COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5038S.04A
Bill No.: SS for HB 2400, as amended
Subject: Employees-Employers; Taxation and Revenue - General; Taxation and Revenue - Income; Tax Credits; Economic Development; Economic Development, Department of; Emergencies
Type: Original
Date: May 5, 2022

Bill Summary: This proposal modifies provisions relating to business entities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	More than or Less than ($25,804,719)	More than or Less than ($29,833,208)	More than or Less than ($29,834,441)
Total Estimated Net Effect on General Revenue	**More than or Less than ($25,804,719)**	**More than or Less than ($29,833,208)**	**More than or Less than ($29,834,441)**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Various State Funds	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Legal Expense Fund(0692)	$0	$0	$0
MO Rx Plan Fund (0779)	($2,323,978)	($2,788,774)	($2,788,978)
Major Economic Convention Event Fund (0593)*	$0	$0	$0
School District Trust Fund (0688)	(Could exceed $5,186,723)	(Could exceed $2,489,627)	(Could exceed $2,489,627)
Parks and Soils State Sales Tax Fund (0613 & 0614)	(Could exceed $518,673)	(Could exceed $248,963)	(Could exceed $248,963)
Conservation Commission Fund (0609)	(Could exceed $648,340)	(Could exceed $311,203)	(Could exceed $311,203)
MO One Start Community College New Job Training Fund (0563)	$0	(Unknown)	$0
MO One Start Community College Retention Training Fund (0717)	$0	(Unknown)	$0
MO One Start Job Development Fund (0600)	$0 or Unknown	$0 or Unknown	$0 or Unknown
MO One Start Community College Training Fund	$0	Unknown	Unknown
Show Me Heroes Fund	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Total Estimated Net Effect on Other State Funds	**More or less than ($8,677,714)**	**More or less than ($5,838,567)**	**More or less than ($5,838,771)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Federal Funds	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Total Estimated Net Effect on All Federal Funds	**$0 or (Unknown)**	**$0 or (Unknown)**	**$0 or (Unknown)**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	More than 11 FTE	More than 1 FTE	More than 1 FTE
Total Estimated Net Effect on FTE	**More than 11 FTE**	**More than 1 FTE**	**More than 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 2023	FY 2024	FY 2025
Local Political Subdivisions	(Could exceed $20,902,494)	(Could exceed $10,033,197)	(Could exceed $10,033,197)
Local Government	**(Could exceed $20,902,494)**	**(Could exceed $10,033,197)**	**(Could exceed $10,033,197)**

FISCAL ANALYSIS

ASSUMPTION

Section 285.730 – Professional Employer Organizations

In response to the previous version of this proposal, officials from the **Office of Administration - Administrative Hearing Commission, Office of Administration - Budget and Planning, Department of Commerce and Insurance, Department of Economic Development, Department of Mental Health, Department of Labor and Industrial Relations, Department of Revenue, Department of Social Services, Missouri Department of Conservation,**

Missouri Department of Transportation, MoDOT & Patrol Employees' Retirement System, Office of Administration, Missouri State Employee's Retirement System, University of Missouri System, the **City of Kansas City,** the **City of O'Fallon,** and the **City of Springfield** each 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 in the fiscal note for these agencies.

Officials from the **Department of Health and Senior Services (DHSS)** defer to the OA for the potential fiscal impact of this proposal.

Officials from the **University of Central Missouri** indicated the proposal would have an indeterminate fiscal impact on their organization. **Oversight** requested more information from the University of Central Missouri regarding their response; however, the organization did not provide any detail as to elaborate on specific impact stemming from the proposal.

Section 620.2020 – Missouri Works Program requirements during certain statewide emergencies

In response to the similar proposal, SB 1092 (2022), officials from the **Department of Economic Development, the Department of Revenue**, the **Office of Administration – Budget & Planning**, the **Department of Revenue,** and the **Department of Public Safety – State Emergency Management Agency** each 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.

Oversight notes this proposed legislation changes the current statutory language by not requiring the recapture of the Missouri Works Program benefits if the annual report is not filed timely in such that, if a qualified company or qualified military project fails to file such annual report, due to the statewide emergency lasting more then 16 months.

Oversight further notes that the proposal specifies, that in the event a statewide state of emergency exists for more than sixteen months, and the number of jobs reported is below the number required for such year, the qualified company or qualified military project shall not be prohibited from receiving tax credits or retaining the withholding tax, or both, if applicable.

SA 1 - Section 407.475 – Private and non-private company and disclosure to the State agencies

In response to a similar proposal, SB 968 (2022), officials from the **Attorney General's Office**, **Office of Administration - Budget and Planning**, **Department of Economic Development**, **Department of Natural Resources**, **Department of Corrections**, **Department of Labor and Industrial Relations**, **Department of Elementary and Secondary Education**, **Department of Higher Education and Workforce Development**, **Department of Health and Senior Services**, **Department of Mental Health**, **Department of Public Safety**, **Department of Social Services**, **Missouri Department of Agriculture**, **Missouri Department of Conservation**,

Department of Transportation, **Department of Commerce and Insurance**, **Department of Economic Development**, **Department of Social Services**, and the **Office of the State Courts Administrator** each assumed the provision would not fiscally impact their respective agencies.

In response to similar legislation (SB 968), officials from the **Department of Labor and Industrial Relations** assumed the provision would not fiscally impact their agency.

Oversight notes that the above mentioned agencies have stated the provision would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, **Oversight** will reflect a zero impact on the fiscal note for these agencies for this section.

In response to a previous version, officials from the **Office of Administration - Budget and Planning (B&P)** noted this section would prohibit a state agency from requiring a charitable organization to provide annual filing or reporting beyond those required under section 407.462 and federal law.

B&P notes that some charitable organizations may be required to file annual state tax returns, which are not one of the allowable filing or reporting requirements under section 407.462 or federal law.

Therefore, this section may reduce GR and TSR by an unknown amount. This section may impact the calculation under Article X, Section 18(e).

Officials from the **Department of Revenue** note this provision would prohibit a state agency or official from imposing an annual filing/reporting requirement on an organization regulated or specifically exempted from regulation under sections 407.450 to 407.478, if those annual filing/reporting requirements are more stringent, restrictive, or expansive than the requirements of section 407.462. This does exempt filing/reporting requirements specifically required or authorized by federal law.

Depending on whether this proposal applies to state tax filing and tax reporting requirements, this proposal may impact DOR as it pertains to tax administration. If they could no longer require tax returns of certain organizations this could result in a significant but unknown loss to general revenue and total state revenue.

Oversight will reflect the possible scenario described by B&P if charitable organizations are no longer required to report and file tax returns on unrelated business taxable income as a result of this provision. Therefore, the state may see a reduction in tax revenue of an unknown amount. **Oversight** will show the impact as a $0 or (Unknown) potential loss of general revenue funds.

SA 2 - Section 130.029 – S Corp & LLC Campaign Contributions

In response to similar language in Perfected SB 931, officials from **Office of Administration - Budget and Planning (B&P)** noted this section would allow limited liability companies (LLCs) to make political contributions. Section 130.029.4(2) requires LLCs be operational for at least one year prior any contributions and to file a form with the Missouri Ethics Commission.

This provision will not impact TSR or the calculation under Article X, Section 18(e).

In response to similar language in Perfected SB 931, officials from the **Department of Revenue (DOR)** note this provision allows a limited liability company that is not classified as a corporation, to make contributions to any candidate committee. This will not have a fiscal impact on the Department.

Oversight notes officials from the Department of Revenue and the Office of Administration - Budget and Planning both assume this provision will have no fiscal impact on state and local funds. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a zero impact in the fiscal note.

SA 2 Section 143.081 Tax Credit for S-Corporation

In response to a similar proposal (SB 931), officials from **Office of Administration - Budget and Planning (B&P)** noted this provision would grant a tax credit for S-Corporation shareholders for income earned outside of Missouri, if the income earned out of state is not subject to income taxes in the state in which it was earned. The tax credit shall be equal to the shareholders proportion of Missouri income tax owed on such out of state S-Corporation income. This credit would begin on August 28, 2022. Since this is before the end of the 2022 tax year, B&P assumes that the credit would be available for taxpayers filing their annual 2022 tax returns.

B&P notes that shareholders are already allowed a resident income tax credit if income earned out of state is subject to another state's income tax. B&P further notes that this would essentially eliminate the Missouri tax on all out of state income earned by any S-Corporation, if that income is not subject to any other state's income tax.

Based on information provided by DOR, for tax year 2018 fewer than 1% of S-Corporations claimed out-of-state income. However, B&P was unable to determine how much of such S-Corporations income was derived from out-state-sources and how much of that income came from other states that do not levy an income tax. Therefore, B&P estimates that this provision will have an unknown negative impact on TSR and GR beginning in FY23.

In response to a similar proposal (SB 931), officials from the **Department of Revenue (DOR)** noted this provision would allow a resident shareholder in an S-Corp to be eligible for a credit issued pursuant to this section in an amount equal to the shareholder's pro rata share of any income tax imposed pursuant to Chapter 143 on income derived from sources in another state of the United States, or a political subdivision thereof, or the District of Columbia, and which is subject to tax pursuant to Chapter 143 but is not subject to tax in such other jurisdiction.

S-Corps are required to file a MO-1120S (S-Corporation Income Tax Return) with the Department of Revenue annually. One of the questions on the form requires S-Corps to disclosure if any of the income they receive is from sources other than those located in Missouri. Of the 87,907 S-Corps that completed the 2018 MO-1120S form less than 1% indicated income outside Missouri.

The Department is unable to estimate the amount of the income that was reported as out of the state. Additionally, the Department cannot determine if any of that income is from jurisdictions that do not tax. The Department assumes an unknown impact that could exceed $250,000 annually.

No administrative fiscal impact is expected to the Department from this provision.

Oversight is unable to estimate the amount of out of state income reported. Therefore, **Oversight** will show a negative unknown impact that could exceed $250,000 annually for this section.

SA 2 - Section 143.436 – Salt Parity Act

In response to the similar proposal, SB 1154 (2022), officials from the **Department of Revenue (DOR)** assume the Parity Act under the Tax Cut and Jobs Act (2017) the federal government limited the amount of state and local taxes (SALT) an individual could deduct for federal income tax purposes to no more than $10,000 ($5,000 for those married filed separately) annually. However, there were no changes to the limitations on the amount of a deduction connected with a business entity directly.

Capping the amount of the SALT deduction at the federal level resulted in fewer taxpayers being able to reduce their federal tax liability.

Under current law a pass-through entity's (S Corporations or Partnership) shareholders pay income tax on the shareholder's pro rata share of the entity's income attributable to Missouri. They file their share on their individual income tax return rather than the business entity filing a corporate income tax return. Therefore, each member reports their proportion of the entity's whole income. Therefore, each of the individual members is subject to the $10,000 SALT limit on their return.

This proposal creates the SALT Parity Act. The purpose of the act is to help companies increase the amount of itemized deductions they can claim at the federal level by finding a work-around of the $10,000 SALT deduction. Increasing their itemized amount would result in a savings to taxpayers, as their federal tax liability would decrease.

A business entity is not bound by the $10,000 limit. So a plan was created in several states and appears to be allowed by the federal government that would allow the business entity to report the group's income and pay the taxes of the group as a whole. The business entity then receives the greater itemized deduction on their federal return and lowers their overall tax liability. This results in a savings to the business entities.

This proposal is setting up this work around at the state level for Missouri businesses. This proposal in Section 143.436.3 & 143.436.4 would allow partnerships and S Corporations to pay as a whole. The partnership or S Corp would report income for the whole business and file a return on behalf of the entire group. For tax years beginning on or after January 1, 2023, this act would allow the pass-through business entity to elect to pay a company tax. The tax is to equal the sum of each member's income and loss items, as described in federal law, reduced by a deduction allowed for qualified business income, as described in federal law, and modified by current provisions of state law relating to the taxation of pass-through entities, with such sum multiplied by the highest rate of tax in effect for the state personal income tax rate.

Per this proposal they would be required to use the highest individual income tax rate for the tax rate. That rate is currently 5.3% for TY 2022. Currently, if members of the business entity pay taxes, the amount paid depends on their income and which tax bracket they are assessed at. Having these business entities pay the state the highest individual income tax rate could potentially result in an increase in revenue to the state as opposed to each member filing separately.

Upon filing the business entity tax return, the business entity notifies the Department of its election to file as a group and provides a report to the Department of the proportional share of income earned and tax paid of each member. The individual members of the business entity are then required to file an individual income tax return. They must report the amount of the pro rata share that was paid by the business entity. They are then allowed a credit against the tax already paid by the business entity.

The credit is equal to 95% of their pro rata share of the tax paid. This proposal states these credits are not refundable but can be carried over until fully taken. The lack of refundability of the credits could result in some members not being able to use their credits. If credits are never redeemed this results in revenue to the state.

This proposal in Section 143.436.11 requires these business entities to annually elect whether or not to participate in this business entity tax program. This program is strictly voluntary. Due to the voluntary nature of this program, the Department is not able to determine how many potential S Corps or partnerships would chose to participate each year.

The Department assumes that business entities would chose to participate based on what is best for the majority of its members. While a business entity may choose what is best for the majority of its members, some members may not see a benefit under this program. Individual income tax returns are specific to each taxpayer's life situation. Two people with the same job and same income may have very different life situations that can impact the amount of tax liability they will have. One may be married with kids while the other may be single with no kids but an illness that requires extensive medical payments. Their final tax liability may be different.

Is it possible that due to an individual's life situation they end up owing less in taxes to the State than they otherwise would have it their business reported under current law? It is possible. It is also possible they could owe more. Depending on which happened, additional or less revenue to the state is possible.

The Department notes it is unable to estimate the actual fiscal impact of this proposal. The Department cannot predict the number of business entities that would chose to participate in this voluntary program. Nor is it able to predict how many of the individual taxpaying business entity members would benefit or be hurt by this proposal. The Department notes that business entity members would benefit from the increased federal deduction and receive a savings on their federal return. However, based on the taxes paid by the business entity as a whole and the credits provided the members this proposal would not result in more than a minimal impact to the state.

The Department notes this proposal would ease an administrative burden on the Department. Under current law, in order to audit the Department spends a lot of time trying to identify all the members of a business entity to ensure all the tax is paid. With the business entities filing the taxes and reporting the number of partners and pro rata share of the income, this would allow the Department to more easily audit these businesses, saying time and resources. This proposal with the previous partnership audit reporting laws that passed in 2020 will ease some of the time consuming tracking of these business entities. The amount of the impact can't be determined due to the voluntary nature of the program.

The Department notes this will require making changes to existing tax reporting forms and potentially the creation of a new form for identifying the business entity members and their pro rata share. These changes are estimated to cost $5,000. Additional programming and other website updates would result in $3,596 in costs.

In response to the similar proposal, SB 1154 (2022), officials from the **Office of Administration – Budget & Planning (B&P)** assume this proposal would allow pass-through businesses (LLCs, partnerships, sole proprietorships, and S-corporations) to file their Missouri income tax at the entity level, rather than the individual level starting with tax year 2023. B&P notes that the election to complete an entity level tax return shall be made on a voluntary year-by-year basis.

B&P notes that the purpose of this bill is to allow businesses to fully deduct their state and local taxes (SALT) at the federal level, while minimizing the impact to states that pass this or similar language. Under the Tax Cut and Jobs Act (TCJA, 2017) individuals cannot claim a SALT deduction greater than $10,000, while businesses can claim their full SALT expenses. This has created a significant federal tax increase for pass-through businesses whose SALT deduction is greater than the $10,000 cap x the number of pass-through members. For example:

- Business A consists of 4 members and has a total SALT liability of $20,000
    - Business A would not be impacted by the individual SALT limitation as the combined SALT limit for the 4 members would be $40,000 (4 members x $10,000 per member cap).
    - Business A would likely not choose to file taxes at the entity level under this proposal.

- Business B consists of 4 members and has a total SALT liability of $80,000
    - Business B would be impacted by the individual SALT limitations as the combined SALT limit of $40,000 (4 members x $10,000 per member cap) is less than the $80,000 entity SALT liability.
    - Business B would likely chose to file taxes at the entity level under this proposal.

B&P further notes that as of the creation of this fiscal note, the IRS is allowing this particular SALT cap work around. If the IRS disallows this work around, B&P assumes that entities would no longer choose to file a Missouri return at the entity level.

Currently each member of a pass-through business must file their own Missouri income tax return showing their portion of business income and deductions. The individual is then responsible for their portion of the Missouri income tax. Individuals are also granted a tax credit for taxes paid in other states, for businesses that operate in multiple states.

Under this proposal, the entity itself could elect to file a Missouri income tax return. The business is to include the same income, deductions, and credits granted at the federal level. If the calculations result in a net loss, the loss is not refundable, but the business may carry the loss forward until fully used. B&P notes that individuals are not granted a similar net operating loss credit. Therefore, this provision may have an unknown impact on TSR and GR.

B&P notes that businesses would be required to use the corporate income allocation method, as opposed to the current individual allocation method, when determining the amount of income to allocate to Missouri and other states. Therefore, this provision may have an unknown positive or negative impact to TSR and GR depending on the composition of a business's income.

In exchange for filing at the entity level, the entity must calculate their tax due using the highest individual income tax under Section 143.011 in a given tax year. Currently individuals calculate their tax due using the graduated brackets and rates under Section 143.011. This may have minimal impact to TSR and GR.

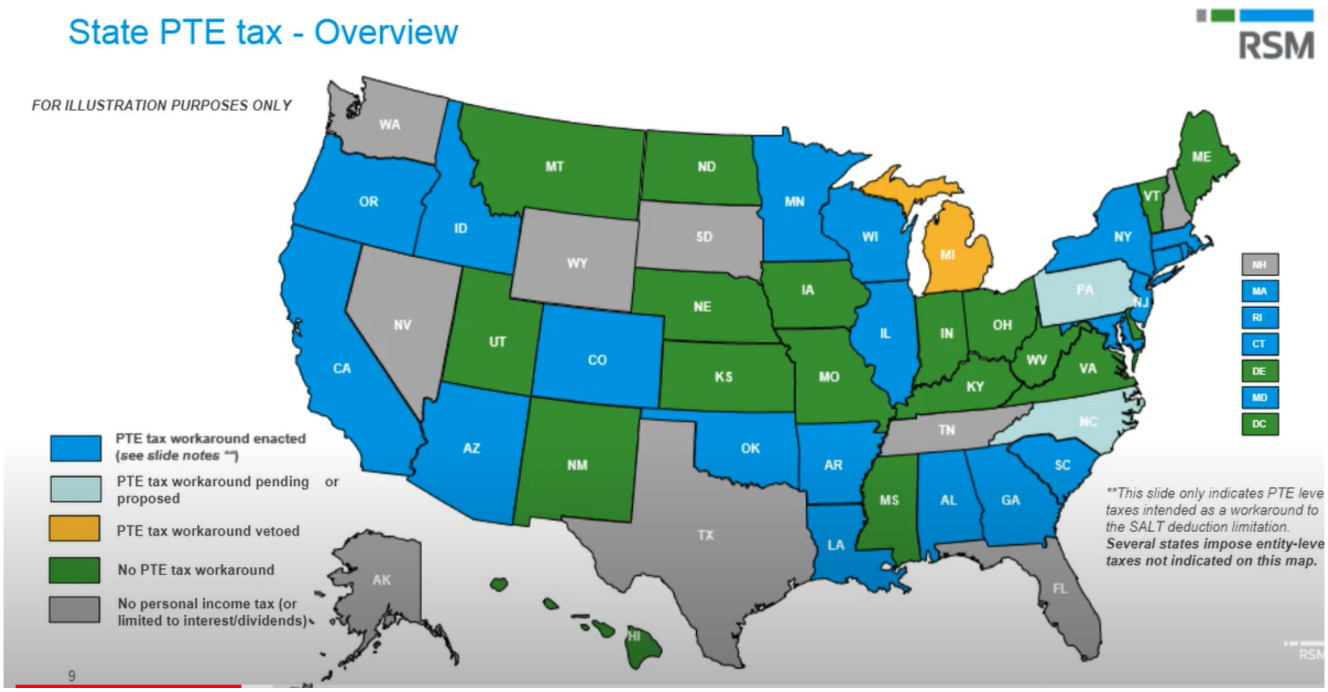
This proposal would allow non-Missouri residents, with no other Missouri source income other than the income now reflected at the entity level, to not file a Missouri income tax return.

This proposal would further grant Missouri residents, and non-residents with other Missouri source income, a 95% tax credit for their pro-rata share of the taxes paid to other states at the entity level. This credit would only be granted for the taxes paid at the entity level to other states. This may have an unknown impact to TSR and GR. B&P notes that the impact would depend on the impacts created by changing how business income is allocated between states. The credit is non-refundable, but may be carried forward until fully used.

B&P does not know how many businesses would elect to pay Missouri taxes at the entity level. Further, B&P does not know the income composition of such businesses or the current tax liability of members and thus cannot estimate how this proposal may impact their Missouri tax liability. Therefore, B&P estimates that this provision may have an unknown positive or negative impact on TSR and GR beginning with FY24.

Oversight notes that **DOR** and **B&P** both note the deductions for purpose of the state and local taxes (SALT) paid by pass-through business owners are currently capped at $10,000. Conversely, C corporations are allowed to fully deduct these same expenses. In states that tax pass-through firms at the owner level, the disparate treatment puts their firms at a significant disadvantage compared to C corporations. As such, restoring the federal SALT deduction in its entirety for pass-through entities has been a key priority for S-CORP and the Main Street Employers coalition ever since the cap was implemented back in 2017.
Oversight notes, that according to the taxpolicycenter.org, a joint project from the Urban Institute and the Brookings Institution, in 2017, 16 percent of tax filers with income between $20,000 and $50,000, 76 percent of tax filers with income between $100,000 and $200,000, and over 90 percent of tax filers with income above $200,000 claimed SALT.

Oversight notes since 2018, the Main Street Employers coalition has led advocacy efforts to restore the State and Local Tax (SALT) deduction for pass-through businesses. More than a half dozen states have enacted various version of such a legislation to date and, following the 2020 Treasury Department announcement, IRS Notice 2020-75 (11/2020), validating this legislative approach, SALT Parity measures are being actively considered in more than a dozen states this year.



https://news.bloombergtax.com/tax-insights-and-commentary/salt-cap-workaround-pass-through-entity-tax-update-part-ii

Oversight notes that under this proposal, a small business may elect to pay tax at the entity level, and a corresponding credit is allowed at the partner, member, or shareholder level. There are four main categories of businesses, which would qualify for such a deduction as shown below:

a) General Partnerships
b) Limited Partnerships
c) Limited Liability Companies
d) Sub-Chapter S Corporations

Additionally, there are no restrictions as to Multi-tier Partnerships or Trust that are entity partner members.

Oversight notes that officials from the DOR and SOS added, via additional e-mails, that there are currently at least 81,000 S-Corporations in Missouri. Missouri DOR is not able to discern how many partnerships are currently in Missouri. Officials from the SOS note that a partnership can exist and function as a business without any kind of document setting out the rights or responsibilities of the partners. These partnerships function similarly to a sole proprietorship, but have two or more owners (partners). The only partnerships which have to register with the SOS are those which intend to limit the liability of the individual partners or the partner company, and in this regard, function similarly to a corporation. Therefore, DOR or SOS cannot begin to guess or estimate the collective number of partnerships which operate in Missouri at any given time as they're not all required to register.

Oversight notes that by paying tax at the entity level, members of the PTE are deducting expenses and taxes incurred by the trade or business (i.e., an above-the-line deduction) versus a conventional below-the-line deduction at an individual level that would be subject to the SALT limitation of $10,000. Moreover, according to estimates from the U.S. Congress' Joint Committee on Taxation less than 15% of taxpayers currently qualify to itemize their deductible amounts while filing taxes with average AGI of $60,981 and an average SALT amount of $9,958.

As provided in the proposal, companies file their income tax at the individual level while using the 95% credit for filing at the entity level as a deduction. For purpose of this proposal, **Oversight** will assume that the company election process will happen throughout FY 2023 due to the various companies filing tax schedules. (I.e. some filing monthly, quarterly, annually, etc.)

For information purpose, **Oversight** will show the various impact of the proposal below:

Table 1

Proposed - *assuming $200,000 deductible without SALT cap			
Entity Level	ABC LLP - 2 Members 50/50 Partners		
Net Income	800,000		
Tax laibility paid	32,000		
Member level	A - 50%		B-50%
Net Income	$ 400,000.00		$ 400,000.00
Tax	$ 21,200.00		$ 21,200.00
Tax Credit at 95%	($32,000/2)*.95		($32,000/2)*.95
Tax credit amount awarded	$ 15,200.00		$ 15,200.00
Tax liability amount at members level	$ 6,000.00		$ 6,000.00
Total tax paid	$ 22,000.00		$ 22,000.00
			$ 44,000.00

Oversight use the example in the Table 1 to show how the 95% tax credits would work against the personal income taxes at the individual member level from the current law.

Table 2

Current Law			
Entity Level	ABC LLP - 2 Members 50/50 Partners		
Net Income	1,000,000		
Tax laibility paid	0		
Member level	A - 50%		B-50%
Net Income (entity + other income)	$ 600,000.00		$ 600,000.00
Tax	$ 31,800.00		$ 31,800.00
Tax Credit at 95%			
Tax credit amount awarded			
Tax liability amount at members level			
Total tax paid to the State	$ 31,800.00		$ 31,800.00
			$ 63,600.00

Oversight notes in the table 2 example how the current law provides lesser tax deductions beyond SALT allowable deductions. However, Table 3 also shows that due to the personal income consideration of each member within the Partnerships, LLC's, or Corp-S companies the overall change in collected tax would not be expected to surpass the $250,000 threshold.

Table 3.

Entity Level	ABC LLP - 2 Members 50/50 Partners		
Net Income	800,000		
Tax laibility paid	32,000		
Member level	A - 50%		B-50%
Net Income (entity + other income)	$ 600,000.00		$ 600,000.00
Tax	$ 31,800.00		$ 31,800.00
Tax Credit at 95%	($32,000/2)*.95		($32,000/2)*.95
Tax credit amount awarded	$ 15,200.00		$ 15,200.00
Tax liability amount at members level	$ 16,600.00		$ 16,600.00
	(31,800-15,200)		
Total tax paid	$ 32,600.00		$ 32,600.00
	partner 1+ partner 2 tax totals		**$ 65,200.00**

Oversight is not able to discern the level of gain or loss to general revenue in any given year because there are no data currently showing the amount of individual income levels or tax rate for each affected company specified within the proposal. (I.e. LLP, LP, S-Corp. etc.)

Oversight notes the proposal shall be effective January 1, 2023. The taxpayers will not be filing their 2023 income taxes until January 1, 2024 (FY 2024) Therefore, Oversight will note minimum Unknown positive to Unknown negative impact beginning FY 2024 in the fiscal note.

Oversight notes that while the Tax Cuts and Jobs Act placed a $10,000 cap on the SALT deduction, it's only temporary. The cap applies to taxable years 2018 through 2025. After tax year 2025, the cap will end, and taxpayers will once again be able to deduct 100 percent of their eligible state and local taxes, unless other tax code changes are passed before then.

SA 2 - Section 144.010 and 144.011 Utility Exemption for Transient Guests

In response to the similar proposal, SB 945 (2022), officials from the **Department of Revenue (DOR)** state this proposal modifies the definition of "sale at retail" found in section 144.010, and adds a sales tax exemption to section to 144.011, regarding the purchases of utilities by transient guest accommodations. The utilities exempt include electricity, electrical current, water and gas used to heat or cool a guest's accommodations. Utilities purchased by hotels, motels, and transient accommodation establishments are currently subject to sales tax, but this proposal would make these utilities an exemption.

DOR notes this proposal allows this exemption for the sleeping rooms, meeting and banquet rooms as well as customer space rented by guests. It should be noted this applies to hotels, motels, bed-and-breakfasts as they are classified as transient. It is unclear if this exemption would be allowed to short-term rentals, such as VRBO or Airbnb. If these types of properties are allowed the exemption, the calculated estimate would be expected to be higher.

DOR found research that indicates the average utility cost for a hotel room is $2,196 per room per year. The Department was unable to determine the current number of sleeping rooms or conference/banquet rooms in the state but DOR was able to find information on the number of sleeping rooms (113,371) in the 12 largest cities in the state.

City	# Hotel Rooms
St. Louis	40,000
Springfield	6,395
Columbia	3,600
Jefferson City	1,270
Lake of the Ozarks	1,304
Joplin	1,497
St. Joseph	827
Cape Girardeau	801
Kirksville	415
Warrensburg	412
Kansas City	34,000
Branson	22,850
	113,371

Using these 113,731 rooms DOR was able to calculate the estimated total utility costs per year of $248,962,716.

The current state sales tax rate is 4.225% and is distributed with 3% to General Revenue, 1% to the School District Trust fund, 0.125% to the Conservation Commission and the 0.1% to the Park, Soil & Water fund. When calculating the local impact, DOR uses a 4.03% weighted average. This proposal is expected to result in a loss of both the state and local sales tax on hotel utilities.

DOR notes this proposal has an effective date of August 28, 2022 and therefore DOR estimates only a 10 month impact in FY 2023 from the exemption. DOR calculated the following loss per fiscal year.

Fund	Tax Rate	FY 2023 (10 month)	FY 2024 +
GR	0.03	($6,224,068)	($7,468,881)
Education	0.01	($2,074,689)	($2,489,627)
Conservation	0.00125	($259,336)	($311,203)
DNR	0.001	($207,469)	($248,963)
Local	0.0403	($8,360,998)	($10,033,197)

This proposal also adds language that allows any person who would be exempt from paying the sales tax on hotel utilities starting August 28, 2022, to request a refund of the utilities they paid prior to that date. Prior to April 30, 2021, hotels were able to request a refund of their utility tax but based on a decision in a recent lawsuit, they became subject to the tax. Therefore, if passed DOR notes this would only allow a refund back to May 1, 2021.

Therefore, these qualifying establishments could seek a refund from May 1, 2021 to August 28, 2022 (15 months). This refund is projected to be a loss to the following funds:

Fund	Tax Rate	FY 2023 (refunds)
GR	0.03	($9,336,101)
Education	0.01	($3,112,034)
Conservation	0.00125	($389,004)
DNR	0.001	($311,204)
Local	0.0403	($12,541,496)

While this proposal does not limit when a person could apply for the refund, for the simplicity of the fiscal note DOR shows all the refund impact in FY 2023.

As noted previously, the projected impact is expected to exceed the estimated amounts due to the limited number of hotel rooms DOR used in the calculations. Additionally, if short-term rentals are allowed to receive the exemption, DOR would expect an even greater loss of revenue. The impact is projected:

#Estimated Impact by Fund

	FY 2023*		FY 2024 +	
General Revenue	could exceed	($15,560,169)	could exceed	($7,468,881)
Education (SDTF)	could exceed	($5,186,723)	could exceed	($2,489,627)
Conservation	could exceed	($648,340)	could exceed	($311,203)
DNR	could exceed	($518,673)	could exceed	($248,963)
Total State Loss	could exceed	($21,913,905)	could exceed	($10,518,674)
Local Sales Tax Loss	could exceed	($20,902,494)	could exceed	($10,033,197)

*Assumes all refund claims are received during FY23.

DOR notes this refund will be claimed on the existing sales tax refund form. DOR notes that they would need 1 FTE for every 1,100 refund claims received a year. Due to the expected volume of refund requests estimated, DOR would start with hiring 10 FTE and add additional FTE as the number of refund claims increases.

Oversight assumes refunds would be processed in FY 2023 – therefore, <u>DOR would not require the additional FTE beyond FY23. Oversight will show the abovementioned (10) FTE</u> for purposes of this fiscal note for FY23 only. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

In response to the similar proposal, SB 945 (2022), officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would exempt the utilities for transient accommodation establishments from state and local sales tax. Utilities include electricity, electrical current, water, and gas. Qualifying uses include all guest accommodations, including sleeping rooms, meeting and banquet rooms, and any other space rented by guests and are included in the charges made for accommodations.

B&P notes that the last use "included in the charges made for accommodations" could include any service offered by establishments. Including pools, restaurants, bars, lobby/congregation areas etc. as long as the cost of the item is included in the price paid by a guest.

B&P further notes that this exemption would apply to hotels, motels, bed-and-breakfasts, as well as other accommodations classified as transient. It is unclear if this would also apply to Airbnb or other short-term rentals.

Based on research, B&P determined that the average utility cost for a hotel is $2,196 per room per year. B&P was unable to determine the total number of hotel rooms in Missouri. However based on additional research, B&P found that there are more than 113,371 hotel rooms located in 12 largest areas of the state. Table 1 lists the number of hotel rooms for portions of Missouri.

Table 1: Hotel Rooms by City

St. Louis	40,000
Kansas City	34,000
Branson	22,850
Springfield	6,395
Columbia	3,600
Jefferson City	1,270
Lake of the Ozarks	1,304
Joplin	1,497
St. Joseph	827
Cape Girardeau	801
Kirksville	415
Warrensburg	412
	113,371

B&P further notes that this number does not include banquet and conference rooms, nor other services areas that would be exempted under this proposal.

Based on the information above, B&P estimates that this proposal could exempt at least $248,962,716 (113,371 hotel rooms x $2,196 avg. utility cost) from state and local sales tax.

B&P notes that the state sales tax rate is 4.225% and the population weighted local sales tax rate for 2021 was 4.03%. Therefore, B&P estimates that this proposal could reduce TSR by an amount that could exceed $10,518,675 annually.

In addition, this proposal would allow qualifying establishments to request a refund for any sales taxes paid prior to August 28, 2022. B&P notes that businesses were notified that this sales tax was due beginning April 30, 2021. Therefore, there could be up to 15 months (April 30, 2021 through August 28, 2022) of refunds allowable under this proposal. For the purpose of this fiscal note, B&P will reflect all refund claims as occurring in FY23. However, it is possible that refund claims could occur over multiple fiscal years. Therefore, B&P estimates that qualifying establishments could request more than $13,148,343 in refunds.

B&P further notes that the exemption would begin August 28, 2022. Therefore, FY23 will see a reduction for 10 months, in addition to the refund claims for the prior ten years. Based on the information above, B&P estimates that this proposal could reduce GR by an amount that could exceed $15,560,170 and TSR by an amount that could exceed $21,913,905 in FY23. In addition, this proposal could reduce local revenues by an amount that could exceed $20,902,495 in FY23. Once refund claims have been paid, this proposal could reduce GR by an amount that could exceed $7,468,881 and TSR by an amount that could exceed $10,518,674. This proposal could also reduce local revenues by an amount that could exceed $10,033,197 once refund claims have been paid. Table 2 shows the estimated impact by fund.

#Table 2: Estimated Impact by Fund

	FY 2023*		FY 2024 +	
General Revenue	could exceed	($15,560,170)	could exceed	($7,468,881)
Education (SDTF)	could exceed	($5,186,723)	could exceed	($2,489,627)
Conservation	could exceed	($648,340)	could exceed	($311,203)
DNR	could exceed	($518,672)	could exceed	($248,963)
Total State Loss	could exceed	($21,913,905)	could exceed	($10,518,674)
Local Sales Tax Loss	could exceed	($20,902,495)	could exceed	($10,033,197)

*Assumes all refund claims are received during FY23.

In response to the similar proposal, SB 945 (2022), officials from the **City of Kansas City** and the **City of Springfield** assume this proposal would have a negative fiscal impact on their respective cities of an indeterminate amount.

Oversight notes the above local political subdivisions stated this proposal would have a negative fiscal impact on their local subdivisions of an indeterminate amount. Therefore, Oversight will note B&P and DOR’s estimates for local political subdivisions on the fiscal note.

In response to the similar proposal, SB 945 (2022), officials from the **City of Kirksville** note if passed, this proposal will reduce sales tax revenues for the City by approximately $10,000-

$15,000 annually. Currently, hotels, motels, and transient lodging facilities have the benefit of exempting long-term rentals from sales tax assessment, even though those guests utilize utility services. For that usage, no sales tax would levied if SB 945 were to pass. In addition, there are several areas in those facilities that are not related to accommodation charges, such as business offices, laundry facilities, kitchens, and plant facilities. Utility usage in those areas would not be subject to any sales tax levy, but are directly related to the benefit of the hotel.

In response to the similar proposal, SB 945 (2022), officials from the **Missouri Department of Conservation** assume the proposal will have an unknown fiscal impact but greater than $250,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. Any decrease in sales and use tax collected would increase revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Oversight notes that the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution; thus, MDC=s sales taxes are constitutional mandates. Therefore, Oversight will reflect the B&P's and DOR's estimates of impact on the fiscal note.

In response to the similar proposal, SB 945 (2022), officials from the **Department of Natural Resources** defer to the **Department of Revenue** for the potential fiscal impact of this proposal.

In response to the similar proposal, SB 945 (2022), officials from the **Missouri Department of Transportation** and the **Department of Elementary and Secondary Education** each 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 these agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and county officials were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

<u>SA 3 - Section 135.800 to 135.830 Tax Credit Accountability Act of 2004</u>

In response to the similar proposal, SB 868 (2022), officials from the **Department of Revenue (DOR)** assume the tax credit accountability act requires that recipients of certain tax credits file an annual report declaring information about the holder of the tax credit as well as certain number of jobs created by the projects. DOR is to assess a penalty against each recipient that fails to file the reports as required. The penalties for failing to file are currently steep and several taxpayers end up owing more in penalties than in the credit received.

The tax credit accountability act is being modified to help the taxpayer understand their responsibilities for reporting and to make the reporting easier. This proposal will require that every applicant under TCAA sign a statement affirming that they are aware of the reporting requirements of section 135.805 and the penalty provisions of section 135.810. DOR assumes the creation and distribution of this acknowledgment to the tax credit administering agencies would not have a fiscal impact. However, DOR officials hope it will help less taxpayers owe the fees for non-compliance.

This proposal is clarifying that this annual filing requirement is on June 30th and is for the first three years after the issuance of the credits. It requires the name of each tax credit recipient and amount of tax credits issued shall be made available for public inspection. These requirements may be satisfied by making such information available to the public through the Department of Economic Development's website or the Missouri accountability portal.

This proposal modifies the penalty provisions. This proposal provides that thirty days after the annual report is past due, the administering agency shall send notice by either registered or certified mail to the last known address of the entity obligated to complete the report. Three months after the annual report is past due, the agency shall notify the department of revenue of any taxpayer subject to penalties. The payment of penalties under this section shall be due as of the filing date of the taxpayer's next income tax return. If not required to file, it shall be due as of the next April 15. The director of revenue shall prepare forms and rules to allow the reporting and satisfaction of liability for such penalties and for valuable consideration, may enter into agreements to compromise or abate some or all of the penalty amount. Any nonpayment of liability for penalties by the due date under this section shall be subject to the same provision of law as a liability for unpaid income tax including underpayment interest provisions but excluding income tax penalties and addition to tax provisions.

The Department assumes this changes can be made using DOR's existing resources.

In response to the similar proposal, SB 868 (2022), officials from the **Office of Administration – Budget & Planning** assume this section rearranges and changes certain definitions as follows:

<u>Section 135.800 – Tax Credit Accountability Act</u>

Section 135.800.2(5) removes the Health Care Access Fund tax credit from the list of domestic and social tax credits. B&P notes that the Health Care Access Fund tax credit has never been implemented.

Section 135.800.2(5) also adds the Health, hunger and hygiene tax credit to the definition of domestic and social tax credits.

Section 135.800.2(10) changes the definition of "recipient" to clarify that a recipient is not a person or entity that receives a transferred tax credit.

Section 135.802 – Tax Credit Application Requirement:

Section 135.802.1(5) requires that created jobs must be the direct result of project under consideration.

Section 135.800.10 would allow DED to require additional information from applicants.

Section 135.800.12 would require an applicant to sign a statement acknowledging the tax credit reporting requirements and penalty for failure to file the annual reports.

Section 135.805 – Annual Tax Credit Reports –

This section would remove the annual reporting exemption currently in place for recipients of environmental tax credits. B&P notes there are currently no active environmental tax credits (charcoal producer tax credit, wood energy tax credit, and alternative fuel stations tax credit).

Section 135.805 requires the annual report to include the number of jobs directly created by the project.

This section would also require the annual reports to include projected and actual project costs and completion time. B&P notes that currently the annual reports only require projected or actual information, but not both.

This section also removes the requirement that the first annual report not be due until June 30th one year after the tax credits were issued. However, this proposal would shorten the grace period from one year to one month after the tax credits are issued.

Tax Credit Issued	Current Law	Proposal
May 30, 2023	June 30, 2024	June 30, 2023
June 1, 2023	June 30, 2024	June 30, 2024

Section 135.805.13 would allow administering agencies to publish relevant tax credit reporting data on either DED's website or the Missouri Accountability Portal.

Section 135.810 – Failure to File Annual Tax Credit Report

This section would change the timing and penalties for individuals and entities that do not file a required annual tax credit report.

This proposal would make the following changes to the TCAA reporting penalties:

Reporting Penalty	Current Law	Proposed
Failure to File	6 – 11 months – 2% per month (max 12%) 12 months and up – 10% per month (max 100%)	1st report, 3 months and up – 1% per month (max 10%) 2nd report, 3 months and up– 1.5% per month (max 20%) 3rd report, 3 months and up – 1.5% per month (max 20%)
Fraud	100%	200%

Based on information provided by DOR, on average, 58 taxpayers per year fail to file the required TCAA reports for at least two years. DOR only issues a notice of deficiency after the maximum penalty has accrued over two years. For example: a taxpayer is required to file a TCAA report in 2018, but fails to submit such report. DOR would not send a notice of deficiency (NOD) until June 2021 when the maximum 100% penalty has been met. The following table shows the number of deficiency notices that have been sent each year from 2015 through 2018.

Year TCAA Report Covers	Year TCAA Report Due	Year NOD Issued	Number of NOD reports
2015	2016	2018	36
2016	2017	2019	47
2017	2018	2020	83
2018	2019	2021	67

From 2018 through 2020, DOR collected between $42,391 and $305,870 a year in failure to report penalties. These penalties go to general revenue. The following table shows the amount collected per TCAA report year:

Year TCAA Report Covers	Year TCAA Report Due	Year NOD Issued	Collected as of 9/20/2021
2015	2016	2018	$81,539
2016	2017	2019	$305,870
2017	2018	2020	$42,391
2018	2019	2021	$0

However, this proposal would not eliminate the TCAA failure to file penalty, it would only reduce the maximum penalty from 100% to 20% for each of the three required reports. Therefore, B&P estimates that this proposal could reduce penalty collections by $33,913 to $244,696 per year beginning in FY24.

TCAA Report Year	Current Penalty	Proposed Penalty	Loss in Penalty Revenue
2015	$81,539	$16,308	($65,231)
2016	$305,870	$61,174	($244,696)
2017	$42,391	$8,478	($33,913)

Oversight notes that Section 135.810 – Failure to File Annual Tax Credit Report shortens the amount of time the claimant has to file annual report and reduces the amount of penalties. Additionally, the proposal increases fraud penalties from 100% to 200% of the tax credits issued. B&P assumes that there would be a loss in Penalties Revenue due to the reduction of the maximum penalties from 100% to 20%. Oversight notes the three average loss in penalty revenue is shown in the able below:

TCAA Report Year	Current Penalty	Proposed Penalty	Loss in Penalty Revenue
2015	$81,539	$16,308	($65,231)
2016	$305,870	$61,174	($244,696)
2017	$42,391	$8,478	($33,913)
Avearge			**($114,613)**

Oversight assumes the loss of penalty revenues is unknown, but could exceed $114,613 as shown above.

Section 135.815.2 changes the definition of employing an illegal alien.

Section 135.825 – Tax Credit Tracking System

This section would require tax credit administering agencies to work with DOR and DED to implement a system for tracking tax credits. This provision will not impact TSR or the calculation under Article X, Section 18(e).

143.119 Self-Employed Health Insurance Tax Credit

Officials from the **DOR** notes this proposal modifies the existing self-employed health insurance tax credit program. The purpose of the Self-Employed Health Insurance tax credit was to provide persons who may not otherwise be able to purchase health insurance a credit to help offset the cost of the insurance. This credit is currently refundable. This credit is not limited to Missouri residents or taxpayers with a Missouri tax liability. The following has been distributed to non-residents with no Missouri taxable income:

CY 2021 so far 485 total returns filed claiming $483,794
CY 2020 850 total returns filed claiming $947,611
CY 2019 748 total returns filed claiming $953,114
CY 2018 617 total returns filed claiming $720,514

This proposal modifies the existing tax credit program to ensure only those with a Missouri tax liability will get this credit. It also makes it non-refundable. It also adds sunset language similar to the other tax credits.

Currently there is a deduction allowed to be taken under Section 143.113 for these same self-employed health insurance expenses. This proposal would limit a person to either the tax credit or the deduction.

It is expected that these changes would result in a savings to the state of greater than $873,746 annually.

This proposal will require the Department to update its MO-SHC form and the individual income tax filing system. These costs are estimated at $3,596.

Oversight assumes DOR could absorb these costs within current appropriation amounts.

Officials from the **B&P** assume this section would limit the self-employed tax credit to individuals with a Missouri income tax liability of $3,000 or less. In addition, the credit is changed from refundable to non-refundable, non-transferable, and cannot be carried forward or back to any other tax year.

In addition, no individual can claim both this tax credit and the tax deduction under Section 143.113 in the same tax year. Based on data provided by DOR, 92% of taxpayers claim both the self-employed health insurance tax credit and the self-employed health insurance tax deduction each year.

Subdivision 3 would sunset the tax credit, unless reapproved, on December 31, 2028. Therefore, unless reapproved, tax year 2028 would be the last year that this credit could be claimed.

B&P notes that currently non-Missouri residents with no Missouri income tax liability are able to apply for the refundable self-employed health insurance tax credit. B&P further notes that under this provision, such individuals would still be able to apply for the credit (as their Missouri tax liability would be less than $3,000). However, this proposal also makes the credit non-refundable. Therefore, non-Missouri residents with no Missouri tax liability would no longer benefit from the tax credit.

Per DOR, an average 9,940 taxpayers claim the self-employed health insurance tax credit each year with average yearly credit redemptions of $8,869,960. Based on additional DOR data, prohibiting the credit for non-Missouri residents and Missouri residents with an income tax liability greater than $3,000 would lower the number of taxpayers eligible for this credit by approximately 66.7% each year.

Preventing non-Missouri residents, with no Missouri income tax liability, would reduce tax credit redemptions by up to $900,000 per year. Disallowing the credit for Missouri residents with an income tax liability greater than $3,000 would further reduce redemptions by approximately $5,586,511 per year. B&P is unable to determine the amount of additional savings from making the credit non-refundable, but it could be a substantial amount of the remaining eligible credits (up to $2,383,449).

B&P notes that this provision would begin August 28, 2022, during tax year 2022. B&P assumes that because this language would take effect before taxpayers file their 2022 tax returns, this provision would impact tax year 2022.

Therefore, B&P estimates that this provision could increase TSR and GR by up to $8,869,960 annually beginning in FY23.B&P estimates that this proposal could increase TSR and GR by up to $8,869,960 in FY23. Once fully implemented, this proposal could increase TSR and GR by up to $8,836,047 to $8,625,264 annually.

Provision	FY23			FY24		
	Low		High	Low		High
TCAA Reporting Penalties		$0	$0		($33,913)	($244,696)
Self-Employed Health Insurance Tax Credit	Up to	$8,869,960		Up to	$8,869,960	
Total GR Impact	Up to	$8,869,960	$8,869,960	Up to	$8,836,047	$8,625,264

Oversight agrees with the DOR and B&P and the overall projection of impact for non-Missouri residents, with no Missouri income tax liability, and will show reduced tax credit redemptions that could be less than or exceed $900,000 per year for purpose of this fiscal note.

Oversight will also show additional reduction of tax credit redemptions for taxpayers who would now not qualify for the credit (Missouri residents with an income tax liability greater than $3,000). **Oversight** assumes the savings in tax credit redemptions is unknown however is estimated at $5,942,873 as shown in table below. Oversight assumes this savings in tax credit redemptions could exceed the amount estimated given that those with higher income tax liability likely represent a larger portion of the total redemption amount and are now excluded.

Total Redemption	$ 8,869,960.00
Total Self-employed Filers	9940
Average credit	$ 892.35
Calculation of average credit	$8,869,960 /9940
Over 3,000 liability (67.7%)	**6660**
	9940*67.7
Less than $3,000 liability	**3280**
	9940*33.3
Over $3,000 Liability	**$ 5,942,873.20**
Less than $3,000 liability	$ 2,927,086.80
Out of State	**$900,000**
Lesser or Could exceed	**$ 6,842,873.20**
Calculation of impact for taxpayer over 3,000 liability (residents and non-residents)	$900,000 + $5,942,873

Oversight notes that the taxpayers with liability less than $3,000 have a choice to claim either Self-Employed Health Insurance Tax Credit**,** as specified in Section 143.119, or Self-Employed Health Insurance Tax Deduction each year but not both. Oversight assume there are estimated 3280 self-employed filers (with total amount of possible redemption totaling to $2,927,087) in State of Missouri with such a liability. However, Oversight is not able to estimate the actual impact for this group due to the complexity of the individual selection of either tax liability choice proposed in this legislation. Therefore, Oversight will note Unknown amount of the savings to GR for this specific group.

In response to the similar proposal, SB 868 (2022), officials from the **Department of Economic Development** and the **Missouri Department of Agriculture** both assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary.

Therefore, Oversight will reflect a zero impact in the fiscal note for above organizations for this section.

SA 3 - Section 620.1039 – Research Expense Tax Credits

In response to a similar proposal (SB 688), officials from the **Office of Administration – Budget & Planning (B&P)** assumed this proposal reauthorizes the tax credit for qualified research expenses. A taxpayer may receive a tax credit in an amount up to 15% of the excess of the taxpayer's qualified research expenses or 20% of the excess of the taxpayer's qualified research expenses if such expenses relate to research that is conducted in conjunction with a public or private college or university located in this state. No taxpayer shall receive a tax credit in excess of $300,000 in a calendar year.

This credit would have a 12 year carry forward provision. The credits may be transferred, sold, or assigned. The cap on the credits is $10M, provided that $5M shall be reserved for minority business enterprises, women's business enterprises, and small businesses. If the entirety of the $5M reserved for minority business enterprises, women's business enterprises, and small businesses is not issued or awarded by November 1st of the tax year, the amount may be issued to any taxpayer otherwise eligible for the tax credit.

Purchases of Missouri qualified research and development equipment will be exempted from all state and local sales and use tax including, but not limited to, sales and use tax authorized or imposed under section 32.085 and chapter 144. It is unknown how many entities would utilize the sales tax exemption or the fiscal impact of such a sales tax exemption. Therefore general and total state revenue may be reduced by an amount that could exceed $10M, starting in FY24.

This program may encourage economic activity. B&P cannot estimate additional induced revenues.

The proposal could impact the calculation under Article X, Section 18(e).

Officials from the **Department of Economic Development** note:

Section 620.1039.1 adds definitions for:

(1) Additional qualified research expenses
(2) Minority business enterprise
(3) Missouri qualified research and development equipment
(4) Qualified research expenses
(5) Small business
(7) Women's business enterprise

Section 620.1039.2 (2) - For all tax years beginning on or after January 1, 2023, DED may authorize a tax credit in an amount equal to the greater of:

(a) 15% of the taxpayer's additional qualified research expenses; or

(b) If such qualified research expenses relate to research conducted in conjunction with a public or private college or university located in this state, 20% of the taxpayer's additional qualified research expenses.

However, in no case shall a tax credit be allowed for any portion of qualified research expenses that exceed 200% of the taxpayer's average qualified research expenses incurred during the three immediately preceding tax.

Section 620.1039.3 - For all tax years beginning on or after January 1, 2023, where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next 12 succeeding tax years or until the full credit has been claimed, whichever occurs first.

Section 620.1039.7 (2)

(a) For all tax years beginning on or after January 1, 2023, the aggregate of all tax credits authorized under this section shall not exceed $10M in any year.

(b) $5M of such $10M dollars shall be reserved for minority business enterprises, women's business enterprises, and small businesses. Any reserved amount not issued or awarded to a minority business enterprise, women's business enterprise, or small business by November first of the tax year may be issued to any taxpayer otherwise eligible for a tax credit.

(c) No single taxpayer shall be issued or awarded more $300,000 in tax credits in any year.

(d) In the event that total eligible claims for credits received in a calendar year exceed the annual cap, each eligible claimant shall be issued credits based upon a pro-rata basis, given that all new businesses, defined as a business less than 5 years old, are issued full tax credits first.

Reauthorizing the tax credit will likely reduce annual TSR by up to the annual cap on the program of $10M.

Since this legislation requires additional duties, responsibilities, prioritization of credits, and monitoring than the prior legislation, DED will need to hire 2.0 FTE to administer the program.

Oversight notes that in response to the similar proposals, HB 1579 (2022) and SCS SB 545 (2021), the DED only requested one FTE for this program.

Oversight notes the prior Tax Credit for Qualified Research Expenses expired for all tax years beginning on or after January 1, 2005. Therefore, for purposes of this fiscal note, Oversight will include DED’s 1 FTE administrative cost(s), as reported by DED in all previous versions of this

proposal, less the "In-State" and "Out of State" travel costs reported as this proposed legislation does not require that DED visit, evaluate or audit any site(s).
Officials from the **Department of Revenue (DOR)** note:

Section 620.1039 Qualified Research Tax Credit

This proposal would reinstate the expired qualified research tax credit program starting January 1, 2023. The original program stopped in 2005.

This proposal creates a tax credit in an amount up to 15% of the taxpayer's qualified research expense or 20% of the taxpayer's qualified research expense if those expenses are related to university research. Starting January 1, 2023 this allows the credit to be carried forward for twelve years and imposes a cap of $10 million. This proposal requires that $5 million of the credit be reserved for minority business enterprises, women's business enterprises and small businesses. Each taxpayer is limited to $300,000 in credits.

The Department notes this proposal would begin in January 1, 2023 and would be claimed on the returns starting in January 2024 (FY 2024). The Department assumes that since this proposal has a cap of $10 million annually it would be expected to produce a loss to general revenue of the $10 million.

Since the previous credit expired 15 years ago, this credit is no longer listed on our MO-TC form or in our individual income tax filing system. This would require programming and form changes estimated at $3,596. The Department would need the following FTE should the number of credits received justify the FTE.

* 1 FTE Revenue Processing Technician for every 6,000 credits redeemed
* 1 FTE Revenue Processing Technician 1 for every 4,000 tax credit transfers with CISCO phones and license.
* 1 FTE Revenue Processing Technician for every 7,600 errors/correspondence generated
* 1 FTE Revenue Processing Technician for every 1,100 refund requests

Section 620.1039.5 – Sales and Use Tax Eliminated On Qualified Research Equipment

This Section creates a state and local sales tax exemption for all purchases of qualified research and development equipment and property. This proposal does not cap the amount of sales tax exemption that can be claimed nor is it bound by the $10 million cap of the tax credit. The proposal allows the exemption on all items that are considered "qualified research expenses" as defined by 26 U.S.C. Section 41.

The federal definition includes both equipment and salaries of employees. The Department is unable to determine how many businesses will qualify for the mix of tax credits and sales tax exemptions or the amount of equipment that would become exempt from the sales tax due to these qualified research projects. This proposal would result in a loss to the sales tax funds. This would be an unknown loss to General Revenue, School District Trust Fund, Conservation Commission, and the Park, Soil & Water Funds.

Oversight notes that DOR officials assume most of the equipment and R&D expenses are currently covered by existing sales tax exemption; however it could potentially impact all funds receiving sales tax revenue currently. Due to the extent of current sales tax exemption as identified in RSMo 144.054 the amount newly exempt sales tax will not exceed $250,000 annually. Therefore, Oversight will reflect range in loss of revenue $0 to Unknown to the General Revenue, School District Trust Fund, Conservation Commission, and the Park, Soil & Water Funds.

However, **Oversight** notes the first tax year in which taxpayers would qualify for the tax credit created is Tax Year 2023. Oversight notes individuals would not file their Tax Year 2023 tax returns until after January 1, 2024 (6 months after the beginning of Fiscal Year 2024).

Therefore, **Oversight** will report DOR's administrative cost(s) beginning in Fiscal Year 2024 assuming DOR can hire and train such FTE(s) within the first six (6) months of Fiscal Year 2024; before Tax Year 2023 tax returns would begin to be filed claiming the proposed tax credit.

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

The proposal has a potential, unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2024 and FY2025 as a result of the modification of the qualified research 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 modified tax credit.

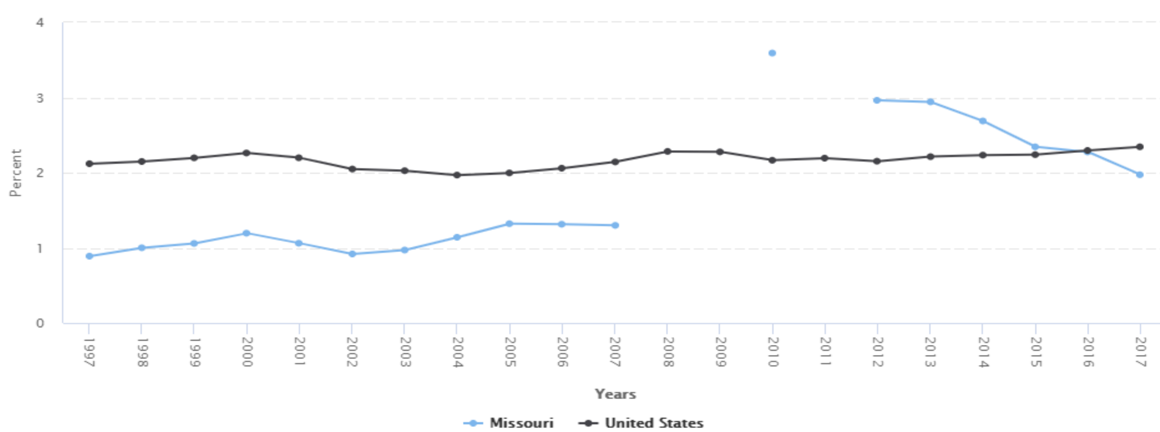
Oversight notes this proposed legislation would, beginning in Tax Year 2023, authorize a tax credit equal to ten percent (15%) of the excess of the taxpayer's qualified research expenses within this state during the tax year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three (3) tax years.

Oversight notes, should the taxpayer's qualified research expenses be related to research that is conducted in conjunction with a public or private college of or university located in this state, the tax credit authorized would be equal to twenty percent (20%) of the excess of the taxpayer's qualified research expenses within this state during the tax year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three (3) tax years.

Oversight notes this proposed legislation defines "Qualified Research" as "the same meaning as prescribed in 26 U.S.C. 41". Oversight notes 26 U.S.C 41 defines "Qualified Research Expenses" as "the sum of the following amounts which are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer – (A) in-house research expenses, and (B) contract research expenses". Oversight assumes, then, that the tax credit would be calculated similar to the following example:

Tax Credit Allocation Example		
Tax Year	Total Research Expense	
2019	$85,000,000	
2020	$96,000,000	
2021	$100,000,000	
3 Year Average		$93,666,667
2022	$ 109,000,000	
Excess of Three Year Average	$ 15,333,333	(109,000,000 -93,666,667)
	15%	20%
Equal to 15%to 20% of Excess	**$ 2,300,000**	**$ 3,066,667**

Business–Performed R&D as a Percentage of Private-Industry Output



Oversight notes the trend line(s) shown above report the business-performed research and development as a percentage of private-industry output. Thus, the assumption could be that Missouri's business-performed research and development has not truly declined; but rather Missouri's private-industry output has continuously increased by amounts greater than the increase in Missouri's business-performed research and development. The following data, however, suggests that Missouri's business-performed research and development **has** been declining.

Year	Missouri Chained GSP (Actual)	Estimated Private Sector Contribution To Total GSP (89%)	Missouri Research and Development - As A Percent of Private-Industry Output	**Estimated Missouri Business-Performed Research and Development ($)**
2016	$ 276,211,000,000	$ 245,828,000,000	2.27%	**$ 5,580,000,000**
2017	$ 279,264,000,000	$ 248,545,000,000	1.97%	**$ 4,896,000,000**
2018	$ 284,696,000,000	$ 253,379,000,000	2.56%	**$ 6,487,000,000**
2019	$ 287,659,000,000	$ 256,057,000,000	2.19%	**$ 5,607,000,000**
2020	$ 227,354,000,000	$ 246,845,060,000	2.08%	**$ 5,146,423,287**

Based on the data above, Oversight assumes business-performed research and development in Missouri did decline during 2016-2019. According to the article published by Business Environment Profiles – United States R&D expenditure will R&D expenditure is expected to decline 4.8% in 2020 (from 2019 levels - 2.19% to 2.08%) due to the ongoing economic crisis and COVID-19 pandemic. (R&D Expenditure Projections).

Based on the data above, Missouri's three (3) year average estimated business-performed research and development totals $5,663,203,648 (2017 – 2019). Based on the data above, Missouri's estimated business-performed research and development in 2020 totaled $5,146,423,287. This suggests that there would be potentially no amount in excess of the three (3) year average to be used to calculate a tax credit.

Oversight notes, though, that the data reported above are a representation of the State of Missouri as a whole, and not each individual business.

Should the assumption be accepted that each of Missouri's individual business's research and development trends follow that of Missouri as a whole, **Oversight** assumes no tax credits would be authorized under this proposed legislation (**unless research and development has increased since the last year reported**).

Oversight assumes, though, such an assumption is not likely; some businesses in Missouri may recognize increased research and development each year, even as the state, as a whole, recognizes a continuous decrease.

Since the actual amount of future tax credit authorization(s) is unknown, for purposes of this fiscal note, Oversight will report a revenue reduction to GR equal to an amount "Up to" the $10,000,000 cap beginning in Fiscal Year 2024.

SA 4 - Section 135.110 New Business Facility Tax Credit

In response to the similar proposal, SB 1141 (2022), officials from the **Department of Economic Development (DED)** noted:

135.110.1. Allows an additional 6 year period after the expiration of the first additional 10 year period. This could be a potential impact of $9M over the 6 year period ($1.5M per year). No new FTE needed.

In response to the similar proposal, SB 1141 (2022), officials from the **Department of Revenue (DOR)** assume the new business facility tax credit program allows a company to receive a tax credit if they expand or create a new facility. The program was created in 1980 and allowed a company that creates a new facility or adds on to an existing facility to receive a tax credit. The minimum investment by the facility is the hiring of at least 2 FTE and expenditures of $100,000. There has only been one company that has qualified for this credit.

The original bill only allowed the credit for 10 years and the facility creation or expansion had to be approved by January 1, 2005. The credit was already expanded to give a second 10 years and this proposal is expanding it for another 10 years. Additionally, the facility has until January 1, 2035 to create a new facility of expand an existing one.

For informational purposes the Department is showing what has been issued and redeemed the last few years. It should be noted that while this tax credit does not have an annual cap, the House Budget Committee has voted to cap the credit at $12 million annually for FY 2020, FY 2021 and FY 2022.

Year	Issued	Total Redeemed
FY 2021	$24,959,370.00	$12,345,744.00
FY 2020	$0.00	$7,555,278.00
FY 2019	$9,213,825.00	$8,217,556.00
FY 2018	$8,762,244.00	$6,329,689.00
FY 2017	$8,044,858.00	$4,046,742.00
FY 2016	$4,778,641.00	$4,593,362.00
FY 2015	$4,160,818.00	$4,493,611.28
FY 2014	$6,563,164.00	$6,618,443.21
FY 2013	$5,704,373.00	$4,431,017.94
FY 2012	$4,840,502.00	$4,796,279.38
TOTALS	$77,027,795.00	**$63,427,722.81**

This proposal has the potential to allow additional companies to apply for this credit or the existing company to apply for additional credits. This program has no cap and therefore could exceed the $12 million annually that it has been limited to.

This will require changes to our forms and computer programs which are expected to cost $3,956.

Oversight notes the officials from the **DOR** assume the proposal will have no fiscal impact on their organization except the cost for computer programing changes. **Oversight** assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Oversight notes, for informational purposes, that DOR indicated that there is currently only one company receiving this tax credit.

Oversight notes that **DED**, in response to the SB 68 (2019), assumed this legislation modified the Business Facility Tax Credit by amending the definition of New Business Facility Investment under 135.100 to remove the requirement that it be "real and depreciable tangible personal property" and adds that it can be the purchase, lease, or license of software and hardware. It allowed the company to get eight times the amount of the license. Currently, the statute sunsets in 2025 and the company will get 10 years of benefits after the last year the project is approved.

Oversight notes the DED officials, through additional correspondence with Oversight via e-mail, confirmed the Burns & McDonnell Company is the sole company receiving this tax credit. Additionally, the DED provided projected expenditure in FY 2023 – 2029 for additional projects as follows:

FY 2023 - $11.2 M
FY 2024 - $9.9 M
FY 2025 - $9.4 M
FY 2026 - $5.9 M
FY 2027 - $5.1M
FY 2028 - $4.7M
FY 2029 - $4.3M

Oversight notes that DED was not able to project any additional projects or expenditure beyond FY 2029 at this time.

Oversight notes, for informational purposes, that according to the Kansas City Business Journal article, the Burns & McDonell Company is a 100% employee owned company offering various architectural services. (Source: Kansas City Business Journal).

Oversight notes that the New and Expanded Business Facility Credit program awards credits from $75 to $125 per job (for a new company) and per $100,000 of new investment each year for 10 years. The program has no annual cap. Oversight also notes that if a company meets the requirements and receives the credits, the state could receive positive benefits; however, Oversight assumes these benefits (additional workers hired and business capital expenditures) to be indirect benefits and will not reflect them in the fiscal note.

Oversight does not have any information to the contrary of DED. The House Budget Committee on May 16, 2019, voted to not allow the authorization of more than $12 million in tax credits under the New Business Facility Tax Credit Program. Therefore, **Oversight** will report impact to the general fund as continuation of the tax credit and note reduction in revenue from low $6.3M (average redemption amount total shown below) to the allowable cap of $12M.

FY	Issued	Redeemed
FY 2021	$24,959,370.00	$12,345,744.00
FY 2020	$0.00	$7,555,278.00
FY 2019	$9,213,825.00	$8,217,556.00
FY 2018	$8,762,244.00	$6,329,689.00
FY 2017	$8,044,858.00	$4,046,742.00
FY 2016	$4,778,641.00	$4,593,362.00
FY 2015	$4,160,818.00	$4,493,611.28
FY 2014	$6,563,164.00	$6,618,443.21
FY 2013	$5,704,373.00	$4,431,017.94
FY 2012	$4,840,502.00	$4,796,279.38
All FY	**Average**	**$6,342,772.28**

In response to the similar proposal, SB 68 (2019), the officials of the **Department of Insurance, Financial Institutions and Professional Registration** assumed a potential unknown decrease of premium tax revenues may occur as a result of the changes to the Expanded Business Facility 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.
Oversight, for simplicity, will not reflect the possibility that some of the tax credits could be utilized by insurance companies 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.

In response to the similar proposal, SB 1141 (2022), officials from the **City of Kansas City** and the **City of Springfield** both assume the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these cities.

SA 5 - Section 620.800 to 620.809 - Missouri One Start Funding

In response to the similar proposal, SB 1141 (2022), officials from the **Department of Revenue (DOR)** assume the proposal stops the Missouri One Start Community College New Jobs Training Fund and the Missouri One Start Community College Job Retention Training Fund and replaces them with the Missouri One Start Community College Training Fund. This fund will receive both the new and retained job credits. DOR is required to develop new forms for the reporting of these credits. The creation of the new form is estimated at $10,000.

Oversight notes that officials from the DOR assume the proposal will have a direct fiscal impact on their organization, and that the organization will need to create a new form to comply with the proposal.

In response to the similar proposal, SB 1141 (2022), officials from the **Office of Administration – Budget & Planning (B&P)** assume if more projects utilize the training programs, these projects could also apply for other tax credits. If more tax credits are issued, there could be an unknown decrease in General Revenue. Conversely, to the extent this proposal encourages other economic activity, General and Total State Revenue may be impacted, but B&P cannot estimate the induced revenues.

Oversight notes Section 620.803.1 states: The department shall establish a "Missouri One Start Program" to assist companies with recruitment services. Furthermore, Section 620.806.3 states: Funds in the Missouri One Start Job Development Fund shall be appropriated, for recruitment services.

Oversight notes that the "recruitment services", is new, allowing employers to receive potentially more credits from the General Revenue which is currently being disbursed into the Missouri One Start Development Fund. Therefore, **Oversight** will note Unknown negative amount to the GR for purpose of recruitment (less money collected through withholding are now being diverted to the Missouri One Start Development Fund), and Unknown positive amount of money coming to the Missouri One Start Development Fund for a potential disbursement to employers who are participating in the program.

Oversight notes that average expenditure per worker, from Missouri One Start Job Development Fund, totaled $322.52 ($7,108,352/22,040) in FY 2017- FY 2019 period. Additionally, there were more than 22,040 workers helped throughout the same period. Oversight notes it would take only 775 existing or additional workers to reach $250,000 in spending due the new Recruitment Program participation.

Oversight notes that Missouri One Start Community College New Jobs Training Fund and the Missouri One Start Community College Job Retention Training Fund will be replaced with the Missouri One Start Community College Training Fund.

Oversight notes the proposal specifies the Missouri One Start Community College New Jobs Training Fund and the Missouri One Start Community College Job Retention Training Fund both shall receive withholding credits from DOR until June 30, 2023. All the unobligated credits received on and after July 1, 2023 shall be transferred to the new fund, Missouri One Start Community College Training Fund, created under the proposal. Therefore, **Oversight** will show an unknown positive amount impact to the Missouri One Start Community College Training Fund beginning FY 2024 and forward.

Lastly, **Oversight** will show Unknown amount (unobligated funds) being transferred from Missouri One Start Community College New Jobs Training Fund and the Missouri One Start Community College Job Retention Training Fund into the Missouri One Start Community College Training Fund beginning FY 2024. For informational purpose, **Oversight** included all actual expenditure under all three programs below:

	FY 2017	FY 2018	FY 2019
Missouri One Start Job Development Fund (0600)			
Actual Expenditures	**$ 11,175,945**	**$ 4,497,242**	**$ 5,651,870**
Companies Assisted	**$ 328**	**$ 148**	**$ 197**
Workers Trained	31,003	16,666	18,451
Missouri One Start Community College New Jobs Training Program (0563)			
Actual Expenditures	**$ 4,379,901**	**$ 5,600,211**	**$ 4,714,604**
Companies Assisted	**15**	**16**	**12**
Workers Trained	4,923	5,990	5,720
Annual Cap	$ 16,000,000	$ 16,000,000	$ 160,000,000
Missouri One Start Community College Job Retention Training Program (717)			
Actual Expenditures	**$ 9,028,757**	**$ 3,520,566**	**$ 2,780,863**
Companies Assisted	**17**	**9**	**12**
Workers Trained	6,212	3,957	4,634
Annual Cap	$ 10,000,000	$ 10,000,000	$ 10,000,000

Source: https://oa.mo.gov/sites/default/files/FY_2021_DED_Budget_Request_Gov_Rec.pdf

Oversight excluded FY 2020 and 2021 due to the COVID-19 participations (fluctuations) within any of the programs under the proposal.

Officials from the **Department of Economic Development**, the **Higher Education and Workforce Development**, the **Department of Elementary and Secondary Education**, the

Missouri House of Representatives, the **Oversight Division, the Missouri Senate**, and **the Joint Committee on Administrative Rules** each 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 these agencies.

Officials from the **Saint Charles Community College** 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 that agency.

SA 6 – Section 620.515 - Show-Me Heroes Program

In response to the similar proposal, SB 1013 (2022), officials from the **Department of Economic Development**, the **Department of Higher Education and Workforce Development**, the **Department of Public Safety, Missouri National Guard**, the **University of Missouri System**, the **University of Central Missouri**, **Metropolitan Community College** and **St. Charles Community College** each 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 in the fiscal note for these agencies.

Oversight notes the provisions of this proposal in §620.515.2 statutorily changes the department that operates the Show-Me Heroes Program from the Department of Economic Development to the Department of Higher Education and Workforce Development (DHEWD). In addition, Oversight notes the provisions of the proposal are permissive and do not require the DHEWD to award grants through the program.

Oversight obtained additional information on the Show-Me Heroes Program from the DHEWD. The Show-Me Heroes Program offers on-the-job training (OJT) for military service members that have been deployed for at least four months and are not over five (5) years post-separation or return from deployment. The program connects businesses with veterans and reimburses up to 50% of the wages of workers hired through the program for up to 1,040 hours of OJT.

DHEWD officials state this program has served a total of 7 participants, statewide, in the past 15 months and have served a total of 40 participants since 2016. Not all local workforce boards have had participants. Below is a table of those regions that did:

Region

Central	1
NE	1
Ozark	3
S Central	0
SE	0
St. Charles	1
STL County	0
SW	0
W Central	1
Total Served	7

Oversight notes the following expenditures from the Show Me Heroes Fund (0995):

FY 2021	$ 578
FY 2020	$49,768
FY 2019	$80,678
FY 2018	$64,339

Oversight notes HB 3 from 2021 (FY 2022 budget) has a $500,000 appropriation (3.140) from the Show-Me Heroes Fund**.** Oversight also notes the introduced version of HB 3003 in 2022 also has a $500,000 appropriation (3.150), however from Federal Funds. For simplicity, Oversight will reflect a potential cost to the Show-Me Heroes Fund from the expansion of the program allowing the awarding of grants to nonprofit organizations that facilitate the participation in apprenticeship training programs. Based on past limited usage of the program, **Oversight** assumes the fiscal impact of this change will not reach the $250,000 threshold.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other colleges and universities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

SA 7 - Section 620.850 - "Citizen's Land Development Cooperative Act"

Oversight could find no similar legislation from this year and we haven't received a response from the Department of Economic Development. Oversight will assume an unknown cost to DED for this Citizen's Land Development Cooperative Commission.

SA 8 - Section 105.1500 – Personal Privacy Act – Donations

In response to the similar proposal, SB 741 (2022), officials from the **Missouri Ethics Commission**, **Office of Administration**, **Office of the State Public Defender**, and **Missouri**

Highway Patrol each assume the proposal will have no fiscal impact on their respective organizations.

In response to the similar proposal, SB 741 (2022), officials from the **Office of the State Courts Administrator (OSCA)** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight assumes the OSCA will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the OSCA for fiscal note purposes.

In response to similar legislation, HB 2120 from 2022, officials from **Missouri Office of Prosecution Services (MOPS)** assumed the proposal will have no fiscal impact on their organization.

Oversight assumes subsection 105.1500.5 of this proposal would allow causes of action against various public agencies throughout the state. If the state is found liable, there may be additional payouts from the State Legal Expense Fund. Oversight assumes an annual fiscal impact from $0 (no such civil actions brought against the state) to an unknown amount - not likely to exceed $250,000 – of civil damages payouts.

Therefore, **Oversight** will assume the net fiscal impact to the Legal Expense Fund will be $0 due to transfers in from General Revenue, Federal Funds, and Other State Funds from various state agencies to offset judgements against the State of Missouri.

<u>SA 9 - Section 313.800 Excursion Gambling Boat Facilities</u>

In response to the similar proposal, SB 987 (2022), officials from the **Department of Public Safety - Missouri Gaming Commission** 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.

<u>SA 11 – Section 208.798 Missouri RX Plan Sunset & Section 620.1620 Meet in Missouri Act</u>

<u>§208.798 - Extends the Missouri Rx plan to August 28, 2029</u>

Officials from the **Department of Social Services (DSS)** assume the proposal will have no fiscal impact on their organization.

Oversight assumes extending the termination date for §208.798 to August 28, 2029 (currently August 28, 2022) will result in a continuation of costs to the State. Oversight notes from SS SCS HCS HB 3011 for FY23 includes funding for the MO Rx Drug Program of $6,554,552 (General Revenue $3,765,778 and Other State Funds (MO Rx Plan Fund # 0779) of $2,788,774).

For fiscal note purposes, Oversight will assume funding for the MO Rx Drug Program will be $6,554,552 (GR $3,765,778; Other State Funds $2,788,774) for each FY23, FY24 and FY25. Oversight will reflect 10 months of impact in FY23.

Expenditures for the program have been: $3,663,929 in FY 2021;
$3,915,789 in FY 2020; and
$4,768,479 in FY 2019

§620.1620 – Extends the "Meet in Missouri Act" to August 28, 2028

In response to the similar proposal, SS or SB 1179 (2022), officials from the **Department of Economic Development (DED)** state §§208.798 and 620.1620.9(1) both extend the existing sunsets from 2022 to six years later. This provision is subject to appropriation with a maximum amount of $3 million each fiscal year. If money is appropriated it will be a GR (0101) transfer to the Meet in Missouri Fund (0593). The Meet in Missouri language was first passed in 2016. Since then there has only been one fiscal year in which money was appropriated and paid out of the Meet in Missouri Fund. In FY22, $500,000 was appropriated and thus far $482,175 has been paid out of the Meet in Missouri Fund. Existing staff have administered the program thus far.

Oversight assumes extending the termination date for §620.1620 to August 28, 2028 (currently August 28, 2022) will result in a continuation of costs to the State. The Major Economic Convention Event in Missouri Fund (#0593) was created for the administration of the act.

Oversight notes SCS for HCS for HB 3007 for FY23 includes $1 million in funding for the "Meet in Missouri Act".

For fiscal note purposes, Oversight will assume funding for the "Meet in Missouri Act" will be $1 million in General Revenue in FY23 and $0 to program cap ($3 million) in General Revenue for each FY24 and FY25.

Expenditures for the program have been: $0 in FY 2021;
$0 in FY 2020; and
$0 in FY 2019

Oversight notes in FY20, all $500,000 of the GR transfer into the Meet in Missouri Fund was reverted ($15,000) or restricted ($485,000); therefore, no funds were expended in FY2020 from this Fund. In FY 2021, the GR transfer was removed; however, the spending appropriation authority remained. In FY22, $500,000 was appropriated to the fund. DED stated in their FY23 budget request that, as of January 1, 2022, $482,175 in program funds had been distributed for FY22.

Responses regarding the proposed legislation as a whole

In response to the similar proposal, SS or SB 1179 (2022), officials from the **Office of Administration - Budget & Planning (B&P)** state this bill has no direct impact on B&P or on general and total state revenues. The B&P states it will not impact the calculation pursuant to Article X, Section 18(e).

In response to the similar proposal, SS or SB 1179 (2022), officials from the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Mental Health** and the **Office of the State Treasurer** each 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 in the fiscal note for these agencies.

<u>Bill as Whole:</u>

Officials from the Higher Education and Workforce Development, the **Department of Public Safety- Missouri National Guard, the Department of Public Safety – State Emergency Management,** the **Department of Economic Development**, **the Department of Elementary and Secondary Education**, **the Higher Education and Workforce Development**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Public Safety – Director's Office**, the **Department of Social Services**, the **Office of the State Public Defender**, the **Department of Social Services**, the **City of Claycomo**, the **City of Kansas City**, the **City of Saint Louis – Budget Division**, the **Joint Committee on Administrative Rules**, the **Missouri Senate**, and the **Missouri Office of Prosecution Services** each 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 these agencies.

<u>Rule Promulgation</u>

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.

Oversight assumes SOS is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes SOS could absorb the costs related to this proposal. Therefore, Oversight will reflect zero fiscal impact in the fiscal note for above agency.

FISCAL IMPACT – State Government	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
SA 1 - Loss – §407.475 - DOR – if, with this bill, charitable organizations are no longer required to file certain tax returns (p. 4-5)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
SA 2 - Revenue Loss - §143.081 Tax Credit for S-Corporation p. 5-6	(Unknown – could exceed $250,000)	(Unknown – could exceed $250,000)	(Unknown – could exceed $250,000)
SA 2 - Cost or Gain – DOR - Section 143.436 entity and individual tax liability paid (p. 7-14)	Minimum Unknown to Minimum (Unknown)	Minimum Unknown to Minimum (Unknown)	Minimum Unknown to Minimum (Unknown)
SA 2 - Costs – DOR §144.011 (p. 14 - 19)			
Salaries	($219,400)	$0	$0
Fringe Benefits	($196,851)	$0	$0
Equipment and Expense	($97,112)	$0	$0
Total Costs - DOR	($513,363)	$0	$0
FTE Changes - DOR	10 FTE	0 FTE	0 FTE
SA 2 - Revenue Reduction - §144.011 Sales tax exemption and refunds (p. 14-19)	(Could exceed $15,560,169)	(Could exceed $7,468,881)	(Could exceed $7,468,881)
SA 3 -Loss of Penalties Revenue – Section 135.810 – Penalties & fraud for timely filing (p. 22)	Could Exceed ($114,638)	Could Exceed ($114,638)	Could Exceed ($114,638)
SA 3 -Savings from Credit Redemption – Section 143.119 for self-employed filers with greater than $3,000 liability (p. 23-26)	Unknown, Could Exceed $5,942,873	Unknown, Could Exceed $5,942,873	Unknown, Could Exceed $5,942,873

SA 3 Savings from Credit Redemption – Section 143.119 for self-employed non-resident filers (p. 23-26)	Unknown, Could Exceed $900,000	Unknown, Could Exceed $900,000	Unknown, Could Exceed $900,000
SA 3- Savings from Credit Redemption – (Section 143.119) no longer refundable (p. 23-26)	Unknown	Unknown	Unknown
SA 3 - Revenue Reduction – Section 620.1039 – Tax Credit For Qualified Research Expenses p. 26-32	$0	Up to ($10,000,000)	Up to ($10,000,000)
SA 3 - Cost – DED – Section 620.1039 – Administration Of Tax Credit Program p. 26-32			
Personnel Services	($36,305)	($44,437)	($45,326)
Fringe Benefits	($24,500)	($29,692)	($29,990)
Equipment & Expense	($10,469)	($2,647)	($2,701)
Total Cost - DED	($71,274)	($76,776)	($78,017)
Total FTE – DED	1 FTE	1 FTE	1 FTE
SA 3 - Loss of Sales tax Revenue – 620.1039 5. –research & development equipment	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
SA 4- Revenue Reduction - DOR 135.110 - expansion of the New Business Facility tax credit (p. 32-35)	$0 or Could exceed ($6,342,772) to ($12,000,000)	$0 or Could exceed ($6,342,772) to ($12,000,000)	$0 or Could exceed ($6,342,772) to ($12,000,000)
SA 5 Cost – 620.806.3 - new ‘Recruitment Program’ – revenues being diverted into the Missouri One Start Development Fund (p.35-37)	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
SA 7 – Cost – DED – 620.850 Administrative cost of the Citizen’s Land Development Cooperative Commission – FTE assumed. P. 39	(Unknown)	(Unknown)	(Unknown)

SA 7 – Cost – DED – 620.850 potential of developing and maintaining grants to communities P. 39	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
SA 8 - Cost -§105.1500.5- Potential increase in payments to Legal Expense Fund for increase in claims (p.32)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
SA 11 - Costs - DSS (extension of §208.798 termination date) On-going MO Rx Drug Program expenditures (p. 40)	($3,138,148)	($3,765,778)	($3,765,778)
SA 11 - Transfer Out - Major Economic Convention Event in Missouri Fund (593) (extension of §620.1620 termination date) On-going expenditures "Meet in Missouri Act" (p. 41)	($1,000,000)	$0 to ($3,000,000)	$0 to ($3,000,000)
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	**More than or Less than ($25,804,719)**	**More than or Less than ($29,833,200)**	**More than or Less than ($29,834,441)**
OTHER STATE FUNDS			
SA 8 - Cost - §105.1500.5 -Potential increase in payments to Legal Expense Fund for increase in claims (p.39)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**
LEGAL EXPENSE FUND (0692)			
SA 8 - Transfer In - from GR, Federal, and Other State Funds - Potential increase in claims (p. 39)	$0 or Unknown	$0 or Unknown	$0 or Unknown
SA 8 - Transfer Out - payment of discrimination claims §105.1500.5 (p.32)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)

ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND	**$0**	**$0**	**$0**
FEDERAL FUNDS			
SA 8 - Various Federal Funds - §105.1500.5 Potential increase in payments for increase in claims (p.39)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	**$0 or (Unknown)**	**$0 or (Unknown)**	**$0 or (Unknown)**
MO Rx PLAN FUND (779)			
SA 11 - Costs - DSS (extension of §208.798 termination date) On-going MO Rx Drug Program expenditures (p. 40)	($2,323,978)	($2,788,774)	($2,788,978)
ESTIMATED NET EFFECT ON THE MO Rx PLAN FUND	**($2,323,978)**	**($2,788,774)**	**($2,788,978)**
MAJOR ECONOMIC CONVENTION EVENT IN MISSOURI FUND (593)			
SA 11 -Transfer In - General Revenue (p.33)	$1,000,000	$0 to $3,000,000	$0 to $3,000,000
SA 11 - Cost - Grants for major convention plans (p. 41)	($1,000,000)	$0 to ($3,000,000)	$0 to ($3,000,000)
ESTIMATED NET EFFECT ON THE MAJOR ECONOMIC CONVENTION EVENT IN MISSOURI FUND	**$0**	**$0**	**$0**
SCHOOL DISTRICT TRUST FUND			

SA 2 - Revenue Reduction - §144.011 Sales tax exemption and refunds p. 14-19	(Could exceed $5,186,723)	(Could exceed $2,489,627)	(Could exceed $2,489,627)
SA 3 - Loss of Sales tax Revenue – 620.1039 5. –research & development equipment	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND (0688)	**(Could exceed $5,186,723)**	**(Could exceed $2,489,627)**	**(Could exceed $2,489,627)**
PARKS AND SOILS STATE SALES TAX FUNDS (0613 & 0614)			
SA 2 -Revenue Reduction - §144.011 Sales tax exemption and refunds p. 14 -19	(Could exceed $518,673)	(Could exceed $248,963)	(Could exceed $248,963)
SA 3 - Loss of Sales tax Revenue – 620.1039 5. –research & development equipment	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON PARKS AND SOILS STATE SALES TAX FUNDS (0613 & 0614)	**(Could exceed $518,673)**	**(Could exceed $248,963)**	**(Could exceed $248,963)**
CONSERVATION COMMISSION FUND (0609)			
SA 2 - Revenue Reduction - §144.011 Sales tax exemption and refunds (p. 14-19)	(Could exceed $648,340)	(Could exceed $311,203)	(Could exceed $311,203)
SA 3 - Loss of Sales tax Revenue – 620.1039 5. –research & development equipment	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND (0609)	**(Could exceed $648,340)**	**(Could exceed $311,203)**	**(Could exceed $311,203)**

MISSOURI ONE START COMMUNITY COLLEGE NEW JOB TRAINING FUND (0563)			
SA 5 -Revenue Decline – 620.809.4- Unobligated funds flowing to the new fund (p.35-37)	$0	(Unknown)	$0
ESTIMATED NET EFFECT ON THE MISSOURI ONE START COMMUNITY COLLEGE FUND	**$0**	**(Unknown)**	**$0**
MISSOURI ONE START COMMUNITY COLLEGE NEW JOB RETENTION TRAINING FUND (717)			
SA 5 - Revenue Decline – 620.809.4 Unobligated fund flowing to the new fund (p.35-37)	$0	(Unknown)	$0
ESTIMATED NET EFFECT ON THE MISSOURI ONE START COMMUNITY COLLEGE JOB RETENTION TRAINIING FUND	**$0**	**(Unknown)**	**$0**
MISSOURI ONE START JOB DEVELOPMENT FUND (0600)			
SA 5 -Revenue Gain – 620.806.3 – payment for the Recruitment Program from GR (p.35-37)	$0 or Unknown	$0 or Unknown	$0 or Unknown
ESTIMATED NET EFFECT ON THE MISSOURI ONE START JOB DEVELOPMENT FUND	**$0 or Unknown**	**$0 or Unknown**	**$0 or Unknown**
MISSOURI ONE START COMMUNITY COLLEGE TRAINING FUND			

SA 5 - Revenue Gain – 620.809.3-Money flowing from both funds (p.35-37)	$0	Unknown	Unknown
NET ESTIMATED EFFECT ON THE MISSOURI ONE START COMMUNITY COLLEGE TRAINING FUND	**$0**	**Unknown**	**Unknown**
SHOW ME HEROES FUND			
HA 6 - Cost – Section 620.515 - expansion of the program to allow (may) grants to nonprofit organizations (p. 37-39)	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
ESTIMATED NET EFFECT TO THE SHOW ME HEROES FUND	**$0 or (Unknown)**	**$0 or (Unknown)**	**$0 or (Unknown)**

FISCAL IMPACT – Local Government	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLTICAL SUBDIVISIONS			
SA 2 - Revenue Reduction - §144.011 Sales tax exemption and refunds (p. 14-19)	(Could exceed $20,902,494)	(Could exceed $10,033,197)	(Could exceed $10,033,197)
SA 3 - Loss of Sales tax Revenue – 620.1039 5. –research & development equipment	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
SA 8 - Cost §105.1500.5 Potential increase in claims (p.39)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**(Could exceed $20,902,494)**	**(Could exceed $10,033,197)**	**(Could exceed $10,033,197)**

FISCAL IMPACT – Small Business

Small businesses would be potentially fiscally impacted and required to comply with various statutes as a result of this proposal.

FISCAL DESCRIPTION

Section 285.730

This bill provides that both a client and a registered professional employer organization (PEO) shall each be deemed an employer for purposes of sponsoring retirement and welfare benefits plans for covered employees.

A fully insured welfare benefit plan sponsored by a registered PEO for the benefit of its covered employees shall be treated for the purposes of state law as a single employer welfare benefit plan.

For purposes of sponsoring welfare benefit plans for its eligible covered employees, a registered PEO shall be considered the employer of all of its eligible covered employees, and all eligible covered employees of one or more clients participating in a health benefit plan sponsored by a registered PEO shall be considered employees of such registered PEO.
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

Section 620.2020

This act provides that a qualified company or industrial development authority shall not be prohibited from receiving tax credits or retaining withholding tax, or both, if applicable, through the Missouri Works program for reporting fewer jobs than the number required for the tax year if a statewide state of emergency existed for more than sixteen months of the qualified company's or industrial development authority's tax year, provided that the qualified company or industrial development authority otherwise met all program requirements.

Section 407.475 – Private and Non-Private Company and Disclosure to State Agenies

Under this act, the state shall not impose any additional annual filing or reporting requirements on a charitable organization that are more stringent, restrictive, or expansive than the report already required to be submitted to the Attorney General's office unless such filing or report is specifically required by federal law. This act shall not apply to labor organizations, state grants or contracts, or investigations by the Attorney General of charitable organizations as set forth in state statute.

Section 130.029 – S Corp & LLC Charitable Contributions
The act permits any limited liability company that has not elected to be classified as a corporation under federal law to make campaign contributions to any committee, provided such limited liability company has been in existence for at least one year prior to making such contribution and such entity submits a form to the Missouri Ethics Commission indicating that such LLC is a legitimate business with a legitimate business interest and is not created for the sole purpose of making campaign contributions.

Section 143.436 Salt Parity Act

Current law provides that, in lieu of a corporate income tax on a pass-through entity, shareholders of such pass-through entity shall pay income tax on the shareholder's pro rata share of the entity's income attributable to Missouri. For tax years beginning on or after January 1, 2023, this act allows the pass-through entity to elect to pay the tax, as described in the act. The tax shall be equal to the sum of each member's income and loss items, as described in federal law, reduced by a deduction allowed for qualified business income, as described in federal law, and modified by current provisions of state law relating to the taxation of pass-through entities, with such sum multiplied by the highest rate of tax in effect for the state personal income tax.

A nonresident who is a member, as defined in the act, shall not be required to file a tax return for a tax year if, for such tax year, the only income derived from this state for such member is from one or more affected business entities, as defined in the act, that has elected to pay the tax imposed under this act.

Each partnership and S Corporation shall report to each of its members, for each tax year, the member's pro rata share of the tax imposed by this act.

Each taxpayer, including part-year residents, that is subject to the state personal income tax shall be allowed a tax credit if such taxpayer is a member of an affected business entity that elects to pay the tax imposed by this act. The tax credit shall be equal to 95% of the taxpayer's pro rata share of the tax paid under this act. Such tax credit shall be nonrefundable, but may be carried forward to subsequent tax years, except that a tax credit authorized for taxes paid to other states shall not be carried forward.

Each corporation that is subject to the state corporate income tax shall be allowed a tax credit if such corporation is a member of an affected business entity that elects to pay the tax imposed by this act. The tax credit shall be equal to the corporation's pro rata share of the tax paid under this act. Such tax credit shall be nonrefundable, but may be carried forward to subsequent tax years.

An affected business entity shall designate an affected business entity representative for the tax year to act on behalf of the affected business entity in any action required or permitted to be taken by an affected business entity pursuant to this act, a proceeding to protest taxes, an appeal to the Administrative Hearing Commission, or review by the judiciary with respect to such action, and the affected business entity's members shall be bound by those actions.

<u>Section 144.010 & 144.011 – Utility Exemption for Transient Guest</u>

This act provides that, for the purposes of levying sales tax, the definition of "sale at retail" shall not include the purchase by persons operating hotels, motels, or other transient accommodation establishments of electricity, electrical current, water, and gas, whether natural or artificial, which are used to heat, cool, or provide water or power to the guests' accommodations of such establishments, including sleeping rooms, meeting and banquet rooms, and any other customer space rented by guests, and which are included in the charge made for such accommodations. Any person required to remit sales tax on such purchases prior to August 28, 2022, shall be entitled to a refund on such taxes remitted.

<u>Section 1335.800 to 135.830 - TAX CREDIT ACCOUNTABILITY ACT</u>

This act modifies the definition of "domestic and social tax credits" by removing the health care access fund tax credit, which has expired, and by adding the previously authorized health, hunger, and hygiene tax credit.

This act also modifies the definition of "recipient" to provide that such term does not include the transferee of a tax credit. (Section 135.800)

This act requires an applicant for a tax credit, as a part of the application process, to sign a statement affirming that the applicant is aware of the reporting requirements and penalty provisions of the Tax Credit Accountability Act. (Section 135.802)

Current law requires the recipients of tax credits to file annual reports that includes either the estimated or actual project costs. This act requires such reports to include both the estimated and actual project costs.

Additionally, current law requires the administering agency of a tax credit to make available the names of each tax credit recipient. This act allows such information to be made available either on the Department of Economic Development's website or through the Missouri Accountability Portal.

This act modifies a provision providing that a person or entity shall not be required to submit an annual report until at least one year after the credit issuance date by making such time period one month. (Section 135.805)

Current law provides for penalties for a failure to submit required annual reports, with a penalty of 2% of the value of the tax credits for each month of delinquency of more than six months but less than one year, and a penalty of 10% of the value of the credits for each month of delinquency of more than one year. This act modifies such penalties. Failure to file the first annual report for more than three months shall result in a penalty of 1% of the value of the credits, not to exceed 10%. Failure to file the second or third annual report for more than three months shall result in a penalty of 1.5% of the value of the credits, not to exceed 20% per report.

Current law provides for a penalty equal to 100% of the value of the credits for fraud in the tax credit application process. This act increases such penalty to 200% for fraud in the application or reporting process. This act also provides that the Administrative Hearing Commission shall determine whether fraud has occurred. The Department of Revenue, the Department of Economic Development, or the administering agency may file a fraud complaint to the Administrative Hearing Commission, as described in the act.

Current law requires an administering agency to send a notice of delinquency ninety days after the annual report is due. This act changes such requirement to thirty days. This act also allows the Department of Revenue to enter into agreements to compromise or abate some or all of any penalties administered under the act. (Section 135.810)

Current law requires tax credit applicants to forfeit and repay tax credits if such applicant purposely and directly employs unauthorized aliens. This act changes such standard to an applicant knowingly employing unauthorized aliens. (Section 135.815)

<u>Section 143-119 Health Insurance Deduction Tax Credit</u>

Current law authorizes a refundable tax credit for self-employed taxpayers who are ineligible for the federal health insurance deduction. This act modifies such tax credit by making it nonrefundable, nontransferable, and not eligible to be carried forward or backward to any other tax year. This act also requires a taxpayer to have a Missouri income tax liability of less than

$3,000. A taxpayer shall not be able to claim such tax credit and the state health insurance deduction in current law for the same tax year.

Section 135.110 – New Business Facility Tax Credit

Current law authorizes a tax credit for a 10-year period for businesses that establish a headquarters in the state, with an additional possible 10-year period if certain conditions are met. This act allows for a further additional 10-year period conditional on such conditions being met.

Current law also provides that such tax credit shall only be available for headquarters that commence operations on or before December 31, 2024. This act extends such date to December 31, 2034

Sections 620.800 to 620.809 - Missouri One Start Program

This act modifies the Missouri One Start Program by adding, modifying, and repealing certain definitions.

The definition of "committee", "existing Missouri business", and "training program" are removed. Definitions for "application", "recruitment services", and "relocation costs" are added. The definition of "project facility" is modified by removing county average wage requirements in cases where multiple facilities make up the project facility. The definition of "training project costs" is modified to include relocation costs and costs of training project services not otherwise included in the definition. (Section 620.800)

This act also repeals the Missouri One Start Job Training Joint Legislative Oversight Committee, which was tasked with providing a report on all assistance to qualified companies under the Missouri One Start Program.

The act also authorizes the Department of Economic Development to contract with other entities to provide recruitment services to qualified companies. (Section 620.803)

This act provides that recruitment services for qualified companies shall be administered by the Department, while financial assistance for training projects shall be administered by a local education agency certified by the Department for that purpose. This act also repeals a provision prohibiting a qualified company from receiving more than fifty percent of its training program costs from the Missouri One Start Job Development Fund. (Section 620.806)

Under current law, new job credits are deposited in the Missouri One Start Community College New Jobs Training Fund, and retained job credits are deposited in the Missouri One Start Community College Job Retention Training Fund. Beginning July 1, 2023, all unobligated moneys in such funds shall be transferred to the Missouri One Start Community College Training Fund, which is created by the act, and to which all new jobs credits and retained jobs credits shall be deposited. (Section 620.809)

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

Section 105.1500 – Personal Privacy Act - Donations

This act establishes the Personal Privacy Protection Act prohibiting public agencies, as defined in the act, from disclosing or requiring the disclosure of personal information, as defined in the act. Specifically, public agencies are prohibited from:

· Requiring any individual to provide the public agency with personal information or otherwise compel the release of such personal information;

· Requiring any entity exempt from federal income taxation under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information or otherwise compel the release of personal information;

· Releasing, publicizing, or otherwise publicly disclosing personal information in possession of a public agency; or

· Requesting or requiring a current or prospective contractor or grantee with the public agency to provide the public agency with a list of entities exempt from federal income tax under Section 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

The act contains various exceptions to these prohibitions.

Any person or entity may bring a civil action for appropriate injunctive relief, damages, or both. Damages may be not less than $2,500 to compensate for injury or loss caused by each violation of this act and, for an intentional violation, a sum of money not to exceed three times the sum of damages assessed. A court may additionally award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate. Furthermore, a person who knowingly violates this act is guilty of a Class B misdemeanor.

Section 208.798 – Missouri RX Plan Sunset

This act changes the expiration date of the Missouri Rx Plan from August 28, 2022, to August 28, 2029 (§208.798).

Section 620.1620 – Meet in Missouri Act

This act changes the expiration date of the "Meet in Missouri Act" from August 28, 2022, to August 28, 2028 (§620.1620

SOURCES OF INFORMATION

Department of Economic Development

BB:LR:OD

Department of Revenue
Department of Elementary and Secondary Education
Higher Education and Workforce Development
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Public Safety – Director's Office
Department of Social Services
Office of the State Public Defender
Department of Social Services
City of Claycomo
City of Kansas City
City of Saint Louis – Budget Division
Joint Committee on Administrative Rules
Missouri Senate
Missouri Office of Prosecution Services

Julie Morff
Director
May 5, 2022

Ross Strope
Assistant Director
May 5, 2022