

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1760S.03C
 Bill No.: SCS for SB 455
 Subject: Tax Credits; Adoption
 Type: Original
 Date: April 6, 2023

Bill Summary: This proposal modifies provisions relating to benevolent tax credits.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	Up to (\$5,038,921)	Could exceed (\$5,038,921)	Could exceed (\$5,038,921)
Total Estimated Net Effect on General Revenue	Up to (\$5,038,921)	Could exceed (\$5,038,921)	Could exceed (\$5,038,921)

*Oversight notes the fiscal impact changes from HB 429 (2021) (§135.327) are not yet fully known. Oversight will range the fiscal impact for these additional changes from \$0 (participation in the tax credit program does not change as a result of the bill) to an unknown amount – possibly exceeding the \$250,000 threshold - beginning in Fiscal Year 2025. Additionally, Oversight reflects the change in expenditures to GR due to the Section 32.115 Neighborhood Assistance Program & 135.460 – Youth Opportunities Tax Credit where both tax credits allow 70% contribution (up from previous 50%).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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 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
Total Estimated Net Effect on FTE	0	0	0

- 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

Section 32.115.4 Affordable Housing Tax Credit

Officials from the **Office of Administration – Budget and Planning (B&P)** assume this proposal will not impact TSR or the calculation under Article X, Section 18(e).

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

The Affordable Housing tax credit program is a two part credit with an \$11 million combined cap. The first part of the credit is for businesses that are making contributions to affordable housing. This part of the credit is limited to \$10 million of the cap. The second part of the credit is for businesses that make contributions to neighborhood organizations and this part of the credit is limited to \$1 million of the cap. This proposal allows the contributions to the neighborhood organizations to use any remaining cap space not used by the businesses making contributions to affordable housing. Therefore, the \$1 million cap can be increased if the \$10 million doesn't use all their allotment. Since this proposal just allows the sharing of a cap this would not have any additional fiscal impact on the state.

For informational purposes, the Department is providing the amount of the Affordable Housing Tax Credit that has been authorized, issued and redeemed over the last few years.

Year	Authorized	Issued	Total Redeemed
FY 2022	\$4,835,176.00	\$10,482,025.00	\$3,619,925.08
FY 2021	978,796.00	\$3,592,427.00	\$4,119,705.33
FY 2020	\$10,971,408.00	\$4,510,701.00	\$4,025,790.93
FY 2019	\$4,253,693.00	\$3,308,659.00	\$5,001,344.36
FY 2018	\$4,676,726.00	\$6,145,103.00	\$4,752,091.61
FY 2017	\$10,347,442.00	\$7,386,034.00	\$10,172,299.92
FY 2016	\$10,988,370.00	\$13,171,092.00	\$8,484,672.81
FY 2015	\$10,901,753.00	\$8,717,177.00	\$3,358,807.75
FY 2014	\$8,197,923.00	\$4,844,279.00	\$5,620,749.73
FY 2013	\$6,495,974.00	\$4,967,887.00	\$7,406,987.96
FY 2012	\$4,871,580.00	\$5,990,591.00	\$5,629,465.92
Total	\$77,518,841	\$73,115,975	\$62,191,841

(For more information, please see Form 14 AHAP and NAP in MOLIS internal docs.)

This proposal will not have a fiscal impact on the Department of Revenue.

Section 32.115.2(1) Neighborhood Assistance Tax Credit

Officials from the **Office of Administration (B&P)** assume this proposal would increase the value of the neighborhood assistance tax credits to 70% of each contribution. B&P notes that the three-year average redemption amount for neighborhood assistance was \$8,720,836 from FY20 - FY22. B&P further notes that had the tax credits been set at 70% of donations, redemptions would have been \$12,209,170 for neighborhood assistance. Therefore, this provision could reduce GR by \$3,488,334 annually beginning in FY24.

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

This provision changes the Neighborhood Assistance Tax Credit program. The Neighborhood Assistance Tax Credit program has a \$16 million cap with the credit based on 50% of the contribution made. This proposal is changing the credit from 50% of the contribution to 70%. For informational purposes they provided the amount authorized, issued and redeemed for this credit.

Year	Authorized	Issued	Total Redeemed
FY 2022	\$12,673,134.00	\$11,113,005.75	\$8,067,535.14
FY 2021	\$11,924,548.00	\$9,048,913.00	\$8,623,742.15
FY 2020	\$13,890,324.00	\$8,703,761.00	\$9,471,230.74
FY 2019	\$15,035,823.00	\$10,377,614.00	\$8,947,215.78
FY 2018	\$14,981,906.00	\$12,367,630.00	\$10,922,806.90
FY 2017	\$14,041,962.00	\$14,490,650.00	\$14,831,654.53
FY 2016	\$13,553,852.00	\$13,761,480.00	\$10,318,970.97
FY 2015	\$15,974,536.00	\$11,435,785.00	\$8,230,285.75
FY 2014	\$11,513,379.00	\$9,640,126.00	\$10,848,983.24
FY 2013	\$14,996,900.00	\$10,144,225.00	\$7,392,112.96
FY 2012	\$11,577,412.00	\$8,493,103.00	\$9,757,094.83
TOTALS	\$150,163,776.00	\$119,576,292.75	\$107,411,632.99

This proposal increases the percent of the contribution from 50% to 70% for the amount of the tax credit. This change is expected to encourage more taxpayers to contribute and claim the tax credit. The three year average of the redemptions of the program has been \$8,720,836.

Increasing the tax credit percent to seventy percent would have resulted in \$12,209,170 in tax credits being issued. An increase of \$3,488,334. The increased percent of the credit could result in additional contributions being made to the affordable housing program, but the Department does not have any information as to how many more contributions would be made. Since the increased amount is lower than the current cap of \$16 million, this is not expected to have any additional impact to the state.

Oversight notes Section 32.115 Neighborhood Assistance Program provides maximum of \$32 million annually and shares the total amount with other tax credits as follow:

- a) Section(s) 32.111 – Affordable Housing Assistance Tax Credit Program (AHAP up to the same \$10 million cap. (If other tax credits are not fully utilized this section can draw additional \$1 million allowing the cap reach \$11 million annually – as per Section 32.115 4.).
- b) Section 135.460 Opportunity Youth program with maximum cap of \$6 million.

Oversight notes, currently, the actual Neighborhood Assistance Program can obtain maximum of \$16 million annually.

	FY 2020 ACTUAL	FY 2021 ACTUAL	FY 2022 ACTUAL
Certificates Issued (#)	1,432	1,240	1,371
Projects/Participants (#)	67	67	65
Amount Authorized	\$13,890,324	\$11,924,548	\$12,673,134
Amount Issued	\$8,703,761	\$9,048,913	\$11,113,006
Amount Redeemed	\$9,471,231	\$8,623,742	\$8,067,535

(DED Form 14 – see attachment in MOLIS)

Oversight notes the current average redemption total in last three years was \$8,720,836 at 50% contribution percentage.

Oversight notes the 70% contribution would total to \$12,209,170 of total average redemption in the same period.

Oversight note that the difference between 50% and 70% contribution redemption would total to \$3,488,334 (\$12,209,170 - \$8,720,836).

Oversight notes this proposal does not change the \$16 million maximum cap, instead increases the percent of the contribution from 50% to 70% for the amount of the tax credit. This will allow

for those who claim the tax credit receive greater amount of funds, but will not affect the overall maximum cap available under the proposal. (Allowing potentially for fewer participants who are receiving greater amount of tax credit)

Therefore, for the purpose of this fiscal note, **Oversight** will reflect the credit difference of \$3,488,334 to the general revenue in the fiscal note.

Section 135.327, 135.331 & 135.333 Adoption Tax Credit

Officials from **Office of Administration - Budget and Planning (B&P)** assume this proposal would make multiple changes to the adoption tax credit. This proposal would remove the annual \$6 million redemption cap and change the tax credit to refundable beginning with tax year 2024.

B&P notes that the average 3-year redemption amount from FY20 – FY22 was \$17,568. In addition, credit redemptions have been \$1 million or less since 2012. B&P estimates that this proposal may have an unknown negative impact on TSR and GR beginning FY25.

Officials from the **Department of Revenue (DOR)** note the Adoption Tax Credit program allows taxpayers who adopt a child to get a tax credit for non-recurring expenses that result from the adoption. Additionally, businesses that help cover the costs of their employee's adoptions can receive the credit also. This program has a \$6 million annual cap.

This proposal removes the \$6 million annual cap starting January 1, 2024. Additionally, this proposal allows the credit to be refunded to taxpayers. While this may encourage more people to apply for this credit, it has not been near its \$6 million cap. Therefore, DOR assumes this will not have any additional impact on DOR.

For informational purposes, DOR notes that the Adoption tax credit started in 1987. It has gone through numerous changes through the years. Most recently in 2021 when the cap on the program was raised from \$2 million to \$6 million annually. DOR is providing the amount of credits, issued and redeemed over the last few years.

Table 1.

Year	Issued	Total Redeemed
FY 2022	\$19,690.00	\$19,690.00
FY 2021	\$3,611.00	\$3,611.00
FY 2020	\$29,404.00	\$29,404.00
FY 2019	\$19,185.00	\$19,185.00
FY 2018	\$88,706.00	\$88,706.00
FY 2017	\$127,211.00	\$127,211.00
FY 2016	\$225,358.00	\$231,367.00
FY 2015	\$380,715.00	\$380,715.00
FY 2014	\$714,857.00	\$718,495.00
FY 2013	\$744,155.00	\$744,155.00
FY 2012	\$1,036,226.00	\$1,036,226.00
TOTALS	\$3,389,118.00	\$3,398,765.00

This proposal will require DOR to update the information on forms, website and computer. These changes are estimated at \$7,193.

Oversight assumes DOR will be able to absorb the cost of the internal updates; therefore, Oversight will reflect a zero impact for DOR in the fiscal note.

Oversight notes Section 135.331 states that no credit shall be allowable for the adoption of any child who has attained the age of eighteen, unless it has been determined that the child has a medical condition or disability (changed from “handicap”).

Oversight notes Section 135.333 allows after January 1, 2024, any amount of tax credit that is issued and which exceeds the tax due shall be refunded to the taxpayer. However, for tax years ending on or before December 31, 2023, any amount of tax credit which exceeds the tax due shall not be refunded, but instead may carry over up to maximum of 5 years.

Oversight notes the proposal, Section 135.327, states that for tax years ending on or before December 31, 2023, priority shall be given to applications to claim the tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated.

Furthermore, for tax years beginning on or after January 1, 2024, there shall be no limit imposed on the cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses. (Currently the cap is set at \$6 million per year)

Oversight notes there were 20 taxpayers claiming the tax credit, from FY 2019 to FY 2022. Additionally, the taxpayers redeemed total amount of \$71,890 in tax credit within the same period. Therefore, the average redemption amount was \$3,595 (\$71,890/20) in tax credits. (See DOR table below – [Special Needs Children Adaption - Tax Credit Form Analysis](#))

Table 3.

	FY 2019 ACTUAL	FY 2020 ACTUAL	FY 2021 ACTUAL	FY 2022 ACTUAL
Certificates Issued (#)	0	0	0	0
Projects (#)	7	8	2	3
Amount Authorized	\$0	\$0	\$0	\$0
Amount Issued	\$0	\$0	\$0	\$0
Amount Redeemed	\$19,185	\$29,404	\$3,611	\$19,690
Total Redeemed FY 19, 20, 21, 22				\$71,890
Total Projects FY 19, 20, 21, 22				20

Oversight notes the changes made in HB 429 from 2021 were only implemented starting January 1, 2022, therefore, Oversight does not have enough information to determine the actual increase in tax credits from the changes in that bill (increasing the cap from \$2 million to \$6 million and opening the credit up to children who are not considered special needs) has been. Oversight assumes the changes in this proposal may cause an additional upward trend in tax credit redemptions. However, the average adoption tax credit redemptions per year (before the changes from HB 429 – 2021 have been implemented) were only \$17,973 per year. Oversight assumes the various changes in the bill are unknown and could increase redemptions by the \$250,000 threshold in a given year.

Oversight notes the modifications to the Special Needs Adoption Tax Credit proposed in this legislation would begin January 1, 2024. Tax returns for Tax Year 2024 would not be filed until after January 1, 2025 (Fiscal Year 2025). Therefore, for purposes of this fiscal note, Oversight will show a reduction to GR equal to a range, beginning at \$0 (participation in the tax credit program does not change) to an unknown amount in Fiscal Year 2025.

Section 135.460 Youth Opportunities Tax Credit

Officials from the **Office of Administration – Budget & Planning (B&P)** assume this proposal would increase the value of the youth opportunities tax credit to 70% of each contribution. B&P notes that the three-year average redemption amount was \$3,875,468 from FY20 – FY22. B&P further notes that had the tax credits been set at 70% of donations, redemptions would have been \$5,425,655. Therefore, B&P estimates that this provision could reduce GR by \$1,550,187 annually beginning in FY24.

Officials from the **Department of Revenue (DOR)** assume this proposal also changes the Youth Opportunities Tax Credit program. The Youth Opportunities tax credit program has a \$6 million cap with the credit based on 50% of the contribution made. For informational purposes they are providing the amount authorized, issued and redeemed for this credit.

Year	Authorized	Issued	Total Redeemed
FY 2022	\$5,706,067.00	\$3,039,904.00	\$2,324,687.48
FY 2021	\$5,288,870.00	\$1,983,794.00	\$4,084,410.34
FY 2020	\$1,212,623.00	\$4,086,770.50	\$5,217,305.70
FY 2019	\$5,169,666.00	\$5,822,539.00	\$4,040,657.57
FY 2018	\$6,826,426.00	\$5,726,775.00	\$4,818,711.26
FY 2017	\$5,642,936.00	\$6,349,945.00	\$5,451,115.04
FY 2016	\$6,375,728.00	\$5,411,972.00	\$4,706,636.11
FY 2015	\$7,041,012.00	\$5,325,506.00	\$4,247,824.65
FY 2014	\$5,941,601.50	\$5,080,128.00	\$5,239,666.42
FY 2013	\$5,609,784.00	\$5,571,555.00	\$3,906,262.62
FY 2012	\$5,843,692.62	\$4,152,310.83	\$4,979,894.20
TOTALS	\$60,658,406.12	\$52,551,199.33	\$49,017,171.39

This proposal increases the percent of the contribution from 50% to 70% for the amount of the tax credit. This change is expected to encourage more taxpayers to contribute and claim the tax credit. The three year average of the redemptions of the program has been \$3,875,468.

Increasing the tax credit percent to seventy percent would have resulted in \$5,425,655 in tax credits being issued. An increase of \$1,550,187. The increased percent of the credit could result in additional contributions being made to the affordable housing program, but the Department does not have any information as to how many more contributions would be made. Since the increased amount is lower than the current cap of \$6 million, this is not expected to have any additional impact to the state.

This proposal will increase the amount of the credits issued. DOR will show the loss to general revenue of the increased amounts. While this proposal would begin August 28, 2023, this will impact the state starting FY 2025 when the returns are filed claiming the higher credit amount. This entire proposal will require they update the information on the forms, website and computer for these credits. These changes are estimated at \$7,193.

Oversight notes the DOR & B&P both assume that since the increased amount is lower than the current cap of \$6 million, where increasing the tax credit percentage from fifty to seventy percent would have resulted in \$5,425,655 in tax credits being issued, this is not expected to have any additional impact to the state.

Oversight notes that DED provided actual redemption history, within the program, and shows the average annual redemption amount of \$3,875,468.

	FY 2020 ACTUAL	FY 2021 ACTUAL	FY 2022 ACTUAL
Certificates Issued (#)	1,511	760	974
Projects/Participants (#)	7	33	36
Amount Authorized	\$1,212,623	\$5,288,870	\$5,706,067
Amount Issued	\$4,086,771	\$1,983,794	\$3,039,904
Amount Redeemed	\$5,217,306	\$4,084,410	\$2,324,687

(DED Form 14 – see MOLIS attachment)

Oversight notes the above table reflect the 50% redemption amounts under the current law and notes the 70% contribution would total \$5,425,655 annually.

Oversight note that the difference between 50% and 70% contribution redemption would total to \$1,550,187 (\$5,425,655 - \$3,875,468).

Oversight notes this proposal does not change the \$6 million maximum cap, instead increases the percent of the contribution from 50% to 70% for the amount of the tax credit. This will allow for those who claim the tax credit receive greater amount of funds, but will not affect the overall maximum cap available under the proposal. (Allowing potentially for fewer participants who are receiving greater amount of tax credit)

Therefore, for the purpose of this fiscal note, **Oversight** will reflect the contribution difference of \$1,550,187 to the general revenue in the fiscal note for this section.

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 modification of Adoption 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** will assume for simplicity of fiscal note purposes that credits will be taken exclusively against general revenue.

Officials from the **Department of Economic Development** and the **Department of Social Services** both assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for the respective organizations in the fiscal note.

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 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 135.327 – Increase in Adoption Tax Credit Participation p. 9</u>	\$0	\$0 to (Unknown)	\$0 to (Unknown)
<u>Revenue Reduction – Section 32.115 – Neighborhood Assistance Program (change in credit from 50% to 70%) p. 6</u>	Up to (\$3,488,334)	Up to (\$3,488,334)	Up to (\$3,488,334)
<u>Revenue Reduction – Section 135.460 – Youth Opportunities Tax Credit (change in credit from 50% to 70%) p. 9</u>	Up to (\$1,550,587)	Up to (\$1,550,587)	Up to (\$1,550,587)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Up to (\$5,038,921)</u>	<u>Could exceed (\$5,038,921)</u>	<u>Could exceed (\$5,038,921)</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

Small businesses that qualify for the credit may be positively impacted as a result of this proposal.

FISCAL DESCRIPTION

NEIGHBORHOOD ASSISTANCE TAX CREDITS

Current law authorizes multiple tax credits for contributions made to and investments made for the purposes of providing physical revitalization, economic development, job training or education for individuals, community services, crime prevention, and affordable housing assistance, with such tax credits being equal to varying percentages of the contributions or investments made. This act sets each tax credit equal to 70% of the amount of such contributions or investments. (Section 32.115)

ADOPTION TAX CREDIT

Current law authorizes a nonrefundable tax credit for nonrecurring adoption expenses, with an annual limit of \$6 million dollars in tax credits. This act makes the tax credit refundable, removes the \$6 million limit, and provides that, for tax years ending on or before December 31, 2023, priority for authorizing tax credits shall be given to applications for special needs children who are residents or wards of residents of this state. (Section 135.327)

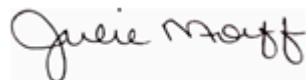
YOUTH OPPORTUNITIES AND VIOLENCE PREVENTION TAX CREDIT

Current law authorizes a tax credit in the amount of 50% of contributions made to certain youth programs. This act increases such tax credit to 70% of the amount of such contributions made. (Section 135.460)

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



Julie Morff
Director
April 6, 2023



Ross Strope
Assistant Director
April 6, 2023