewal of their license or certification.[18] In 2022, Colorado also took bold steps to induce hospital compliance by barring noncompliant hospitals from pursuing collections or legal action against parties with unpaid bills.[19] In 2023, Missouri lawmakers attempted to do something similar to Colorado but were unsuccessful.

Missouri can combine all of these efforts. The Hospital Price Transparency Act (HPTA), which is draft language hosted on the website of the American Legislative Exchange Council, provides one avenue to accomplish these goals. Below is a summary of the major reforms.

Reform: Codify Enhanced Federal Price Transparency Requirements into State Law

This section of the HPTA emulates federal price transparency rules by defining into state statute the categories of charges that hospitals must disclose, the comprehensive list of items and services that price disclosure must encompass, and the manner in which it must be made accessible. Important criteria that the price lists (both the machine-readable file and the consumer-friendly list) must satisfy include requirements that the specified information must:

- Be available free of charge.
- Be prominently displayed on the home page of the facility.
- Be accessible without any requirement to establish a user account or password, enter an access code, or submit personal information.
- Be digitally searchable and able to be indexed by a search engine.
- Follow a standardized format as specified by CMS.

Missouri could go further by doing the following:

- Requiring all prices to be in actual dollars, not presented as a formula that references other quantities.
- Requiring hospitals to retain and make available historical price data each year as they update.
- Eliminating the price estimator "loophole" that allows hospitals to not provide actual prices.

Reform: Strengthen Enforcement and Noncompliance Penalties

This portion of the HPTA sets forth the responsibilities of the state health agency to monitor facilities for compliance. This monitoring is *active* in nature, requiring the state to proactively audit facilities in addition to investigating complaints from others about noncompliance. The model policy prescribes the following non-exhaustive list of consequences for noncompliant facilities:

- Inclusion on a list of noncompliant facilities to be posted on the relevant state agency's website.
- Additional scrutiny upon application for renewal of its license, with possible delays or obstacles.
- Imposition of administrative sanctions. The HPTA sets these penalties at $600 per day for hospitals with fewer than 30 beds, $20 per bed per day for hospitals with between 30 and 550 beds, and $11,000 per day for hospitals with more than 550 beds. Each day is a separate violation.

Reform: Prohibit Noncompliant Hospitals from Pursuing Patients for Unpaid Bills

The last pillar of the HPTA bars noncompliant hospitals from pursuing collections and other legal remedies against patients with outstanding bills and offers remedies to patients. Contours of this provision include:

- Protection of patients against direct or *indirect* debt collection activity by noncompliant hospitals themselves or any third party that they contract with on their behalf.
- Prohibiting noncompliant hospitals from reporting patients to a consumer reporting agency.
- Allowing any patient whom a hospital pursues for collections to sue to determine the compliance status of the hospital.
- Requiring noncompliant hospitals that pursue collections against patients to make the patient financially whole, including refunding any amount of the debt paid plus legal and other relevant fees.

CONCLUSION

Runaway inflation in the cost of healthcare predates the current inflation crisis, and one of the primary causes of that inflation is obvious: consumers of healthcare don't have access to the information they need to make informed purchasing decisions. The reforms suggested here would help address this problem by codifying federal transparency executive orders at the state level, giving noncompliance penalties real teeth—specifically, targeting the bottom line of noncompliant hospitals by prohibiting them from collecting debts from patients with outstanding bills.

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NOTES

1. Cooper, Zack, Stuart V. Craig, Martin Gaynor, and John Van Reenen. "The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured," 2019, *The Quarterly Journal of Economics 134*(1):51–107; Finkelstein, Amy, Matthew Gentzkow, and Heidi Williams. "Sources of Geographic Variation in Health Care: Evidence from Patient Migration," 2016, *The Quarterly Journal of Economics 131*(4):1681–1726; Fronsdal, Toren L., Jay Bhattacharya, and Suzanne Tamang. "Variation in Health Care Prices Across Public and Private Payers," 2020, NBER working paper; nber.org/papers/w27490.

2. U.S. Government Accountability Office. "Actions Needed to Improve Cost and Quality Information for Customers," October 20, 2014, GAO Report 15-11; gao.gov/products/gao-15-11.

3. Thomas, Merina, James Flaherty, Jiefei Wang, Morgan Henderson, Vivian Ho, Mark Cuban, and Peter Cram. "Comparison of Hospital Online Price and Telephone Price for Shoppable Services," 2023, *JAMA Internal Medicine 183*(11):1214–1220.

4. Harvard Center for American Political Studies Harris Poll, May 29–30, 2019; https://harvardharrispoll.com/wp-content/uploads/2019/06/HHP_May19_vF.pdf

5. Cooper, Zack, Joseph J. Doyle Jr, John A. Graves, and Jonathan Gruber. "Do Higher-Priced Hospitals Deliver Higher-Quality Care?" 2023, NBER working paper; nber.org/papers/w29809.

6. Cooper et al (2019); Barrette, Eric, Gautam Gowrisankaran, and Robert Town. "Countervailing Market Power and Hospital Competition," 2022, *Review of Economics and Statistics 104*(6):1–33.

7. McCarthy, Ian and Mehul Raval. "Price spillovers and specialization in health care: The case of children's hospitals," 2023, *Health Economics 32*(10):2408–2423.

8. Chernew, Michael, Zack Cooper, Eugene Larsen Hallock, and Fiona Scott Morton. "Physician agency, consumerism, and the consumption of lower-limb MRI scans," 2021, *Journal of Health Economics,* Vol. 76:102427.

9. Chandra, Amitabh, Amy Finkelstein, Adam Sacarny, and Chad Syverson. "Health Care Exceptionalism? Performance and Allocation in the US Health Care Sector," 2016, *American Economic Review 106*(8):2110–2144.

10. Brown, Zach Y. "Equilibrium Effects of Health Care Price Information," 2019, *Review of Economics and Statistics, 101*(4);699–712.

11. Brown, Zach Y. "An Empirical Model of Price Transparency and Markups in Healthcare," 2019, working paper; https://websites.umich.edu/~zachb/zbrown_empirical_model_price_transparency.pdf.

12. "Fifth Semi-Annual Hospital Price Transparency Compliance Report," July 2021: https://www.patientrightsadvocate.org/blog/semi-annual-hospital-price-transparency-compliance-report-july-2021; Haque, Waqas, Muzzammil Ahmadzada, and Sanjana Janumpally. "Adherence to a Federal Hospital Price Transparency Rule and Associated Financial and Marketplace Factors," 2022; *JAMA* 327(21):2143–2145.

13. Jiang, John Xuefeng, Daniel Polsky, Jeff Littlejohn, Yuchen Wang, Hossein Zare, and Ge Bai. "Factors Associated with Compliance to the Hospital Price Transparency Final Rule: a National Landscape Study," 2021, *Journal of General Internal Medicine 37*(14):3577–3584.

14. McGinty, Tom, Anna Wilde Mathews, and Melanie Evens. "Hospitals Hide Pricing Data from Search Results. *The Wall Street Journal,* March 22, 2021, https://www.wsj.com/articles/hospitals-hide-pricing-data-from-search-results-11616405402

15. Evans, Melanie, Anna Wilde Mathews, and Tom McGinty. "Hospitals Often Charge Uninsured People the Highest Prices, New Data Show.

HEALTHCARE PRICE TRANSPARENCY MODEL POLICY

The American Legislative Exchange Council ("ALEC") has developed a model policy titled the "Hospital Price Transparency Act". The full text of this policy is available on ALEC's website (https://alec.org/model-policy/hospital-price-transparency-act). It provides a useful example of the type of language and reforms needed for true healthcare price transparency.

One way to achieve the key reforms that Missouri needs is to adopt language similar to ALEC's model policy. Accordingly, under each reform identified for Missouri is a reference to the relevant text from ALEC's model policy.

Codify Enhanced Federal Price Transparency Requirements into State Law Hospitals must disclose their prices both in a machine-readable format and in a consumer-friendly list.

The relevant text for this reform begins with *"Section 3: Healthcare Facilities Required to Disclose Certain Prices to Patients"* and ends just before *"Sec. [insert chapter number here].006. MONITORING AND ENFORCEMENT."*

Strengthen Enforcement and Noncompliance Penalties
To ensure compliance, State health agencies must actively monitor facilities for compliance; sanctions must be levied on noncompliant facilities that do not take timely, sufficient corrective action after being informed about their status of noncompliance; and the public must have easy access to a continually updated list of noncompliant facilities on a prominent state government website.

The relevant text for these reforms begins with *"Sec. [insert chapter number here].006. MONITORING AND ENFORCEMENT."* and ends just before *"CHAPTER [insert chapter number here]. PROHIBITING COLLECTIVE ACTION OF DEBT AGAINST PATIENTS FOR NON-COMPLIANT FACILITIES:"*

Prohibit Noncompliant Hospitals from Pursuing Patients for Unpaid Bills
Facilities that are in a status of noncompliance with price transparency requirements are barred from pursuing collections and other legal remedies against patients with derogatory bills.

The relevant text for this reform begins with *"CHAPTER [insert chapter number here]. PROHIBITING COLLECTIVE ACTION OF DEBT AGAINST PATIENTS FOR NON-COMPLIANT FACILITIES:"* and goes to the end of the draft language.

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MISSOURI TAXPAYER BILL OF RIGHTS

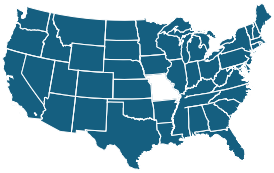
The Policy

The Missouri Taxpayer Bill of Rights is a tax and expenditure limit that would meaningfully constrain Missouri's government growth and return the power of controlling the size of government back to Missourians.

The Facts

Over the past five years, the state's budget has nearly doubled.

Government spending is growing faster than the economy, which is unsustainable.



According to Moody's Analytics, Missouri is one of the least-prepared states in the nation for an economic downturn.

Missouri's current tax and expenditure limit, the Hancock Amendment, has proven incapable of meaningfully constraining taxes or spending.

MISSOURI TAXPAYER BILL OF RIGHTS

By Elias Tsapelas and Aaron Hedlund

KEY TAKEAWAYS

A Missouri Taxpayer Bill of Rights would build on the legacy of past tax and expenditure limits, defending the public from overbearing government by implementing stronger protections that:

- Impose a "speed limit" on total government spending and spendable revenue equal to a combination of the population growth rate and a capped measure of inflation.* This rate would allow the government to offer a stable total level of services over time while protecting taxpayer pocketbooks.
- Trigger automatic tax cuts when revenues exceed the speed limit unless voters approve a request by the legislature to use the money to hike total spending for that year.
- Cap property tax growth to ensure that it never rises faster than prices or paychecks.
- Block carveouts that circumvent or undermine the speed limit or obstruct tax rate cuts.
- Maintain and strengthen the ban on state-imposed unfunded mandates.
- Give taxpayers the same convenience of access to budget, financial, and program performance information as legislators to enhance transparency and accountability.
- Bolster budget stability during fiscal emergencies with a recession preparedness fund.

INTRODUCTION

Missouri is being left in the dust by states like Texas, Tennessee, and Florida in the race to attract new residents, jobs, investment, and growth. Other states, including some of Missouri's immediate neighbors, are aggressively cutting taxes, reining in wasteful spending, and expanding the freedoms and opportunities that their residents can enjoy without needing to seek government permission. To join the vanguard of pro-freedom, pro-growth states, Missouri policymakers would do well to tilt the balance of power away from government and toward the hard-working people who show up each day to their jobs, start businesses, and are raising the next generation of Missourians.

A Missouri Taxpayer's Bill of Rights would deliver on past promises to protect taxpayers from overbearing government by rewriting the social contract between lawmakers, bureaucrats, and the people of Missouri. The sections that follow describe the main pillars of a Missouri Taxpayer Bill of Rights.

* The Missouri Taxpayer Bill of Rights inflation measure is the lesser of consumer price inflation, wage inflation, or a hard cap. Spendable revenue is revenue left over after mandatory Missouri Taxpayer Bill of Rights refunds and Recession Preparedness Fund contributions.

A ROBUST SPEED LIMIT FOR GOVERNMENT SPENDING AND TAXES

In just the four-year period from 2019 to 2023, Missouri state government grew by nearly 40 percent even before adding the federally funded portions of state spending.[1] For perspective, this figure dwarfs the 22 percent cumulative inflation that occurred during this same period (with 20 percentage points out of the 22 taking place since 2021 in response to reckless federal stimulus).[2] Growth in state government has also outpaced Missouri's 26 percent growth in economic output (gross domestic product) since 2019, and it stands in stark contrast to Missouri's flat population growth.[3] In more relatable terms, state government now collects over $700 more per resident *after adjusting for inflation* than it collected in 2019.

Missourians have long understood the need to stem rapid government growth. In 1980, Missouri voters approved a tax and expenditure limit (TEL) known as the Hancock Amendment.[4] At the time of its passage, the amendment was thought to be one of the strongest TELs in the country. But as Missouri taxpayers have learned over the past 40 years, and as evidenced by the recent explosive growth in state spending, Missouri's primary TEL has proven woefully ineffective at putting taxpayers ahead of government.

Fortunately, decades of extensive research on and experience with TELs across the country provide compelling lessons on the elements of a TEL that are necessary to effectively protect taxpayers' pocketbooks from excessive government. The Missouri Taxpayer Bill of Rights model policy is informed by Colorado's Taxpayer Bill of Rights—considered until now the gold standard TEL—and would better fulfill the promises that Missouri's patchwork of TELs like the Hancock Amendment have made. If enacted, the Missouri Taxpayer Bill of Rights would be a stronger TEL that better protects taxpayers, improves accountability, gives voters more power, and lays the foundation for a more prosperous Missouri.

The Missouri Taxpayer Bill of Rights fiscal speed limit has the following critical characteristics:

- It would be constitutional rather than statutory.
- It would be tied to a comprehensive base of spending and revenues without carveouts and loopholes.
- It would allow stable provision of government services instead of permitting rapid annual growth.
- It would be enforced by automatic tax cuts and/or refunds.
- It would be linked to other budget rules, particularly balanced-budget requirements.

HOW THE MISSOURI TAXPAYER BILL OF RIGHTS FISCAL SPEED LIMIT WORKS

- Each year, state lawmakers make appropriations decisions subject to the cap on the expansion of total state spending equal to last year's actual spending adjusted for a capped measure of inflation and population growth. Tax credits deemed equivalent to government subsidies count against the spending limit.
- The same speed limit applies to revenues. If revenue collection exceeds the cap, automatic tax rate cuts go into effect, with some surplus revenue going to the Recession Preparedness Fund (discussed later in this report). The legislature can convert the tax rate cut to a refund if the previous year's revenues were below the limit. Otherwise, suspending the rate cut requires voter approval.
- Voters must approve the use of surplus revenues for spending or hiking spending beyond the cap.
- Lawmakers can freeze spending and revenue caps in place during fiscal emergencies to prevent revenue or spending disruptions from becoming permanent and to facilitate a return to normal.
- Localities are bound by the same speed limit, ensuring that taxpayers are fully protected from all sources of excess government growth.
- The state remains prohibited from imposing unfunded mandates, which are a veiled way to circumvent the limit. Any funded mandates from the state count toward the state, not local, limit. Mandatory spending of federal funds does not count against state or local limits.

The Missouri Taxpayer Bill of Rights applies the speed limit to both sides of the budget ledger—spending *and* revenues—to prevent lawmakers from diverting excess revenues away from tax cuts toward other uses and from using discretionary federal funds to permanently enlarge government. The speed limit applies to the broadest

possible base of state revenues (i.e. taxes *and* fees, not federal funds) and spending to guard against attempts to create loopholes and carveouts. If government officials wish to tax or spend beyond the limit, the Missouri Taxpayer Bill of Rights requires explicit voter approval with standardized ballot language that clearly explains the amount of the one-time hike in the level of the cap and the justification for doing so.

The choice of a capped inflation measure plus population growth as the speed limit is a natural one, for it allows a stable provision of total government services while giving lawmakers the flexibility to set priorities for how to allocate spending under that overall cap. Specifically, the speed limit allows the government to keep up with the rising cost of providing services because of higher prices and more people to serve while simultaneously protecting taxpayers against runaway cost growth. Importantly, the limit also requires lawmakers to seek the permission of voters to increase the overall size, scope, or burden of government.

The Missouri Taxpayer Bill of Rights limit differs from Missouri's most famous TEL—the Hancock Amendment—in key ways:

- The Missouri Taxpayer Bill of Rights limits annual growth in government, whereas the Hancock Amendment establishes an ever-increasing ceiling pegged to a ratio set in 1980 that now allows nearly unchecked government growth from one year to the next and makes any reduction in government fragile and fleeting.
- The Hancock Amendment benchmarks to total state income. But because total state income tends to outpace inflation plus population growth, government is able to expand its scope without voter approval.
- The Missouri Taxpayer Bill of Rights limits broad-based revenue collection and spending, whereas the Hancock Amendment only addresses revenues and has significant loopholes. For example, the legislature has used tax credits to circumvent the normal budget process and shrink the revenue base. As a result of this game-playing, the Hancock Amendment's refund provisions haven't been triggered since 1999. The Hancock Amendment's broken enforcement relies on incompatible definitions such that determinations are not made regarding whether any tax or fee increase meets the threshold for a public vote. The Missouri Taxpayer Bill of Rights's limit is self-enforcing through automatic tax cuts based on actual realized outcomes.

Despite the intentions of the Hancock Amendment and record government growth, taxpayers have not received Hancock-related state tax refunds since 1999. Moreover, due to the Hancock Amendment's design flaws and the rampant exploitation of tax credit loopholes, it is unlikely that taxpayers will ever receive such refunds again.

With regard to enforcement, the Missouri Taxpayer Bill of Rights limits are based on the previous year's actual revenue and spending totals. In the case of spending, government officials simply would not have the authority to spend past the limit unless voters approved such spending. On the revenue side, if total collections at the end of the fiscal year exceeded the limit, any excess would get split between automatic tax cuts or refunds and, if necessary, replenishing the Recession Preparedness Fund (explained in more detail later). By default, the automatic tax cuts come in the form of lower rates, though the legislature may convert the rate cut to a one-time refund if it believes the excess revenue to be anomalous and if revenues did not exceed the speed limit in the prior year.[†] The Missouri Taxpayer Bill of Rights leaves intact any otherwise-scheduled tax rate cuts and preserves the ban on state-imposed unfunded mandates to prevent the state from burden-shifting.

The bill's higher standards of accountability and transparency also aid enforcement. Specifically, the government would be required to ensure the same convenience of access to budget, financial, and program performance information for taxpayers that is available to legislators.

ENSURING PROPERTY TAXES DO NOT GROW FASTER THAN PRICES OR PAYCHECKS

From 2011 to 2021, local property tax revenues surged by 43 percent in Missouri—double the sum of cumulative inflation (19%) and population growth (less than 3%) during that period. In other words, Missourians now contend with a much higher property tax burden than they faced in the past despite the protections that Missouri's Constitution is supposed to provide through the Hancock Amendment.

[†] By default, income tax rate cuts (or the local earnings tax rate, if applicable) would be prioritized, then sales tax cuts.

The relevant provision in this case is a local tax cap that is often referred to as a "rollback provision," which stipulates that if property tax revenues increase faster than inflation—for example, from property value appreciation—the property tax rate must be adjusted downward (i.e., "rolled back") to realign inflation-adjusted revenues with their previous level. The spirit of the provision is to avoid punishing taxpayers—and preventing local governments from profiting—when property values rise rapidly. Only Kansas City is exempt from this rollback requirement.[5]

While the rollback provision has helped to some degree for residential property, it is not consistently applied to personal property taxes owed by residents on their cars—which can amount to several hundred dollars a year on each vehicle—and by businesses on tangible property like office equipment and farm machinery. While used cars typically depreciate over time (leading to lower property tax payments as a vehicle loses value) prices for used cars surged by over 50 percent between February 2020 and 2022 and are still up by over 25 percent. Even prior to COVID-19, Missouri stood out as having a high personal property tax burden. A 2012 study identified Missouri as having the third-highest personal property tax collections per capita in the country, and a study from 2019 found that Missouri has the fifth-highest reliance on personal property taxes as a share of the overall property tax base.[6]

As it applies to businesses, the personal property tax penalizes capital investment, making it one of the most harmful forms of taxation with regard to economic growth. Adding to this burden, businesses also pay a commercial property surtax (or surcharge) that is also exempt from the Hancock rate rollback provisions. Commercial property valuations have increased substantially since the tax was first levied in 1985, and as of 2024 only one county has lowered its rate.

HOW THE PROPERTY TAX CAP WORKS

- Each jurisdiction is subject to an annual cap on property tax collections from all taxable real and personal property equal to last year's collections adjusted for the lesser of inflation or Missouri wage growth.
- The cap is enforced through an automatic reduction in property tax rates.

The Missouri Taxpayer Bill of Rights would strengthen and expand existing property tax rollback provisions. Specifically, it strengthens the growth-rate cap on property tax collections by ensuring that collection growth never exceeds inflation or Missouri wage growth. If property valuations rise faster than the growth cap, the tax rate automatically ratchets down. Importantly, this expands Missouri's current rollback provisions to apply to *all* taxable real and personal property (like vehicles), not just residences. Together, these protections ensure that property taxes do not rise faster than prices or paychecks.

SUPPORTING FISCAL LIMITS AND BUDGET RESILIENCE WITH A RECESSION PREPAREDNESS FUND

Fiscal limits are tested most severely during downturns and emergencies, when lawmakers face the greatest temptation to toss rules to the side. Even without the Missouri Taxpayer Bill of Rights, Missouri is already bound by a balanced budget requirement in the state constitution that prevents the state from spending more than it takes in.[7] Maintaining budget balance can be especially challenging during recessions, when revenues fall and spending on safety-net programs like Medicaid rises, creating the potential for severe budgetary volatility. To soften the disruptive policy tradeoffs associated with such volatility, many states set aside money when times are good in a "rainy day fund" that can be tapped during a downturn.

Unfortunately, problems with Missouri's current rainy-day fund have kept it from ever being called upon in an emergency. Missouri's rainy-day fund, the Budget Reserve Fund (BRF), was enshrined in the state's Constitution in 1999. When enacted, the fund was intended to serve two purposes: budget stabilization in times of fiscal emergency and to help align available revenues with spending needs over the course of each fiscal year. Importantly, the BRF, like most other rainy-day funds, is subject to various rules that govern how much money it may contain and the situations under which the money can be used.

These rules make the BRF too small, too inflexible to use during an emergency, and difficult to replenish. A Moody's Analytics stress test simulating how the state would fare in the event of a severe recession found that Missouri could face a shortfall of $2 billion, which

dwarfs the entire size of the BRF, let alone the smaller amount of funds that could reasonably be accessed.[8]

As discussed earlier, the Missouri Taxpayer Bill of Rights already allows lawmakers to freeze the fiscal speed limit in place during crises to stop steep revenue declines or emergency spending cuts from automatically becoming permanent. However, the bill does not stop there. It also builds a Recession Preparedness Fund (RPF) to shore up fiscal resilience and support the speed limit while avoiding the BRF's shortcomings.

How the RPF Would Work

- When revenues exceed the speed limit or when there are unused revenues at the end of the year, a portion of the surplus would be used to replenish the RPF to ensure that it is on track to being adequately capitalized. The rest would go to automatic tax cuts.
- Lawmakers could tap the funds in the RPF to cover revenue shortfalls in a downturn or crisis.
- The RPF would be governed by three policy parameters. The target size would set the maximum balance. The fill rate would determine the excess revenue split between automatic tax cuts and RPF replenishment. The maximum drawdown rate would limit how rapidly funds can be exhausted to stabilize the budget.
- The target size would be set to 15 percent of last year's net revenues, and the maximum drawdown rate would be set to 75 percent when the RPF was at its target size, or else 50 percent. The fill rate would also adjust with the RPF balance. Lawmakers would have limited discretion to adjust these parameters.

In a general sense, the way the RPF would work is quite simple. When revenues exceed estimates or the fiscal speed limit, a portion of those surplus funds would be deposited in the fund to be used only when an emergency or economic downturn occurs. Then, once the economy improves, the fund would be repaid. But as with other rainy-day funds, the devil is in the details.

To ensure the fund has enough money to sufficiently stabilize Missouri's budget during an economic downturn, the Missouri Taxpayer Bill of Rights target size would be set to match the revenue shortfall of the 2008 recession as a percentage of state tax revenues at the time. Following the 2008 recession, Missouri's revenues fell by $1.2 billion, which was approximately 15 percent of net revenues. Today, an appropriate target size of 15 percent of net revenues based on last year's revenue collections would result in an RPF fund balance of nearly $2 billion. By comparison, Missouri's current rainy-day fund, the BRF, has a maximum balance of $750 million, and only 50 percent of the balance can be used for stabilization.

When surplus revenues are collected, the share of those funds that would be deposited in the RPF is called the fill rate. The Missouri Taxpayer Bill of Rights would adjust the fill rate based on the balance of funds in the RPF. When the balance is low, the fill rate would be set at 100 percent in order to bring the RPF balance above critical levels. As the RPF approached its target size, the fill rate would adjust downward, eventually reaching 0 percent once the RPF is fully capitalized. At that point, *all* excess revenues above the speed limit would go toward automatic tax cuts and refunds.

The maximum drawdown rate is the share of the fund that can be used for budget stabilization in any given year. The Missouri Taxpayer Bill of Rights maximum drawdown rate would be set to 75 percent, assuming the balance was at the fund's target size. When the balance was below the target, the drawdown rate would drop to 50 percent, with an option for the governor to request an increase, which would need to be approved by a two-thirds vote of each legislative chamber. Note that, unlike the current BRF, the RPF would allow the state to draw upon funds during economic downturns without supermajority requirements or artificially rigid repayment rules.

These parameters work together to ensure that the RPF would achieve its goals of: (1) providing sufficient and flexible access to funds during times of emergency, (2) ensuring funds are available in case the need persists for longer than a year, and (3) maintaining some balance until the fund can be replenished.

CONCLUSION

Missouri's government finances are a mess and are only getting worse. Despite the promises of past TELs in Missouri like the Hancock Amendment, the size of Missouri's state budget continues to grow—nearly doubling over the past five years. At the same time, the state's economy remains stuck in the middle of

the national pack and far behind national leaders like Texas, Tennessee, Florida, and others. Missouri has the opportunity to embrace the lessons learned by Colorado with its current best-in-class TEL and build upon them by implementing the new platinum standard for protecting taxpayers.

Adopting a taxpayer bill of rights with the provisions described above is Missouri's best opportunity to finally push back against the constantly increasing burden of government and make Missouri a model of fiscal stewardship. The question remains whether state elected officials will seize the opportunity, or if it will be left to voters once again to step up and take action.

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NOTES

1. Executive Budget. Office of Administration, Division of Budget & Planning. https://oa.mo.gov/budget-planning/budget-information.

2. Consumer Price Index for All Urban Consumers: All Items in U.S. City Average. Federal Reserve Economic Data. https://fred.stlouisfed.org/series/CPIAUCSL#0.

3. Gross Domestic Product: All Industry Total in Missouri. Federal Reserve Economic Data. https://fred.stlouisfed.org/series/MONQGSP; Resident Population in Missouri. Federal Reserve Economic Data. https://fred.stlouisfed.org/series/MOPOP.

4. Tsapelas, Elias. "Missouri's Hancock Amendment: A Primer". Show-Me Institute. https://showmeinstitute.org/wp-content/uploads/2024/04/20240306-Tsapelas-Hancock-Amendment.pdf.

5. Missouri Constitution. Article X, Section 11(g). Operating levy for Kansas City school district may be set by school board. https://revisor.mo.gov/main/OneSection.aspx?section=X++++11(g)&bid=32046&constit=y.

6. Errecart, Joyce, Ed Gerrish, and Scott Drenkard. 2012. "States Moving Away from Taxes on Tangible Personal Property." Tax Foundation; Watson, Garrett. 2019. "States Should Continue to Reform Taxes on Tangible Personal Property. Tax Foundation.

7. Missouri Constitution. Section: 04.024 Governor's budget and recommendations as to revenue – proposed legislation not enacted not to be included in projection of new revenues. http://www.moga.mo.gov/ MoStatutes/ConstHTML/A040241.html.

8. Dan White, Sarah Crane, and Colin Seitz. "Stress-Testing States: COVID-19." Moody's Analytics, April 2020. https://www.economy.com/getlocal?q=37F6F320-EF2A-4806-9AABEADE66FA0317&app=download.

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