

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5213H.011
 Bill No.: HB 2473
 Subject: Tax Credits; Taxation and Revenue - Income; Taxation and Revenue - General;
 Department of Revenue, Labor and Management; Employees - Employers
 Type: Original
 Date: February 6, 2024

Bill Summary: This proposal establishes the "Missouri Job Creators Tax Reduction Act" relating to a Work Opportunity Tax Credit.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	(\$8,923)	Could exceed (\$38,754,934)	\$0 or Could exceed (\$38,740,800)
Total Estimated Net Effect on General Revenue	(\$8,923)	Could exceed (\$38,754,934)	\$0 or Could exceed (\$38,740,800)

*Oversight reflects the costs based the average payout per credit in the U.S. at (\$903) per each Missouri WOTC certification. Additionally, the costs include DOR's 1 FTE (Associate Customer Service Representative at \$35,880 annually) and updates to the TC Form and Website. Also, the WOTC is authorized until December 31, 2025. Therefore, Oversight has ranged the impact as \$0 (the federal government does not extend the program) to full amount of impact for FY 2027 and beyond.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other State Funds</u>	\$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 <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund	0 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	1 FTE	1 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

Officials from the **Office of Administration – Budget & Planning (B&P)** note:

Starting with tax year 2025, this proposal would grant a tax credit equal to 100% of a taxpayer's federal work opportunity credit (WOTC) or for non-profits equal to 100% of withholdings for qualified employees.

B&P notes that this tax credit is non-refundable, cannot be carried forward, and cannot be transferred, sold, assigned, or otherwise conveyed. B&P also notes that while this credit is granted for tax year 2025, it will not be taken until taxpayers file their annual tax return in FY26.

B&P notes that FFY23 data has not yet been released. Based on information published by the U.S. Department of Labor, in federal FY22 there were 2,569,056 employers nationally and 43,820 employers in Missouri certified for a federal WOTC. Table 1 shows the number of national and Missouri certified employers by year.

Table 1: Federal WOTC Claims per Year

Federal FY	US	Missouri	% MO
2022	2,569,056	43,820	1.7%
2021	2,081,474	38,657	1.9%
2020	1,620,806	54,033	3.3%
2019	2,068,417	34,609	1.7%
2018	2,204,142	77,310	3.5%

Based on additional information, total WOTC credits were worth approximately \$5 billion in federal FY22. Therefore, B&P estimates that the national average WOTC was about \$1,946.24 (\$5 billion / 2,569,056 national claims) in federal FY22.

Assuming that the average Missouri credit is similar to the average national credit, B&P estimates that total Missouri credits could be between \$67,357,426 (\$1,946.24 WOTC x 34,609 employers) and \$150,463,828 (\$1,946.24 WOTC x 77,310 employers) each year.

Therefore, B&P estimates that this proposal could reduce TSR and GR by \$67,357,426 to \$150,463,828 annually beginning FY26.

Officials from the **Department of Revenue (DOR)** note that starting January 1, 2025, a qualified taxpayer shall be allowed to claim a tax credit against their state tax liability for wages paid or incurred by a qualified taxpayer who hired individuals with barriers to employment. The credit is the lesser of:

- 100% of the federal work opportunity credit claimed for the tax year for the employer; or
- The Missouri state income tax liability of the taxpayer for that tax year.

These credits are not refundable, not transferrable and are not allowed to be carried forward. The credits do have a sunset date of December 31, 2030. There is no cap on the number of credits that can be issued. It should be noted that these credits will not impact the state until FY 2026 when the first returns are filed claiming the credit.

The Federal Work Opportunity Tax Credit (WOTC) is a federal tax credit available to employers for hiring and employing individuals from certain targeted groups who have faced significant barriers to employment. Those targeted groups include:

- the formerly incarcerated or those previously convicted of a felony;
- recipients of state assistance under part A of title IV of the Social Security Act (SSA);
- veterans;
- residents in areas designated as empowerment zones or rural renewal counties;
- individuals referred to an employer following completion of a rehabilitation plan or program;
- individuals whose families are recipients of supplemental nutrition assistance under the Food and Nutrition Act of 2008;
- recipients of supplemental security income benefits under title XVI of the SSA;
- individuals whose families are recipients of state assistance under part A of title IV of the SSA; and
- individuals experiencing long-term unemployment.

Before receiving the federal credit, the employer must be preapproved from the state designated agency, which is the Department of Higher Education and Workforce Development (DHEWD) in Missouri. The preapproval involves verifying that the employee is in one of the targeted groups. Once approved they can apply for the credit at the federal level. The credit is equal to approximately 40% of the first \$6,000 in wages paid with no more than \$2,400 per credit. The credit also requires the employee to work a minimum number of hours. If less hours are worked, then a lesser amount of credit may be earned.

The Department notes that the state credit is 100% of the federal amount or the amount paid in Missouri income tax. The Department was able to find data on the number of Missouri residents approved by DHEWD to claim the credit. At the time of completion of the fiscal note, 2023 numbers were not yet available.

Federal Fiscal Year	Approved	Denied
2022	43,820	72,929

2021	38,657	67,123
2020	54,033	75,355
2019	34,609	41,062
2018	77,310	109,495
Average	49,686	

DOR was unable to determine how many of them actually completed the number of required hours to receive the full amount of the credit. Additionally, the Department was unable to determine the pay of these employees that qualified for the credit. Therefore, for the purposes of the fiscal note only, DOR will assume that all 49,686 people would qualify for the state credit and that they will only choose to receive the 100% of federal credit for their state credit. Therefore, all 49,686 would receive a tax credit of the full \$2,400 federal credit amount. This would result in a loss of general revenue of \$119,246,400 (\$2,400 credit * 49,686 employees) annually.

This proposal creates a new tax credit that would require a new line being added to the Form MO-TC (\$7,138), updates to DOR's 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 DOR assumes the need for 1 new FTE (Associate Customer Service Representative at \$35,880 annually). Oversight does not have any information to the contrary. Therefore, **Oversight** will reflect the 1 DOR FTE cost in the fiscal note beginning in FY 2026.

Oversight notes the DOR assume one-time cost of \$8,923 for the updates to the MO-TC form, the website, and the individual income tax computer system in FY 2025.

Oversight notes Work Opportunity Tax Credit (WOTC), is a federal tax credit available to employers who hire individuals from target groups, which include qualified Veterans, individuals on food stamps, long time unemployed, and more. (For full list of the individuals, please visit <https://www.cmswotc.com/wotc-categories/>).

Oversight notes that in order to verify some of the data provided through the national websites it requested additional information form DOLIR and DHEWD shown below:

Officials from the **Department of Labor and Industrial Relations** notes:

MERIC has provided the following numbers which fit this definition of long term unemployed shown below:

July 2021 – June 2022: 3,952

July 2020 – June 2021: 24,044
 July 2019 – June 2020: 6,954
 July 2018 – June 2019: 7,237

The MERIC system is only able to provide 4 years of complete data.

Officials from the **Department of Higher Education and Workforce Development (DHEWD)** note:

As of February 5, 2024, there are nearly 17,000 employers in the system. Employers tend to have more than 1 new hire participating in the program. The number of certificates for the past 5 years is listed below:

2018: 46,044
 2019: 41,704
 2020: 41,826
 2021: 48,362
 2022: 36,575 (still processing 2022 hire dates)
 2023: 23,246

Oversight provides full list of Missouri WOTC certifications that were approved below from 2014 to 2023:

	WOTC Certifications	Currently Pending	Denials	Total Request
2023	43,120	72,612	74,777	190,509
2022	43,820	79,650	72,929	196,399
2021	38,657	113,675	67,123	219,455
2020	54,033	657,377	75,355	786,765
2019	34,609	42,986	41,062	118,657
2018	77,310	61,608	109,495	248,413
2017	70,366	67,279	60,774	198,419
2016	34,005	58,770	28,342	121,117
2015	36,745	65,778	31,880	134,403
2014	34,794	77,454	30,201	142,449
Average 2019-2023	42,848	223,422	64,117	300,684
Average Percentage	14%		21%	

<https://www.dol.gov/agencies/eta/wotc/performance>

(Annual Report FY 2023)

Oversight provides the profile of WOTC certifications in 2023:

Category	Certifications	Certification %
SNAP	25,891	60%
Long Term	4,384	10.2%
Qualified Veteran	2,679	6.2%
Designated Community Resident	3,197	7.4%
Ex-Felon	2,613	6.1%
SSI Recipient	1,615	3.7%
Long Term IV-A (TANF)	546	1.3%
Vocational Rehabilitation	1,501	3.5%
IV-A (TANF)	280	1.3%
Ticket Holder	111	0.3%
Summer Youth	37	0.1%

<https://www.dol.gov/agencies/eta/wotc/performance>

Annual Report FY 2023

Oversight notes each tax credit certification represents employee who qualifies under any of special categories shown above.

Oversight notes the proposal allows Missouri employers, after January 1, 2025, to receive up to one hundred percent of the federal work opportunity credit properly claimed on such taxpayer's federal income tax return.

Oversight notes currently the most common maximum cap allowed under I.R.C. §51 is 40% of up to \$6,000 wages paid to or incurred on behalf of an individual define within the specified group (as shown above), or \$2,400.

Oversight notes, according to the [Analytical Perspectives Report – Tax Expenditures](#) published by the White House, there were an estimated \$1.79 billion (page 228) paid in tax credit expenditures to employers for 1,982,858 WOTC certifications filed in FY 2023 in U.S. ([WOTC Performance](#)).

Oversight assumes on average employers received \$903 (rounded to near dollar) per such a credit (\$1.79B / \$1,982,858) in the same year nationally.

Oversight notes there were, an average, 42,848 employees certified throughout Missouri over the last five years. Therefore, Oversight estimates the impact at **\$38,673,684** (\$903 x 42,848) assuming average payout). Oversight notes the maximum payout is estimated at **\$102,834,720** (\$2,400 x 42,848) beginning FY 2026. For purposes of this fiscal note, Oversight will show a

cost that could exceed the average payout per WOTC Certification. Taxpayers are not able apply for this credit until January 1, 2025, thus file income tax for the year in FY 2026.

Oversight notes the proposal allows employers, who are exempt from taxation under Section (501) (c) (such as: religious, charitable, scientific, testing for public safety, literary, educational, or other specified purposes and that meet certain) of IRS code to apply using the section as a credit for the payment of taxes that the organization is required to withhold from the wages of employees and pay to the State.

Oversight notes, upon further inquiry with DOR, that since the tax credit is connected to the federal government program the taxpayer (employers) would receive zero amount of the tax credit unless the legislation has been extended in future years.

Lastly, **Oversight** notes that according to the U.S. [DOL](#) and the IRS, the WOTC is authorized until December 31, 2025. However, if the taxpayer files for WOTC in CY 2026 and thereafter, it is not certain the funds will be there to support the tax credit in FY 2027. Therefore, Oversight will range the impact as \$0 (the federal government did not extend the legislation) to full amount of impact for FY 2027 and beyond.

Oversight notes that no tax credit (under this proposal) shall be transferable, refundable, or carried forward.

Officials from the **Department of Higher Education** and the **Workforce Development and Department of Economic Development** 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 both respective agencies.

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

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.

Officials from the **Office of the Secretary of State (SOS)** note 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.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Reduction in Revenue – §§135.465 Work Opportunity Tax Credit p. 6</u>	\$0	Could exceed (\$38,673,684)	\$0 or Could exceed (\$38,673,684)
<u>Costs – DOR - §§135.462 7. 1 FTE</u>			
Personnel Service	\$0	(\$31,824)	(\$37,330)
Fringe Benefits	\$0	(\$27,195)	(\$29,204)
Expense & Equipment	<u>(\$8,923)</u>	<u>(\$22,231)</u>	<u>(\$582)</u>
Total Costs – DOR p.5	<u>(\$8,923)</u>	<u>(\$81,250)</u>	<u>(\$67,116)</u>
FTE Change	0 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$8,923)</u>	Could exceed <u>(\$38,754,934)</u>	\$0 or Could exceed <u>(\$38,740,800)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

A direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill establishes the "Missouri Job Creators Tax Reduction Act." Beginning January 1, 2025, a qualified taxpayer may claim a tax credit for any wages paid to an individual who is:

- (1) In a "targeted group," as that term is defined in the federal Work Opportunity Tax Credit (WOTC); and

(2) Who is employed in the State.

The tax credit shall be the lesser of:

(1) The amount of 100% of the federal WOTC claimed for the tax year, by the qualified taxpayer; or

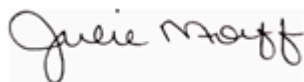
(2) The amount of the qualified taxpayer's State income tax for the year. A nonprofit organization with no State income tax liability may retain withholding tax for such employees in the amount of the tax credit that such an organization would have been authorized to claim.

The tax credits shall not be refundable or carried forward, and shall not be transferred, sold, or assigned. The tax credit shall sunset on December 31, 2030.

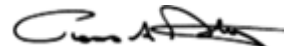
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning
Department of Revenue
Department of Labor and Industrial Relations
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Higher Education and Workforce Development
Department of Economic Development
Oversight Division



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