COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2148S.01I
Bill No.: SB 465
Subject: Tax Credits; Economic Development; Economic Development, Department of
Type: Original
Date: March 1, 2021

Bill Summary: This proposal would establish the Missouri Rural Workforce Development Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
General Revenue Fund*	($145,318) up to $1,409,682	($166,075) up to or could exceed $1,388,925	($25,167,579) up to or could exceed $1,387,421	($25,169,096) up to or could exceed $1,385,904
Total Estimated Net Effect on General Revenue	**($145,318) up to $1,409,682**	**($166,075) up to or could exceed $1,388,925**	**($25,167,579) up to or could exceed $1,387,421**	**($25,169,096) up to or could exceed $1,385,904**

*The program has a $25 million annual cap on tax credit issuances.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
General Revenue – DED	2 FTE	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	**2 FTE**	**2 FTE**	**2 FTE**	**2 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 2022	FY 2023	FY 2024	Fully Implemented (FY 2025)
Local Government	**$0**	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposed legislation would create a tax credit for taxpayers making a capital investment in a rural fund against such investor's state tax liability. The tax credit shall be equal to a proportion of their investment into the rural fund. There is a cap of $25 million that can be redeemed each calendar year; therefore, Total State Revenue (TSR) could be reduced by up to $25 million. The tax credit has a five (5) year carry forward; therefore, in any particular calendar year, more than $25 million may be redeemed.

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 ($5,000) to the Missouri Department of Economic Development. B&P assumes this money would be deposited into the General Revenue Fund (GR). Therefore, GR could be increased by an unknown amount. There is not enough available data for B&P to estimate the potential revenues.

The rural fund could be subject to a penalty. B&P assumes this money would be deposited into GR. Therefore, GR and TSR could be increased by an unknown amount.

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

Officials from the **Missouri Department of Economic Development (DED)** state this proposed legislation shall be known as the Missouri Rural Workforce Development Act.

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.

DED notes 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 it would start accepting applications ninety (90) days after this proposed legislation goes into effect.

DED states this proposed legislation requires an applicant to pay an application fee of five thousand dollars ($5,000) to DED. DED would then have thirty (30) days after receipt to accept or deny any application.

If requested, DED is to issue a written opinion about whether an investment would be a qualified investment for the business so it knows before making investment(s).

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. Rural funds must submit a report to DED within the first fifteen (15) business days after the third anniversary of the initial credit allowance date that provides documentation as to the investment of one hundred percent (100%) of the purchase price of such capital investment in qualified investments.

DED states there is an annual program cap of twenty five million dollars ($25,000,000). DED anticipates the need to hire two (2) FTE Senior Economic Development Specialists to administer the program created.

Oversight will include DED's FTE costs, as reported by DED, 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).

Officials from the **Missouri Department of Revenue (DOR)** state this proposed legislation sets forth procedures by which a rural fund may become certified by the Department of Economic Development such that investments made in the fund may be eligible for tax credits.

DOR states this proposed legislation authorizes the tax credit, not exceeding the amount of the rural investor's income tax for the year in which the credit is claimed. Unused portions of the credit may be carried forward to the next five (5) tax years but may not be carried back. The credit is not refundable.

DOR states this proposed legislation caps the amount of tax credits authorized at $25 million, excluding amounts carried forward from prior years.

DOR assumes this proposed legislation will result in an unknown increase in tax credits redeemed and errors generated. If the increase is significant, DOR will request FTE through the appropriation process based on the following: one (1) FTE Associate Customer Service Representative for every 6,000 credits redeemed, one (1) FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated and $2,000 for forms and programming changes.

Officials from the **Missouri Department of Commerce and Insurance (DCI)** anticipate a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) as a result of the creation of the Missouri Rural Workforce Development Act 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 tax credit.

DCI 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, DCI may need to request more expense and equipment appropriation through the budget process.

Oversight notes this proposed legislation would award tax credits to rural investors who have made an equity investment in a rural fund so long as such equity investment is later 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 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, a business plan that includes a revenue impact assessment, and a nonrefundable application fee of $5,000.

Per the Small Business Investment Company Program Overview, as of September 30, 2020, there were approximately 302 privately owned and managed SBA licensed SBICs.

Per correspondence received from the United States Department of Agriculture in February 2021, there are approximately 9 certified RBICs with 3 more RBICs in the application process and the possibility of 2 more applications being received in 2021. In addition, there have been four (4) investments made in Missouri totaling almost $12,000,000.

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 a nonrefundable $5,000 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 2022.

Therefore, **Oversight** will report a revenue <u>gain</u> to GR equal to $0 (no applications/fee(s) submitted) or $5,000 (one application/fee is submitted) up to $1,555,000 ($5,000 * (302 (# of SBICs) + 9 (# of certified RBICs)) beginning in Fiscal Year 2022.

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 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 notes the tax credits created under this proposed legislation are limited to the taxpayer’s state tax liability and shall not be refunded to the taxpayer. Any amount in excess of the taxpayer’s state tax liability be carried forward for five (5) subsequent tax years.

Oversight notes the “Credit Allowance Date” is defined as “the date on which the Missouri Department of Economic Development certified a rural fund’s capital investment and each of the five (5) anniversary dates of such date thereafter”.

Oversight notes “Applicable Percentage” is defined as “zero percent for the first two credit allowance dates, and fifteen percent for the next four (4) credit allowance dates”.

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

If Company A were to have $100,000,000 certified as a capital investment on January 1, 2022, Company A's credit allowance date(s) would be: January 1, 2022, January 1, 2023, January 1, 2024, January 1, 2025, January 1, 2026, and January 1, 2027.
Oversight assumes, then, Company 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, 2022 and January 1, 2023.

Each January thereafter, with the last January being January 1, 2027, Company 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, Company 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 2022.

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 2024.

Therefore, **Oversight** estimates the tax credit provision of this proposed legislation could result in a revenue reduction equal to $0 (no certified capital investments) up to $25,000,000 (tax credit authorization cap) beginning in Fiscal Year 2024.

Oversight notes this proposed legislation would allow for the recapture of tax credits issued to rural investors 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 be distributed the funds for further tax credit authorization(s). Therefore, Oversight assumes the net fiscal impact to GR, specific to the provision of recaptured tax credits, would net zero ($0).

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 2024.

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 gain equal to "$0 to Unknown" and a revenue reduction equal to "$0 or Unknown" beginning in Fiscal Year 2024.

Oversight notes this proposed legislation would allow for a penalty to be assessed on and paid by rural funds provided such rural funds do not meet the requirements established in this proposed legislation.

Oversight note this proposed legislation does not specifically state where penalty payments collected shall be deposited. For the purpose of this fiscal note, Oversight will assume any penalty collected would be deposited into GR.

Oversight notes a penalty shall be assessed if the rural fund authorizes a distribution to a rural fund's equity holders in an amount that, when added to all previous distributions to the rural fund's equity holders and any previous penalties under this section, exceeds the rural fund's capital investment authority or when the number of jobs created and jobs retained as a result of the rural fund's qualified investments is less than the number of jobs created and jobs retained included in such rural fund's notice of certification.

Oversight notes "Jobs Created" is defined as "the number of full-time jobs added by an eligible business during each twelve-month period following the date of the rural fund's initial qualified investment". "Jobs Retained" is defined as "any full-time jobs that existed at an eligible business prior to a rural fund's initial qualified investment that are retained by an eligible business following a rural fund's qualified investment, calculated annually".

Oversight assumes, then, the first fiscal year in which a penalty could be assessed and collected is Fiscal Year 2023 (12 months after initial qualified investments can be made).

Oversight is unable to determine the fiscal impact the penalty provision will have. Therefore, Oversight will report a revenue gain equal to "$0 or Unknown" as a result of the penalty provision beginning in Fiscal Year 2023.

Oversight notes the provisions of this proposed legislation will automatically sunset ten (10) years after the effective date of the proposed legislation (August 28, 2031).

Officials from **Boone County** do not anticipate this proposed legislation will result in a fiscal impact to its organization. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for this organization.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2025)
GENERAL REVENUE FUND				
Revenue Gain- Section 620.3510 – Nonrefundable Application Fee of $5,000	$0 or $5,000 up to $1,555,000	$0 or $5,000 up to $1,555,000	$0 or $5,000 up to $1,555,000	$0 or $5,000 up to $1,555,000
Revenue Reduction – Section 620.3515 – Tax Credit For Certified Capital Investment(s)	$0	$0	$0 up to ($25,000,000)	$0 up to ($25,000,000)
Revenue Gain – Transfer In – Section 620.3520 – Recapture of Tax Credits From Rural Investor	$0	$0	Unknown	Unknown
Revenue Loss – Transfer Out – Section 620.3520 – Recaptured Tax Credits (Re)Allocated to Missouri Department of Economic Development	$0	$0	(Unknown)	(Unknown)

Revenue Gain – Section 620.3530 – Penalty Assessed On A Rural Fund	$0	Unknown	Unknown	Unknown
Cost – Section(s) 620.3510, 620.3515 & 620.3520 - DED				
Personnel Services	($84,435)	($102,335)	($103,359)	($104,392)
Fringe Benefits	($48,397)	($58,418)	($58,764)	($59,112)
Equipment & Expense	($12,486)	($5,322)	($5,456)	($5,592)
Total Cost	($145,318)	($166,075)	($167,579)	($169,096)
FTE Change – DED	2 FTE	2 FTE	2 FTE	2 FTE
ESTIMTED NET EFFECT ON GENERAL REVENUE FUND	**($145,318) up to $1,409,682**	**($166,075) up to or could exceed $1,388,925**	**($25,167,579) up to or could exceed $1,387,421**	**($25,169,096) up to or could exceed 1,385,904**

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2025)
	$0	**$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.

FISCAL DESCRIPTION

This act establishes the "Missouri Rural Workforce Development Act", which provides a tax credit for certain investments made in businesses located in rural areas in this state.

This act allows investors to make capital investments in a rural fund, as defined in the act. Such investors shall be allowed a tax credit for a period of six years beginning with the year the investor made a capital investment. The tax credit shall be equal to a percentage of the capital investment. The percentage shall be zero for the first two years, and fifteen percent for the subsequent four years. Tax credits issued under the act shall not be refundable, but may be carried forward to any of the five subsequent tax years, as described in the act. No more than $25 million dollars in tax credits shall be authorized in a given calendar year.

A rural fund wishing to accept investments as capital investments shall apply to the Department of Economic Development. The application shall include the amount of capital investment requested, a copy of the applicant's license as a rural business or small business investment company, evidence that the applicant has made at least $100 million in investments in nonpublic companies located in counties throughout the United States with a population less than fifty thousand, and a business plan that includes a revenue impact statement projecting state and local tax revenue to be generated by the applicant's proposed qualified investments, as described in the act. The rural fund shall also submit a nonrefundable application fee of $5,000.

The Department shall grant or deny an application within thirty days of receipt. The Department shall deny an application if such application is incomplete or insufficient, if the revenue impact assessment does not demonstrate that the business plan will result in a positive economic impact on the state over a ten year period, or if the Department has already approved the maximum amount of capital investment authority.

Rural funds shall use capital investments made by investors to make qualified investments, as defined in the act, in eligible businesses. An eligible business is a business that, at the time of the qualified investment, has fewer than two hundred fifty employees and has its principal business operations in one or more rural areas in the state, defined as any county with a population of less than ninety thousand.

The Department may recapture tax credits if the rural fund does not invest sixty percent of its capital investment authority in qualified investments within two years of the date of the capital investment, and one hundred percent of its capital investment authority within three years, if the rural fund fails to maintain qualified investments equal to ninety percent of its capital investment authority in years three through six, as described in the act, if prior to exiting the program the rural fund makes a distribution or payment that results in the fund having less than ninety percent of its capital investment authority invested in qualified investments, or if the rural fund violates provisions of the act.

Rural funds shall submit annual reports to the Department, including the name and location of each eligible business receiving a qualified investment, the number of jobs created and jobs retained as a result of qualified investments, the average salary of such jobs, and any other information required by the Department, as described in the act.

At any time after the sixth anniversary of the capital investment, a rural fund may exit the program if the fund has satisfied the job creation and retention requirements. A rural fund not meeting such job creation and retention requirements may exit the program upon the payment of a penalty, which shall be calculated as described in the act.

This act shall sunset August 28, 2031, unless reauthorized by the General Assembly.

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 Division
Missouri Department of Commerce and Insurance
Missouri Department of Economic Development
Missouri Department of Revenue
Boone County

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March 1, 2021

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March 1, 2021