COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4292S.03C
Bill No.: SCS for HB 2170
Subject: Tax Credits; Taxation and Revenue - Income; Children and Minors; Economic Development; Department of Economic Development,
Type: Original
Date: May 6, 2024

Bill Summary: This proposal modifies provisions relating to income taxes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund*/**	Up to ($1,843,737)	Up to ($70,671,733)	Up to ($86,680,095)
Total Estimated Net Effect on General Revenue	**Up to ($1,843,737)**	**Up to ($70,671,733)**	**Up to ($86,680,095)**

*Oversight notes the above costs includes up to the maximum cap in tax credits of $20 million per year PLUS the potential add-on 15% adjustment ($3M) for childcare desert for all three Sections. Section(s) 135.1310 & 135.1325 "Child Care Contribution Tax Credit Act" and the "Employer-Provided Child Care Assistance Tax Credit Act", and 135.1350 "Child Care Providers Tax Credit" effective FY 2025. Additionally, Oversight reflect FTE for DOR, DED and DESE. Lastly, the totals includes DESE & DOR costs for ITSD creation and annual maintenance of software and update of various tax credit forms.
**Oversight reflects the program's $16 million annual cap on tax credit issuance beginning in FY 2027 for Section(s) 620.3500 to 620.3530. Additionally, Oversight reflects 1 FTE for DOR (Associate Customer Service Representative $35,880 annually) beginning in FY 2026 and 2 FTE for DED (Senior Economic Development Specialist at 74,664 annually) beginning in FY 2025.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue - DOR	3 FTE	4 FTE	4 FTE
General Revenue – DED	7 FTE	7 FTE	7 FTE
General Revenue Fund – DESE	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	**14 FTE**	**15 FTE**	**15 FTE**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

Section 135.1310 Child Care Contribution Tax Credit Act

Officials from the **Department of Revenue (DOR)** note:

Starting January 1, 2025, a qualified taxpayer would be able to claim a tax credit against their state tax liability, in the amount of 75% of a qualified contribution to a qualified childcare provider. The qualifying contribution could be cash, stocks, bonds or securities. To be a qualified the childcare provider must be licensed under Section 210.221. The minimum amount of the credit that may be issued in credit is $100 ($175 donation) while the maximum qualifying amount of the credit is limited to $200,000 ($350,000 donation) annually.

The childcare provider receiving the contribution must be issued a written verification of the contribution to the taxpayer and file a copy with the Department of Economic Development (DED). This proposal allows the credit to be recaptured if the contribution is not used for providing childcare.

This credit is not refundable, cannot be transferred or sold but they can be carried forward up to six years. The credits are to be distributed on a first-come, first-serve basis with a cumulative $20 million annual cap. This proposal is scheduled to sunset on December 31, 2029.

This proposal allows that if the cumulative $20 million cap is authorized in a single year, then the credit can be increased by 15%. However, the increased amount is reserved for childcare providers in a childcare desert. It should be noted that the cap resets to $20 million each year.

This proposal does establish a provision in Section 135.1310.7, that should a tax-exempt organization as defined by the IRS qualify to receive the credit, they would be able to have the credit refunded to them without having a state tax liability. This allows DOR to establish a procedure should such an organization qualify for the credit.

This provision says the credit is to begin with tax years beginning on or after January 1, 2025. This would impact the Department starting when the tax returns are filed in January 2026.

Fiscal Year	Loss to General Revenue
2025	$0
2026	(Could exceed $20,000,000)
2027	(Could exceed $20,000,000)

This proposal creates a new tax credit program that will require a new line being added to the Form MO-TC ($7,138), updates to their website and changes to the individual income tax computer system ($1,785). These changes are estimated to cost $8,923. DOR's existing tax credit staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed, DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Rep at a salary of $35,880.

Oversight notes the officials from the DOR assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect cost to the general revenue for 1 FTE at $35,880 (with applicable E&E) annually in the fiscal note. Additionally, Oversight will reflect DOR's cost for updates to form and computer system changes in amount of $8,923 FY 2025.

In response to the similar proposal, SB 742 – 2024, officials from the **Department of Economic Development (DED)** noted:

RSMo. 135.1310. creates the "Child Care Contribution Tax Credit Act". Administered by the Department of Economic Development.

Child Care Desert - A census tract with poverty rate at least 20% or a median family income of less than 80% statewide average and at least 500 people or 33% of the population are located at least 1/2 mile away from a child care provider in urbanized areas or at least 10 miles away in rural areas.

Tax years beginning on or after 1/1/2025. Tax credit for contribution program. 75% tax credits. Minimum amount of any tax credit issued cannot be less than $100 and cannot exceed $200K per tax year. Credits are not transferable, sellable or refundable. 6-year carry forward period. Tax credits approved first-come-first-served.

Program cap: $20M per CY. If the full amount is authorized in a CY, the cap for the next CY will be increased by 15%. That increased amount must be used for child care providers located in a child care desert. The DED Director must publish the new amount. Contribution verifications must be turned into DED with 60 days of the contribution date. Donations must be used for child care for youth age 12 and younger, including by acquiring or improving child care facilities, equipment, or services, or improving staff salaries, staff training, or the quality of child care.

The department may promulgate rules. This program will sunset on 12/31/2030, unless reauthorized by the general assembly.

In response to the similar proposal, SB 742 – 2024, officials from the **Office of Administration – Budget & Planning (B&P)** assumed this section would create a tax credit for donations made to eligible childcare providers. The tax credits would begin for tax year 2025 and be equal to 75% of a qualifying donation. B&P notes that this provision may impact revenues beginning in FY26, when tax year 2025 annual income tax returns are filed.

A taxpayer may receive a tax credit of $100 ($175 donation) to $200,000 ($350,000 donation). The tax credits are non-refundable, unless a qualifying contributor is a 501(c)(3) non-profit. The tax credits may not be sold, transferred, or otherwise conveyed. The tax credits may be carried forward for up to six years.

Per subdivision 135.1310.8(1), no more than $20 million in tax credits may be authorized per year. However, per subdivision 135.1310.8(2) if the full $20 million is authorized, then an addition 15% ($3 million) may be authorized. The additional $3 million may only be used for contributions made to childcare facilities located within a childcare desert. Therefore, B&P estimates that this provision may reduce TSR and GR by up to $23 million annually beginning in FY26.

Oversight notes that for informational purposes the Office of Childhood (DESE), in response to the similar proposal HB 870 (1993.01) 2023, provided Oversight with six years of statistic on licensed childcare facilities in Missouri as follows:

Year	**Licensed Childcare Provider – Sum**
2017	1,676
2018	1,594
2019	1,488
2020	1,191
2021	1,324
Reported as of 11/2022	1,176

Oversight notes that Section 135.1310, the "Child Care Contribution Tax Credit Act" , allows taxpayers (corporations, charitable organizations which are exempt from federal income tax, and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax, and individuals or partnerships subject to the state income tax) to claim tax credit against state tax liability for the tax year in which a verified contribution was made.

Oversight notes that only contributions directed to child care providers and intermediaries (a nonprofit organization that is, or agrees to become, subject to the jurisdiction of this state for the purposes of the administration and enforcement of this section) are able to receive tax credit.

Oversight notes the taxpayer is allowed to claim credit against the taxpayer's state tax liability for the tax year in which a verified contribution was made in an amount equal to up to seventy-five percent of the verified contribution to a childcare provider.

Oversight notes that under this section the minimum amount of any tax credit issued shall not be less than one hundred dollars, and shall not exceed two hundred thousand dollars per tax year.

Oversight notes that any childcare facility receiving funds from taxpayer must provide the taxpayer with contribution verification. In any case where such a facility fails to do so the facility must provide the taxpayer with refund of his or her contribution.

Oversight notes that the cumulative amount of tax credits authorized pursuant to this section shall not exceed twenty million dollars for each calendar year. Additionally, this section allows for additional 15% ($ 3 million add-on) in tax credits to be issued specifically to childcare facilities located in childcare deserts in Missouri. Therefore, Oversight will note the overall potential impact under the Section 135.1310 could potentially reach Up to $23 million annually beginning in FY 2026.

Section 135.1325 Employer Provided Child Care Assistance Tax Credit

Officials from the **Department of Revenue (DOR)** note:

Starting January 1, 2025, a qualified taxpayer would be able to claim a tax credit in the amount of 30% of a qualified childcare expenditures paid or incurred with respect to a childcare facility. This proposal identifies what is a qualifying expenditure and facility. The maximum amount of credits that can be issued to any taxpayer is $200,000 annually.

This credit is not refundable, cannot be transferred or sold but they can be carried forward up to five years and carried back one year. The credits are to be distributed on a first-come, first-serve basis with a cumulative $20 million annual cap. This proposal is scheduled to sunset on December 31, 2029.

This proposal allows that if the cumulative $20 million cap is authorized in a single year, then the credit can be increased by 15%. However, the increased amount is reserved for childcare providers in a childcare desert. It should be noted that the cap resets to $20 million each year.

This proposal does establish a provision in Section 135.1325.6, that should a tax-exempt organization as defined by the IRS qualify to receive the credit, they would be able to have the credit refunded to them without having a state tax liability. This allows DOR to establish a procedure should such an organization qualify for the credit.

This provision says the credit is to begin with tax years beginning on or after January 1, 2025. This would impact the Department starting when the tax returns are filed in January 2026.

Fiscal Year	Loss to General Revenue
2025	$0
2026	(Could exceed $20,000,000)
2027	(Could exceed $20,000,000)

This proposal creates a new tax credit programs that will require a new line being added to the Form MO-TC ($7,138), updates to their website and changes to the individual income tax computer system ($1,785). These changes are estimated to cost $8,923. DOR's existing tax credit staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Rep at a salary of $35,880.

Oversight notes the officials from the DOR assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect cost to the general revenue for 1 FTE at $35,880 (with applicable E&E) annually in the fiscal note. Additionally, Oversight will reflect DOR's cost for updates to form and computer system changes in amount of $8,923 FY 2025.

In response to the similar proposal, SB 742 - 2024, officials from the **Office of Administration – Budget & Planning (B&P)** noted:

Section 135.1325 – Employer Provided Child Care Assistance Tax Credit Act
This section would create a tax credit for qualified childcare expenditures, for employers with at least two employees. The tax credits would begin for tax year 2025 and be equal to 30% of qualifying expenditures. B&P notes that this provision may impact revenues beginning in FY26, when tax year 2025 annual income tax returns are filed.

A taxpayer may receive a tax credit of up to $200,000 ($666,667 expenditures). The tax credits are non-refundable, unless a qualifying taxpayer is a 501(c)(3) non-profit. The tax credits may not be sold, transferred, or otherwise conveyed. The tax credits may be carried forward for up to six years.

Per subdivision 135.1325.7(1), no more than $20 million in tax credits may be authorized per year. However, per subdivision 135.1325.7(2) if the full $20 million is authorized, then an addition 15% ($3 million) may be authorized. The additional $3 million may only be used for childcare facility expenditures located within a childcare desert. Therefore, B&P estimates that this provision may reduce TSR and GR by up to $23 million annually beginning in FY26.

In response to the similar proposal, SB 742 – 2024, officials from the **Department of Economic Development (DED)** noted:

135.1325. creates the "Employer Provided Child Care Assistance Tax Credit Act". Administered by the Department of Economic Development.

Applies to tax years beginning on or after 1/1/2025.

Program cap: $20M per calendar year. If the full amount is authorized in a CY, the cap for the next CY will be increased by 15%. That increased amount must be used for child care providers located in a child care desert. The DED Director must publish the new amount. A tax credit for employers' eligible child care assistance expenditures. The tax credit is for up to 30% of child care expenditures, with a total taxable year limit of $200,000 per taxing entity. Credits are not transferable, sellable or refundable. 6-year carry forward period. Tax credits approved first-come-first-served.

The department may promulgate rules.

This program will sunset on 12/31/2030, unless reauthorized by the general assembly.

DED will need to hire 5.0 FTE to administer the two DED programs included in the act. The two DED administered tax credit programs will likely reduce annual TSR by $20M each ($40M total). With the FY2024 budget, 5.0 FTE for this program was appropriated; therefore, that cost is not reflected here because the appropriation has been approved.

Oversight notes the DED officials assume need to hire 5.0 FTE (Senior Economic Development Specialist at $74,664 +E&E and fringe benefits) to administer the Section(s) 135.1310 and 135.1325. Officials from the DED stated that they received appropriation approval for the 5 FTE's in 2024; however, for purpose of the fiscal note, Oversight will reflect DED's FTE cost in FY 2026, and FY 2027, in the fiscal note.

Oversight notes that Section 135.1325 "Employer Provided Child Care Assistance Tax Credit Act" allows, after January 1, 2025, for a taxpayer (with two or more employees) to claim a tax credit in an amount equal to thirty percent of the qualified childcare expenditures paid or incurred with respect to a child care facility.

Oversight notes the acceptable expenditures are defined as follow:

a) To acquire, construct, rehabilitate, or expand property that will be, or is, used as part of a child care facility that is either operated by the taxpayer or contracted with by the taxpayer and which does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer; or
b) For the operating costs of a child care facility of the taxpayer, including costs relating to the training of child care employees, scholarship programs, and for compensation to child care employees; or
c) Or under a contract with a child care facility to provide child care services to employees of the taxpayer; or

d) As an employer matching contribution, but only to the extent such employer matching contribution is restricted by the taxpayer solely for the taxpayer's employee to obtain child care services at a child care facility and is used for that purpose during the tax year

Oversight notes the qualified expenditure includes to acquire, construct, rehabilitate, or expand property that will be, or is, used as part of a childcare facility that is either operated by the taxpayer, or contracted with by the taxpayer, and which does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer.

<u>Section 135.1350 Child Care Providers Tax Credit</u>

Officials from the **Department of Revenue (DOR)** note:

Starting January 1, 2025, a qualified childcare provider with three or more employees would be able to claim a tax credit in the amount equal to the child care provider's eligible employer withholding tax and may claim another credit in an amount up to 30% of the child care provider's capital expenditures. To be a qualified childcare provider the provider must be licensed under Section 210.221. Capital expenditures must be greater than $1,000 to qualify for the credit. No childcare provider shall receive more than $200,000 in tax credits annually.

To claim the credit the childcare credit the provide must submit an application to the Department of Economic Development (DED). If DED approves the application, they will issue the tax credits.

These two credits are not refundable, cannot be transferred or sold but they can be carried forward up to six years. The credits are to be distributed on a first-come, first-serve basis with a shared cumulative $20 million annual cap. This proposal will sunset on December 31, 2029.

This proposal allows that if the cumulative $20 million cap is authorized in a single year, then the credit can be increased by 15%. However, the increased amount is reserved for childcare providers in a childcare desert. It should be noted that the cap resets to $20 million each year.

This proposal does establish a provision in Section 135.1310.6, that should a tax-exempt organization as defined by the IRS qualify to receive the credit, they would be able to have the credit refunded to them without having a state tax liability. This allows DOR to establish a procedure should such an organization qualify for the credit.

This provision says the credit is to begin with tax years beginning on or after January 1, 2025. This could impact the Department starting when the tax returns are filed in January 2026.

Fiscal Year	Loss to General Revenue
2025	$0
2026	(Could exceed $20,000,000)
2027	(Could exceed $20,000,000)

This proposal creates a new tax credit program that will require a new line being added to the Form MO-TC ($7,138), updates to their website and changes to the individual income tax computer system ($1,785). These changes are estimated to cost $8,923. DOR's existing tax credit staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Rep at a salary of $35,880.

Oversight notes the officials from the DOR assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect cost to the general revenue for 1 FTE at $35,880 (with applicable E&E) annually in the fiscal note. Additionally, Oversight will reflect DOR's cost for one-time update to form and computer system in amount of $8,923 FY 2025.

In response to the similar proposal, SB 742 – 2024, officials from the **Office of Administration – Budget & Planning (B&P)** noted:

This section would create two tax credits starting in tax year 2025. For childcare providers with at least three employees, the provider may claim a tax credit equal to qualified withholdings and/or a tax credit equal to 30% of capital expenditures. A childcare provider must make at least $1,000 in capital expenditures to claim the capital expenditures credit. B&P notes that this provision may impact revenues beginning in FY26, when tax year 2025 annual income tax returns are filed.

A taxpayer may receive a maximum tax credit of up to $200,000 per year. B&P notes that the $200,000 per taxpayer limit is for both tax credits. Therefore, a taxpayer may either use $200,000 in withholding taxes or $1,000 in capital expenditures and any combination in between to claim the maximum credit.

The tax credits are non-refundable, unless a qualifying taxpayer is a 501(c)(3) non-profit. The tax credits may not be sold, transferred, or otherwise conveyed. The tax credits may be carried forward for up to six years.

Per subdivision 135.1350.7(1), no more than $20 million in tax credits may be authorized per year. However, per subdivision 135.1350.7(2) if the full $20 million is authorized, then an addition 15% ($3 million) may be authorized. The additional $3 million may only be used for childcare facility expenditures located within a childcare desert. Therefore, B&P estimates that this provision may reduce TSR and GR by up to $23 million annually beginning in FY26.

In response to the similar proposal, SB 742 – 2024, officials from the **Department of Economic Development (DED)** stated **s**ection 135.1350 creates the "Child Care Providers Tax Credit Act" which will be administered by the Department of Elementary and Secondary Education.

Officials from the **Department of Elementary and Secondary Education (DESE)** note:

The tax credit in section 135.1350 could reduce Total State Revenue by up to $20 million per year.

Legislation is being proposed to develop the "Child Care Providers Tax Credit Act." This tax credit is designed to support childcare providers with a tax credit towards eligible employer withholding tax and capital expenditure investments. DESE assumes a new tax credit section would be required to administer this program. The team: one coordinator, one administrative support assistant and two program specialists, would be responsible for approval issuance, and monitoring of the credits for approximately 2,500 licensed childcare providers in the state. The FTE and ongoing costs were included in the FY 2024 budget. One-time costs have been reduced in the FY 2025 budget request. These one-time costs have not and will not be used in FY 2024 as the legislation did not pass nor have the FTE been filled. If the language passes these costs will be needed to set up the new section and process the tax credits.

DESE assumes the administration of this new credit would require the development and programming of a new system to track the tax credit applications, approvals and monitoring data. DESE estimates a cost of **$500,000** for the development and initial programming with ongoing annual costs of **$50,000**.

Oversight notes all childcare providers claiming the tax credit must submit an application for the tax credit for preliminary approval to DESE.

Oversight notes this Section states that DESE may promulgate rules and adopt statements of policy, procedures, forms and guidelines to implement and administer the provisions of this section.

DESE, in further comments via e-mail responding to the similar proposal HB 1488 (2024), clarified that it will need 1 Program Coordinator ($68,808), 1 Administrative Support Assistant ($38,184), and 2 Program Specialist ($59,120) annually in order to implement and comply with the required provisions under this Section.

Oversight notes officials from the DESE state the FTE and ongoing costs were included in the FY 2024 budget; however, the one-time ITSD costs have been reduced in the FY 2025 budget request. Therefore, Oversight will reflect the DESE one time cost for software development and ongoing ITSD maintenance cost, as well as the FTE costs in the fiscal note beginning FY 2025.

<u>Sections 620.3500 – 620.3530 -Missouri Rural Access to Capital Act</u>

In response to the previous version of the bill, officials from the **Department of Economic Development (DED)** assumed this proposed legislation requires DED to accept applications from “rural funds” that seek to have an equity investment certified as a “capital investment” eligible for tax credits. A “Rural Fund” is any entity certified by DED under this proposed legislation. A “Capital Investment” is an investment in a rural fund by a rural investor that is acquired after the effective date of this proposed legislation at its original issuance solely in exchange for cash, has one hundred percent (100%) of its cash purchase price used by the rural fund to make qualified investments in eligible businesses located in this state by the third anniversary of the initial credit allowance date, and is designated by the rural fund as a capital investment and certified by DED as a capital investment.

DED notes, upon making a capital investment, a rural investor shall have a vested right to a credit against the investor’s state tax liability in an amount equal to the applicable percentage for such credit allowance date multiplied by the purchase price paid to the rural fund for the capital investment. DED states that no eligible business that receives a qualified investment, or any affiliates of such eligible business, shall directly or indirectly own or have the right to acquire an ownership interest in a rural fund.

The program will automatically sunset on 08/28/2030 unless reauthorized by an act of the general assembly.

DED will need to hire 2.0 FTE to administer the program. There will be an estimated cost of $16M per year. Impact to revenue for tax credits starts in FY27 since applicable percentage for first two credits allowance dates are zero. FTE impact starts in FY25.

Oversight will include DED’s 2 FTE (Senior Economic Development Specialist at 74,664 annually plus fringe benefits and E&E) costs, less the costs reported for in-state and out-of-state travel, as this proposed legislation does not require DED to inspect or audit any site(s).

In response to the previous version of the proposal, officials from the **Office of Administration – Budget & Planning (B&P)** note:

The proposed legislation would create a tax credit for taxpayers making a capital investment in a rural fund against such investors’ state tax liability. The tax credit shall be equal to a proportion of their investment into the rural fund. There is a cap of $16 million that can be redeemed each calendar year; therefore, TSR could be reduced by up to $16 million. The tax credit has a five-year carry forward, so in a particular calendar year, more than $16 million may be redeemed. The credit shall not be refundable or sellable.

In addition, a rural fund that seeks to have an equity investment certified as a capital investment eligible for credits shall pay a nonrefundable application fee of five thousand dollars to DED.

B&P assumes this money would go into GR. Therefore, GR could be increased by an unknown amount. There is not enough available data for B&P to estimate the potential revenues.

Section 620.3530.4 creates a new penalty provision for rural funds exiting the program. To the extent any penalties are deposited in the state treasury, TSR may be impacted.

This proposal could impact the calculation pursuant to Art. X, Sec. 18(e).

Officials from the **Department of Revenue (DOR)** assume this proposal would add new sections 620.3500 to 620.3530, known as the "Missouri Rural Access to Capital Act." It would be administered by DED. DOR is not mentioned in the proposal but would be responsible for processing the tax credits claimed by taxpayers on returns. DOR may coordinate, as necessary, with DED.

Section 620.3505- Defines what the terms shall mean.

Section 620.3510- A rural fund that seeks to have an equity investment certified as a capital investment eligible for credits under sections 620.3500 to 620.3530. DED shall begin accepting applications within ninety days of the effective date of the new sections 620.3500 to 620.3530.

Section 620.3515- This sets the annual cap for the tax credit at $16 million. This will allow in state tax credits to be claimed against state tax liability in any calendar year, excluding any credit amounts carried forward as provided under subsection 1 of section 620.3520. Within ninety days of the applicant receiving notice of certification, the rural fund shall issue the capital investment to, and receive cash in the amount of the certified amount from, a rural investor. At least ten percent of the rural investor's capital investment shall be composed of affiliate capital.

Section 620.3520 - Authorizes the tax credit, the amount of the credit claimed by a rural investor shall not exceed the amount of such entity's state tax liability for the tax year for which the credit is claimed. Unused portions of the credit may be carried forward to the next five tax years but may not be carried back to prior taxable years. The credit is not refundable or sellable on the open market.

Section 620.3520.3 - Sets forth the circumstances under which DED may recapture from a rural investor that claimed the credit. They assume that DED would notify DOR of any recaptured credits. DOR would then recalculate the taxpayer's return and bill the taxpayer for any shortcomings.

This proposal would become effective on August 28, 2024. This proposal states that a capital investment is any equity investment in a rural fund by a rural investor and that investment must be made AFTER the effective date of this proposal. After August 28, 2024, potential investors could make the required investments and then file an application with DED along with a $5,000 application fee. Upon certification by DED, the investors would be eligible to receive the tax credit for the six credit allowance dates. Those credit allowance dates are the anniversary dates of the initial credit allowance date. Based on the requirements of the investment, for fiscal note purposes they assumed the first date of certification will be January 1, 2025.

This proposal states the tax credit is based on an applicable percentage of the investment. The percentage for the first two years is zero (0%) and each of the next four years the percentage is fifteen percent (15%). Therefore, with a certification date of January 1, 2025, the first two years no credits would be issued. Starting January 1, 2027, the first credits would be issued and fully implemented 2030. This could potentially (depending on when issued) be redeemed in that same year.

This credit will expire on August 28, 2030, unless reauthorized by the general assembly. This will be a loss to general revenue of up to the $16 million annually starting in FY 2027. This credit will be fully implemented in 2030.

Fiscal Year	GR Impact
FY 2025	$0
FY 2026	$0
FY 2027	($16,000,000)
FY 2028	($16,000,000)
FY 2029	($16,000,000)
FY 2030	($16,000,000)

This proposal creates a new tax credit that would require a new line being added to the Form MO-TC ($7,138), updates to their website and changes to their individual income tax computer system ($1,785). These changes are estimated to cost $8,923. DOR's existing tax credit staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Rep at a salary of $35,880.

Oversight notes the official from DOR assume need for one additional FTE Associate Customer Service Representative $35,880 annually beginning FY 2026. Therefore, Oversight will note DOR's 1 FTE cost effective FY 2026.

Oversight notes that DOR assume the proposal will function as follows:

An investor provide investment in an amount of $1 million dollar on January 1, 2025. Here is the estimated amount of credit received and when.

YEAR	CREDIT ALLOWANCE DATE	CREDIT AMOUNT
1/1/2025	1	$0
1/1/2026	2	$0
1/1/2027	3	$150,000 ($1,000,000 x 15%)
1/1/2028	4	$150,000 ($1,000,000 x 15%)
1/1/2029	5	$150,000 ($1,000,000 x 15%)
1/1/2030	6	$150,000 ($1,000,000 x 15%)

Oversight will reflect loss to general revenue of up to the $16 million cap annually starting in FY 2027.

Oversight notes this proposed legislation would award tax credits to investors who have made an equity investment in a rural fund so long as such equity investment is certified by the Missouri Department of Economic Development as a capital investment.

In order for an equity investment to be certified as a capital investment, a rural fund must apply with the Missouri Department of Economic Development to have the equity investment certified as a capital investment. The applicant must complete an application including the amount of capital investment requested, a copy of the applicants, or the affiliate of the applicant's, license as a Rural Business Investment Company (RBIC) under 7 U.S.C. Section 2009cc (U.S.D.A Rural Business Investment Program) or as a Small Business Investment Company (SBIC) under 15 U.S.C. Section 681 (SBA Small Business Investment Program), evidence that the applicant or affiliates of the applicant have invested at least

a) one hundred million dollars ($100,000,000) in nonpublic companies located in counties within the United States with a population of less than fifty thousand, or

b) at least thirty million dollars in nonpublic companies located in Missouri. The business plan that includes a revenue impact assessment, and a nonrefundable application fee of $5,000.

Per the latest available data from the Small Business Investment Company Directory, as of August 15, 2023 there were approximately 10 privately owned and managed SBA licensed SBICs located in Missouri. Additionally, per correspondence with the United States Department of Agriculture, there are approximately 2 certified RBIC funds managed in Missouri. There are a total of 6 investments in Missouri out of 115 total RBIP investments throughout the United States. The total amount invested in these 6 investments is over $22M out of a combined total Regulatory Capital of $1.4B for the program.

Oversight assumes SBICs and RBICs are nationally oriented; various companies may focus on specific regions but no one entity is specific to the State of Missouri.

Oversight notes this proposed legislation states that a capital investment is any equity investment in a rural fund by a rural investor which is acquired **after** the effective date of this proposed legislation.

Oversight notes this proposed legislation would require applicants under this proposed legislation to submit an application to the Missouri Department of Economic Development accompanied with <u>a nonrefundable $5,000</u> application fee.

Oversight notes this proposed legislation does not specifically state where the application fee(s) shall be deposited. For the purpose of this fiscal note, Oversight will assume such application fee(s) will be deposited into GR.

Oversight notes the Missouri Department of Economic Development shall begin accepting applications ninety days after the effective date of this proposed legislation. Therefore, Oversight assumes applications, accompanied with the nonrefundable fee of $5,000 could be submitted as early as Fiscal Year 2025.

Therefore, **Oversight** will report a revenue <u>gain</u> to GR equal to $0 (no applications submitted) up to <u>$60,000</u> (if 12 applications were submitted 10 SBIC + 2 RBIC funds), beginning in Fiscal Year 2025. Oversight will reflect unknown positive gain for FY 2026, and thereafter, since this fee is a one-time fee paid by the applicants at the onset of the process. (Unless applicant re-submits application due to certain issues as per Section 620.3510 3.)

Oversight notes, once an equity investment is certified as a capital investment, the rural investor shall have a vested right to a tax credit to be issued to be used against the rural investor's state income tax liability that may be utilized on each credit allowance date of such capital investment in an amount equal to the applicable percentage for such credit allowance date multiplied by the purchase price paid to the rural fund.

Oversight, then, assumes the following example describes a tax credit allocation under this proposed legislation:

If Investor A were to have $100,000,000 certified as a capital investment on January 1, 2025, Investor A's credit allowance date(s) would be: January 1, 2025 (0%), January 1, 2026, (0%) January 1, 2027 (15%), January 1, 2028 (15%), January 1, 2029 (15%), and January 1, 2030 (15%).

Oversight assumes, then, Investor A would **not** receive a tax credit (a tax credit equal to zero percent (0%) multiplied by the amount certified as a capital investment) on January 1, 2025 and January 1, 2026.

Each January thereafter, with the last January being January 1, 2030, Investor A would receive a tax credit equal to fifteen percent (15%) of the amount certified as a capital investment; or $15,000,000.

Oversight assumes, then, Investor A would receive a **total** of $60,000,000 in tax credits over the course of six (6) years to be used throughout a total of eleven (11) years.

Oversight notes the Missouri Department of Economic Development shall begin accepting applications ninety days after the effective date of this proposed legislation. Therefore, Oversight assumes applications could be submitted as early as Fiscal Year 2025.

Oversight assumes, then, based on the tax credit allocation equation created under this proposed legislation, a rural investor could receive a tax credit in an amount greater than zero ($0) beginning two (2) years after the initial certification date; Fiscal Year 2025.

Therefore, **Oversight** estimates the tax credit provision of this proposed legislation could result in a revenue <u>reduction</u> equal to $0 (no certified capital investments) <u>up to $16,000,000</u> (tax credit authorization cap) beginning in Fiscal Year 2027.

Oversight notes this proposed legislation would allow for the recapture of tax credits issued to taxpayers provided rural fund(s) do not meet the requirements established in this proposed legislation.

Oversight notes this proposed legislation states that recaptured tax credits would be reverted to the Missouri Department of Economic Development and be reissued to applicants whose capital investment allocations were reduced in accordance with the application process (authorization cap).

Oversight further notes this proposed legislation does not specifically state where the payment of recaptured tax credits would be deposited. For the purpose of this fiscal note, Oversight will assume recaptured tax credit payments will be deposited into GR with the assumption that the Missouri Department of Economic Development will distribute the funds for further tax credit authorization(s).

Oversight notes tax credits authorized may be recaptured as early as the third anniversary date. Therefore, Oversight assumes this could be as early as Fiscal Year 2027.

Oversight is unable to determine the actual fiscal impact of the tax credit recapture provision. Therefore, for the purpose of this fiscal note, Oversight will report a revenue <u>gain</u> equal to “$0 to Unknown” and a revenue reduction equal to “$0 or Unknown” beginning in Fiscal Year 2027.

Oversight notes the provisions of this proposed legislation state the Missouri Department of Economic Development shall not accept any new applications for tax credits after 2030.

Officials from the **Oversight Division** note the Division is responsible for providing a Sunset Report pursuant to Section 23.253 RSMo; however, Oversight can absorb the cost with the current budget authority.

In response to the previous version of the bill, officials from the **Department of Natural Resources** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

In response to the previous version of the bill, officials from the **Missouri Department of Agriculture** and the **City of Kansas City** each assumed the proposal would have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these entities.

<u>Responses regarding the proposed legislation as a whole</u>

Officials from the **Department of Commerce and Insurance (DCI)** state a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2026 and FY2027 as a result of the creation of the Child Care Contribution Tax Credit Act and Employer Provided Child Care Assistance Tax Credit Act. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the new tax credit.

The department will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Oversight notes the DCI assumed the contract computer programming can be absorbed with existing resources. Oversight does not have any information to the contrary. However, should multiple bills pass, the Missouri Department of Commerce and Insurance may seek additional equipment and expense appropriation through the appropriation process.

Additionally, DCI assumes the fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

Officials from the **Oversight Division** note the Division is responsible for providing a Sunset Report pursuant to Section 23.253 RSMo; however, Oversight can absorb the cost with the current budget authority.

Officials from the **Missouri Department of Agriculture** and the **Department of Natural Resources** both assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for DNR and MDA agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

In response to the previous version of the bill, officials from the **Office of the Secretary of State (SOS)** noted many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE FUND			
Cost – Section 135.1310 "Child Care Contribution Tax Credit Act" (p.3-6)	$0	Up to ($23,000,000)	Up to ($23,000,000)
Cost – Section 135.1325 "Employer Provided Child Care Assistance Tax Credit Act" (p.6-9)	$0	Up to ($23,000,000)	Up to ($23,000,000)
Costs – DOR FTE Section(s) 135.1310 135.1325, & 135.1350 (p.4,7 &10)			
Personnel Service	($89,700)	($109,793)	($111,989)
Fringe Benefits	($71,688)	($86,810)	($87,612)
Expense & Equipment	($39,933)	($1,711)	($1,745)

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
Other Cost – ITSD Form updates (p.9)	($26,769)	$0	$0
Total Costs – DOR	($228,090)	($198,314)	($201,346)
FTE Change	3 FTE	3 FTE	3 FTE
Costs – DED Section(s) 135.1310 & 135.1325 (p.8)	Up to…	Up to…	Up to…
Personnel Service	($323,668)	($396,170)	($404,093)
Fringe Benefits	($186,018)	($227,685)	($232,239)
Expense & Equipment	($63,348)	($23,171)	($23,635)
Total Costs – DED	($573,034)	($647,026)	($659,967)
FTE Change	5 FTE	5 FTE	5 FTE
Cost – Section 135.1350 "Child Care Providers Tax Credit Act." (p.9-11)	$0	Up to ($23,000,000)	Up to ($23,000,000)
Costs – DESE Section(s) 135.1350 (p.9-11)	Up to…	Up to…	Up to…
Personnel Service	($195,970)	($239,867)	($244,665)
Fringe Benefits	($125,266)	($153,325)	($156,391)
Expense & Equipment	($55,809)	($45,951)	($46,870)
Total Costs – DESE	($377,045)	($439,144)	($447,926)
FTE Change	4 FTE	4 FTE	4 FTE
Cost – DESE – ITSD New Database and ongoing maintenance (p.11)	($500,000)	($50,000)	($50,000)
Revenue Gain- Section 620.3510 – Nonrefundable Application Fee of $5,000 – (p. 16)	$0 or Could exceed $60,000	$0 or Unknown	$0 or Unknown
Revenue Reduction – Section 620.3515 – Tax Credit For Certified Capital Investment(s) - (p. 14-15)	$0	$0	$0 up to ($16,000,000)
Revenue Gain – Transfer In – Section 620.3520.3 – Recapture of Tax Credits From Rural Investor (p. 17)	$0	$0	$0 to Unknown

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
Revenue Loss – Transfer Out – Section 620.3520 – Recaptured Tax Credits (Re)Allocated to Missouri DED (p. 16-17)	$0	$0	$0 to (Unknown)
Cost – Section(s) 620.3510, 620.3515 & 620.3520 – 2 FTE DED – (p.12)			
Personnel Services	($124,440)	($152,315)	($155,361)
Fringe Benefits	($72,530)	($88,153)	($89,292)
Equipment & Expense	($28,598)	($8,909)	($9,087)
Total Cost	($225,568)	($249,377)	($253,740)
FTE Change – DED	2 FTE	2 FTE	2 FTE
Cost – Section(s) 620.3510, 620.3515 & 620.3520 – 1 FTE DOR – (p.14)			
Personnel Services	$0	($36,598)	($37,330)
Fringe Benefits	$0	($28,937)	($29,204)
Equipment & Expense	$0	($22,338)	($582)
Total Cost	$0	($87,883)	($67,116)
FTE Change – DOR	0 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**Up to ($1,843,737)**	**Up to ($70,671,733)**	**Up to ($86,680,095)**
Estimated Net FTE Change on General Revenue	14 FTE	15 FTE	15 FTE

FISCAL IMPACT – Local Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
	$0	**$0**	**$0**

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business that qualifies for a tax credit under this proposed legislation as such small business could reduce or eliminate such small business's state tax liability.

BB:LR:OD

FISCAL DESCRIPTION

This proposal modifies provisions relating to income taxes.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Department of Revenue
Department of Economic Development
Department of Natural Resources
Missouri Department of Agriculture
Office of Administration – Budget & Planning
Joint Committee on Administrative Rules
Office of the Secretary of State
Oversight Division
City of Kansas City

Julie Morff
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May 6, 2024

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May 6, 2024

BB:LR:OD