

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2558H.01I
Bill No.: HB 1345
Subject: Taxation and Revenue - General; Tax Credits; Taxation and Revenue - General;
Tax Incentives; Employees - Employers; Department of Revenue
Type: Original
Date: April 11, 2023

Bill Summary: This proposal authorizes a tax credit for employers hiring certain employees under the Federal Work Opportunity Tax Credit.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*		(\$96,757,523) Up to (\$119,304,939)	(\$96,758,391) Up to (\$119,305,807)
Total Estimated Net Effect on General Revenue	(\$7,193)	(\$96,757,523) Up to (\$119,304,939)	(\$96,758,391) Up to (\$119,305,807)

*Oversight notes the range from an average payout per credit (\$1,946) up to maximum pay out (\$2,400) per tax credit. Additionally, the expense includes DOR's 1 FTE (Associate Customer Service Representative at \$31,200 annually)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

Starting with tax year 2024, 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 2024, it will not be taken until taxpayers file their annual tax return in FY25.

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 FY25.

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

Starting January 1, 2024 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 lessor of:

100% of the federal work opportunity credit claimed for the tax year for the employer; or

The Missouri income tax imposed 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, 2029. 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 2025 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.

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	

The Department 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, they assumed that all 49,686 people would qualify for the state credit and that they will only chose to receive the 100% of federal credit for their state credit. Therefore, all 49,686 would tax as their state credit 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.

The Department notes this is a new credit and it would need to be added to the MO-TC form, the website and the individual income tax computer system. This is estimated to cost \$7,193.

DOR assumes they will need at least 1 Associate Customer Service Representative (\$31,200) to handle the new credits being redeemed. Additional FTE may be needed in the future if the number of new credit redemptions exceed the following amounts. DOR would ask for additional FTE through the budget process if justified.

- 1 FTE Associate Customer Service Representative for every 6,000 credits redeemed
- 1 FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated

Oversight notes the DOR assume the need for 1 new FTE (Associate Customer Service Representative at \$31,200 annually. However, reserves the right to request additional FTE in future depending on volume of the tax credit redemption. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the DOR FTE cost in the fiscal note beginning in FY 2025.

Oversight notes the DOR assume one-time cost of \$7,193 for the updates to the MO-TC form, the website, and the individual income tax computer system in FY 2024.

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 and more. (For full list of the individuals, please visit <https://www.cmswotc.com/wotc-categories/>).

Oversight provides full list of Missouri candidates applying and approved below:

	WOTC Certifications	Currently Pending	Denials	Total Request
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 2018-2022	49,686	191,059	73,193	290,230
Average Percentage	17%		25%	

<https://www.cmswotc.com/wotc-categories/>

Oversight provides the profile of WOTC certifications in 2022:

Category	Certifications	Certification %
SNAP	28,683	65.4%
Long Term	5,188	11.8%
Qualified Veteran	2,803	6.4%
Designated Community Resident	2,550	5.8%
Ex-Felon	1,602	3.6%
SSI Recipient	887	2.0%
Long Term IV-A (TANF)	817	1.8%
Vocational Rehabilitation	752	1.7%
IV-A (TANF)	411	0.9%
Ticket Holder	96	0.2%
Summer Youth	31	0.1%

<https://www.cmswotc.com/wotc-categories/>

Oversight notes the proposal allows Missouri employers, after January 1, 2024, 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 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 in 2022 there were approximately \$5 Billion paid to employers for 2,569,056 WOTC certifications filed.

Oversight assume on average employer received \$1,946.2 per such a credit (\$5B / 2,569,056) in the same year.

Oversight notes there were 49,686 approved application throughout the Missouri from 2018 to 2022. Therefore, Oversight will range the impact from the \$96,698,504 (\$1,946.2 x 49,686 assuming average payout) to the maximum payout of \$119,245,920 (\$2,400 x 49,686 assuming

maximum payout) beginning FY 2025 (taxpayers are not able apply for this credit till January 1 2024, thus file income tax for the year in FY 2025).

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

Officials from the **Department of Commerce and Insurance (DCI)** assume a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2025 and FY2026 as a result of the creation of the Federal Work Opportunity tax credit. 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. **Oversight**, for fiscal note simplification purposes, that all credits will be taken against income tax liabilities.

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.

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 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
Reduction in Revenue – Section 135.465 state compliment to the Federal Work Opportunity Tax Credit	\$0	(\$96,698,504) Up to (\$119,245,920)	(\$96,698,504) Up to (\$119,245,920)
<u>Costs – Section 135.462 6. 1 FTE</u>			
Personnel Service	\$0	(\$31,824)	(\$32,460)
Fringe Benefits	\$0	(\$27,195)	(\$27,427)
Expense & Equipment	(\$7,193)	\$0	\$0
<u>Total Costs – DOR</u>	<u>(\$7,193)</u>	<u>(\$59,019)</u>	<u>(\$59,887)</u>
FTE Change	0 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$7,193)</u>	<u>(\$96,757,523)</u> <u>Up to</u> <u>(\$119,304,939)</u>	<u>(\$96,758,391)</u> <u>Up to</u> <u>(\$119,305,807)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<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

Beginning January 1, 2024, this bill allows a qualified taxpayer to claim a tax credit for wages paid to an individual with barriers to employment who is employed in the state in an amount equal to the lesser of:

- (1) One hundred percent of the federal Work Opportunity Credit claimed by a qualified taxpayer on such taxpayer's federal income tax return with respect to such wages, excluding any amount carried back or forward from another tax year in accordance with Section 39 of the Internal Revenue Code; or

(2) The Missouri income tax imposed for that tax year, except in the case of an employer that is an organization exempt from taxation under Section 501(c) of the Internal Revenue Code.

An employer that is exempt from taxation under Section 501 26 (c) of the Internal Revenue Code may apply the credit towards the payment of taxes that the organization is required to withhold from the wages of employees and required to pay to the state.

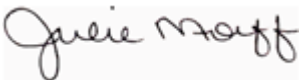
Such tax credits shall not be refundable. Nor shall any tax credit be carried forward to any subsequent tax year.

These provisions will sunset on December 31st, six years after the effective date.

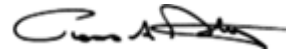
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning
Department of Revenue
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Commerce and Insurance



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