COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5342S.01I
Bill No.: SB 1360
Subject: Economic Development; Department of Economic Development; Tax Credits
Type: Original
Date: March 25, 2024

Bill Summary: This proposal establishes the Missouri Defense and Energy Independence Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
General Revenue*	Up to ($10,235,212)	Could exceed ($10,340,385)	Could exceed ($20,324,054)	Could exceed ($40,337,146)
Total Estimated Net Effect on General Revenue	**Up to ($10,235,212)**	**Could exceed ($10,340,385)**	**Could exceed ($20,324,054)**	**Could exceed ($40,337,146)**

*Oversight reflects costs for Missouri Defense and Energy Independence Act at $40 million annually (increasing by $10 million over 4 years) as of FY 2029, one-time $10 million payment in FY 2025 for Grants for Independence from Foreign Influence Fund and DED & DOR FTEs.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Grants for Independence from Foreign Influence Fund*	$0	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.
*Grants for Independence from Foreign Influence Fund nets to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
General Revenue - DOR	0 FTE	1 FTE	1 FTE	1 FTE
General Revenue - DED	2 FTE	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	**2 FTE**	**3 FTE**	**3 FTE**	**3 FTE**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Local Government	**$0**	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

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

The proposed section 620.1641 creates the "Missouri Defense and Energy Independence Act" which provides a tax credit of up to 15% of the cumulative amount allowed to any company that incurs costs associated with converting that company to produce chemicals, metals, gasses, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on related foreign-produced products. This tax credit begins on January 1, 2025, with the cumulative amount of tax credits allowed shall not exceed $40 M per tax year. The tax credits are non-refundable, cannot be carried forward, and cannot be sold, transferred, or otherwise conveyed.

The proposed subsection 620.1641.6 creates the "Grants for Independence from Foreign Influence Fund" consisting of at least $10M appropriated by the general assembly from general revenue and from any gifts, contributions, grants, or bequests from federal, private, or other sources and maintained by the state treasurer. To the extent such appropriations are made, this could cost up to $10M annually. The Department of Economic Development (DED) will be responsible for dispersing grants from this fund to qualified companies under the above program. This section will not directly impact TSR.

The DED shall administer the program and promulgate rules, regulations, procedures, and applications for the grant. Therefore, the total fiscal impact to GR up to $10M in FY 2025 and TSR up to $40 M each year.

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

Tax credit
This provision creates a tax credit program starting January 1, 2025, for qualified companies. The qualified taxpayer is a company that converts their facility to produce chemicals. They are allowed to claim a credit equal to a portion of their costs incurred from converting their company from its current products to produce chemicals, metals, gases, or rare earth minerals to be used for projects designed to eliminate reliance on foreign produced chemicals.

This credit has an annual cap of $40 million per tax year and the credits are not refundable, cannot be carried forward, sold, or transferred. If the amount of tax credits claimed in a tax year under this section exceeds forty million dollars, tax credits shall be allowed based on the order in which they are claimed. No single company can receive more than 15% ($6,000,000) of the total cap.

This will first impact the state in FY 2026, when the first tax returns are submitted claiming the credit and thereafter. This proposal states that the credits issued to a company will be in equal increments over four years. Therefore, only $10 million can be claimed in year 1 and $20 million in year 2. The loss to general revenue annually will be:

Fiscal Year	Loss to General Revenue
2025	$0
2026 (year 1)	(Up to $10,000,000)
2027 (year 1 & 2)	(Up to $20,000,000)
2028 (year 1, 2 & 3)	(Up to $30,000,000)
2029+ (year 1, 2, 3 & 4)	(Up to $40,000,000)

This credit is to sunset six years after the effective date.

This proposal creates a new tax credit that would require a new line being added to the Form MO-TC ($7,138), updates to their website and changes to their individual income tax computer system ($1,785). These changes are estimated to cost $8,923. DOR's existing tax credit staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Representative at a salary of $35,880.

<u>Grants</u>
This provision creates a new state fund that shall consist of at least $10 million to be used to provide grants for companies that qualify to convert their facility to being independent from foreign influence. The $10 million is to be appropriated by the General Assembly. For purposes of the fiscal note, they show the one-time $10 million appropriation in FY 2025.

The Department of Economic Development is to administer the grant. The grant cannot exceed $500,000 per applicant. The money in the grant is to be used to help convert their facility. This proposal appears to give a grant to a company to do the conversion of their factory and then allows them to use that funding to claim the tax credit.

The grant program will not fiscally impact the Department. The grant program will result in a loss to general revenue of at least $10 million in FY 2025.

Officials from the DOR assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a DOR's (1) FTE and updates to the website and tax credit form impact in the fiscal note effective FY 2026.

Officials from the **Department of Economic Development (DED)** assume 620.1641. Establishes the "Missouri Defense and Energy Independence Act".

620.1641.2-5. For all tax years beginning on or after January 1, 2025, nontraditional defense contractors in Missouri, as such term is defined in 10 U.S.C. Section 3014 that incur costs to producing chemicals, metals, gases, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on foreign-produced chemicals, metals, gases, or rare earth minerals used in the production of energy projects or Department of Defense projects will be eligible for a tax credit for the costs of conversion on a first-come, first-served basis. The qualified company shall be allowed to claim a tax credit not to exceed 15% of the cumulative amount of tax credits., and one-fourth of total qualified amount shall be issued in each of the four tax years immediately following the tax year for which the qualified company claimed the tax credit.

For all calendar years beginning on or after 1/01/25, the total amount of tax credits authorized shall not exceed $40M. The tax credit is not refundable, non-transferable, and not to be carried forward.

620.1641.6 creates the "Grants for Independence from Foreign Influence Fund", which shall consist of at least ten million dollars appropriated by the general assembly and any gifts, contributions, grants, or bequests received from federal, private, or other sources. The state treasurer shall be custodian of the fund. Since this requires an appropriation it is not included in the TSR impact.

DED shall establish procedures for the solicitation, evaluation, and approval of grant applications received from a qualified company. A qualified company may submit a grant application for the award of moneys for qualified conversion costs incurred by the qualified company as provided in this subsection. The department shall evaluate each application and approve or reject such application. Subject to appropriations, upon approval of an application, the department shall administer a grant award of moneys from the grants for independence from foreign influence fund in an amount not to exceed five hundred thousand dollars per grant application. Moneys granted to a qualified company under this section shall be used solely for qualified conversion costs incurred before the completion of the conversion of the qualified company.

This program will sunset 6 years after the effective date unless reauthorized by an act of the general assembly.

Creating a new tax credit and grant program will likely reduce annual TSR by up to the cap of $40M. The grant program has a cap of $10M and requires an appropriation. DED will need to hire 2.0 FTE to solicit and review applications, determine qualifications, calculate eligible expenses, complete compliance and to administer the programs.

Oversight notes the proposal, 620.1641. 3. (1) states that total qualified amount a qualified company shall be allowed to claim under this section shall not exceed fifteen percent of the cumulative amount of tax credits allowed. Therefore, Oversight assume it would be equivalent to approximately $6 million ($40,000,000 x .15) per each company.

Additionally, Oversight notes the proposal, 620.1641. 3. (2), states that each company can only receive ¼ of such a total ($6 million) for each year. Therefore, this would allow the company receive $1.5 million per year for next four year.

Oversight notes that this proposal does not limit how many companies are allowed to apply for this tax credit.

Oversight notes the tax credits shall not be refundable, carried forward, assigned, transferred, sold, or conveyed.

Oversight notes that the officials from the DOR assume the tax program would grow incrementally over 4 years (increments of $10 million per year) until it reaches the maximum cap of $40 million per year. Therefore, **Oversight** will reflect the cumulative effect $10 million per year beginning FY 2026, and the maximum cap <u>$40 million</u>, beginning FY 2029.

Oversight notes the DED assumes the need for 2.0 FTE (Senior Economic Development Specialist $74,664 plus E&E annually per each) to solicit and review applications, determine qualifications, calculate eligible expenses, complete compliance and to administer the programs.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the DED's FTE cost in the fiscal note effective FY 2025.

Oversight notes the proposal, Section 620.1641.6, creates "Grants for Independence from Foreign Influence Fund".

Oversight notes this Fund "shall consist of at least $10 million dollar appropriated by the general assembly and any gifts, contributions, grants or bequests received from federal, private, or other sources." The Fund will be under care of State Treasurer.

Therefore, **Oversight** will note both revenue transfer out from the general revenue $10 million in FY 2025 and transfer in to the "Grants for Independence from Foreign Influence Fund" in FY 2025.

Oversight will also reflect additional funds transfer in from various grants, donation, and private money etc.

Oversight notes the moneys granted to a qualified company, under the proposal, shall be used solely for qualified conversion costs incurred before the completion of the conversion of the qualified company.

Oversight notes that each individual company can receive up to maximum of $500,000 per grant application. Therefore, Oversight notes there could be as few as 20 companies ($10 million / $500,000) receiving grants from this fund.

Lastly, **Oversight** will note the disbursement from the "Grants for Independence from Foreign Influence Fund", up to the $10 million and the fund will subsequently net to zero annually, as the monies being paid to various qualified companies.

In response to the similar proposal, SB 1834 (2024). officials from the **Department of Commerce and Insurance (DCI)** assumed a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2026 and FY2027 as a result of the creation of tax credit for converting a business to produce certain chemicals, gases, metals, and minerals. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the new tax credit.

The department will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Oversight notes, for purposes of this fiscal note, the fiscal note does not reflect the possibility that some of the tax credits could be utilized against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

Officials from the **Oversight Division** state they are responsible for providing a Sunset Report pursuant to Section 23.253 RSMo; however, Oversight will be able to absorb the cost with the current budget authority.

Officials from the **Office of the State Treasurer (STO)** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for the STO.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
GENERAL REVENUE				
Costs – DED				
Personnel Service	($124,440)	($152,315)	($155,361)	($161,638)
Fringe Benefits	($72,530)	($88,153)	($89,292)	($92,899)
Expense & Equipment	($38,242)	($12,044)	($12,285)	($12,781)
Total Costs – DED p.6	($235,212)	($252,512)	($256,938)	($267,318)
FTE Change	2 FTE	2 FTE	2 FTE	2 FTE
Costs - DOR				
Personnel Service	$0	($36,598)	($37,330)	($38,838)
Fringe Benefits	$0	($28,937)	($29,204)	($30,384)
Expense & Equipment	$0	($13,415)	($582)	($606)
Total Costs – DOR p.5	$0	($78,950)	($67,116)	($69,827)
FTE Change	0 FTE	1 FTE	1 FTE	1 FTE
Costs - §§ 620.1641 DOR Website and form updates p.4	$0	($8,923)	$0	$0
Costs - §§ 620.1641 Missouri Defense and Energy Independence Act Tax Credit p.6	$0	Up to ($10,000,000)	Up to ($20,000,000)	Up to ($40,000,000)
Transfer Out - §§ 620.1641. 7. Grants for Independence from Foreign Influence Fund p.7	Up to ($10,000,000)	(Unknown)	(Unknown)	(Unknown)

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**Up to ($10,235,212)**	**Could exceed ($10,340,385)**	**Could exceed ($20,324,054)**	**Could exceed ($40,337,146)**
Estimated Net FTE Change on General Revenue	2 FTE	3 FTE	3 FTE	3 FTE
GRANTS FOR INDEPENDENCE FROM FOREIGN INFLUENCE FUND				
Transfer in – 620.1641. 7. Monies transferred form GR p.7	Up to $10,000,000	$0	$0	$0
Costs – grants to various companies ($500,000 max per company) p.7	(Unknown)	(Unknown)	(Unknown)	(Unknown)
Transfer in – §§ 620.1641. 1. donations, grants, interests, etc. p.7	Unknown	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON GRANTS FOR INDPENDENCE FROM FOREIGN INFLUENCE FUND	**$0**	**$0**	**$0**	**$0**

FISCAL IMPACT – Local Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
	$0	**$0**	**$0**	**$0**

FISCAL IMPACT – Small Business

Small businesses that qualify for these programs could be impacted by this proposal.

FISCAL DESCRIPTION

This act establishes the "Missouri Defense and Energy Independence Act".

For all tax years beginning on or after January 1, 2025, this act authorizes a qualified company to claim a tax credit not to exceed $6 million for qualified conversion costs incurred by the qualified company for converting such company to produce chemicals, metals, gases, or rare earth minerals that will be used for projects designed to decrease or eliminate reliance on foreign-produced materials.

Tax credits authorized by the act shall be issued to a qualified company in four equal annual installments. Tax credits shall not be refundable or carried forward, and shall not be transferred, sold, or assigned.

This act also establishes the "Grants for Independence from Foreign Influence Fund", which shall consist of at least $10 million in appropriated moneys. The fund shall be used by the Department of Economic Development to provide grants to qualified companies in an amount not to exceed $500,000. Grant funds shall be used solely for qualified conversion costs incurred before the completion of the conversion of the qualified company.

This act shall sunset on August 28, 2030, unless reauthorized by the General Assembly.
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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

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