COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3920S.03T
Bill No.: Truly Agreed To and Finally Passed SS for SB 802
Subject: Economic Development; Department of Economic Development; Tax Credits
Type: Original
Date: June 6, 2024

Bill Summary: This proposal establishes the Missouri Rural Access to Capital Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund*	Up to ($235,152)	Up to ($340,385)	Up to ($16,324,054)
Total Estimated Net Effect on General Revenue	**Up to ($235,152)**	**Up to ($340,385)**	**Up to ($16,324,054)**

*Oversight reflects the program's $16 million annual cap on tax credit issuance beginning in FY 2027. 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 Specialists 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	0 FTE	1 FTE	1 FTE
General Revenue – DED	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	**2 FTE**	**3 FTE**	**3 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

Sections 620.3500 – 620.3530 -Missouri Rural Access to Capital Act

Officials from the **Department of Economic Development (DED)** note:

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 (two Senior Economic Development Specialists 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).

Officials from the **Department of Commerce and Insurance (DCI)** note:

A potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2025, FY2026, and FY2027 as a result of the creation of the Missouri Rural Access to Capital 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 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 fiscal note does not reflect the possibility that some of the tax credits could be utilized 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.

Oversight notes the Department of Commerce and Insurance assumes 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 Department of Commerce and Insurance may seek additional equipment and expense through the appropriation process.

Officials from the **Office of Administration – Budget & Planning (B&P)** assume 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 with the applicable percentage of 0% for the first two credit allowance dates. 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)** note:

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 DOR will assume that 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 reflect DOR's 1 FTE cost effective FY 2026.

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

If an investor provided 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 <u>$16 million cap annually starting in FY 2027</u>.

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 RBICs 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 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 2025.

Therefore, **Oversight** will report a revenue gain to GR equal to $0 (no applications submitted) up to $60,000 (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 reduction equal to $0 (no certified capital investments) up to $16,000,000 (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 gain 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** state they are responsible for providing a Sunset Report pursuant to Section 23.253 RSMo; however, Oversight will be able to absorb the cost with the current budget authority.

Officials from the **Office of the State Treasurer (STO)** 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 STO.

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.

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE FUND			
Revenue Gain- Section 620.3510 – Nonrefundable Application Fee of $5,000 – (p. 6)	$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. 6-8)	$0	$0	$0 up to ($16,000,000)
Revenue Gain – Transfer In – Section 620.3520. 3. – Recapture of Tax Credits From Rural Investor (p. 7-8)	$0	$0	$0 to Unknown
Revenue Loss – Transfer Out – Section 620.3520 – Recaptured Tax Credits (Re)Allocated to Missouri DED (p. 7-8)	$0	$0	$0 to (Unknown)
Cost – 2 FTE DED – (p.3)			
Personnel Services	($124,440)	($152,315)	($155,361)
Fringe Benefits	($72,530)	($88,153)	($89,292)
Equipment & Expense	($38,182)	($12,044)	($12,285)
Total Cost	($235,152)	($252,512)	($256,938)
FTE Change – DED	2 FTE	2 FTE	2 FTE
Cost –1 FTE DOR – (p.6)			
Personnel Services	$0	($36,598)	($37,330)
Fringe Benefits	$0	($28,937)	($29,204)
Equipment & Expense	$0	($22,338)	($582)
Total Cost	$0	($87,873)	($67,116)
FTE Change – DOR	0 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**Up to ($235,152)**	**Up to ($340,385)**	**Up to ($16,324,054)**
Estimated Net FTE Change on General Revenue	2 FTE	3 FTE	3 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 potentially eliminate business state tax liability.

FISCAL DESCRIPTION

This act establishes the "Missouri Rural Access to Capital 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 $16 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, evidence that the applicant has made at least $30 million in investments in nonpublic companies located in Missouri, 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 sixty 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, has its principal business operations in the state, is not an alien, foreign entity, or foreign government, and is engaged in certain industries, as described in the act.

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 or thirty days after the sixth year, the rural fund makes a distribution or payment that results in the fund having less than one hundred 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 total number of new jobs, maintained jobs, new payroll, maintained payroll, new revenue, and maintained revenue by each eligible business receiving a qualified investment, a revenue impact assessment projecting state and local tax revenue generated and projected to be generated, 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 apply to the Department to exit the program. The Department shall respond to such application within fifteen days. At the time a rural fund exits the program, it shall be required to make a distribution to the state, not to exceed ten percent of the amount of tax credits received, if the amount of state and local tax benefits generated by the rural fund's qualified investments are less than the amount of tax credits distributed to the rural fund.

These provisions shall sunset on August 28, 2030, unless reauthorized by the General Assembly. (Sections 620.3500 to 620.3530)

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

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June 6, 2024

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