COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1993S.02I
Bill No.: SB 461
Subject: Taxation and Revenue - Income; Tax Credits; Adoption; Children and Minors; Children's Division
Type: Original
Date: March 8, 2021

Bill Summary: This proposal would modify provisions relating to tax credits for the care of certain children.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	($158,211)	($1,072,316) to ($3,300,354)	($1,073,119) to ($3,301,157)
Total Estimated Net Effect on General Revenue	**($158,211)**	**($1,072,316) to ($3,300,354)**	**($1,073,119) to ($3,301,157)**

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

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	**0**	**0**	**0**

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

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposed legislation expands the eligibility for the Adoption Tax Credit (renamed from the Special Needs Adoption Tax Credit) and could reduce General Revenue (GR) and Total State Revenue (TSR) by an amount up to $2 million annually.

B&P states the proposed legislative changes could reduce TSR by $999,494 to $1,262,229 once SB 509 (2014) has fully implemented as a result of the tax deduction for foster parents.

B&P states this proposed legislation will impact the calculation under Article X, Section 18(e).

Section(s) 135.325, 135.326, 135.327, 135.335, 135.800, & 191.975 – Missouri Adoption Tax Credit & Adoption Awareness Law

Officials from the **B&P** state this section modifies the Special Needs Adoption Tax Credit and renames it the Adoption Tax Credit. Any person residing in the state who proceeds with the adoption of a child on or after January 1, 2022, regardless of whether such child is a special needs child, shall be eligible to receive a tax credit of up to $10,000 for nonrecurring adoption expenses. This credit is capped at $2 million but may be increased by appropriation.

Officials from the **Missouri Department of Revenue (DOR)** stated, under current law, a tax credit is available for taxpayers who adopt a special needs child in an amount up to $10,000 for nonrecurring adoption expenses. A business entity that provides funds to an employee to enable the employee to adopt a special needs child can also receive a tax credit up to $10,000 for nonrecurring expenses paid.

This section, starting January 1, 2022, would remove the restriction that this tax credit be only for the adoption of special needs children and will allow for the adoption of any child.

The current cap is set at $2 million annually but can be adjusted based on appropriation by the General Assembly.

This section would allow the adoption credit for any child, not just special needs children. However, this section does not impact the current cap on the program.

DOR provides the following information on the amounts redeemed each of the last few fiscal years:

Year	Total Redeemed
FY 2020	$29,404.00
FY 2019	$19,185.00
FY 2018	$88,706.00
FY 2017	$127,211.00
FY 2016	$231,367.00
FY 2015	$380,715.00
FY 2014	$718,495.00
FY 2013	$744,155.00
FY 2012	$1,036,226.00

While expanding the number of adopted children that qualify for this program may increase participation in this program; the annual cap of $2 million is not changed. Therefore, DOR does not anticipate a fiscal impact from this program.

DOR notes this section adds language that requires priority be given to taxpayers who adopt a resident special needs child. This specific tax credit program is an apportioned tax credit in which the credit is apportioned amongst all filers equally upon reaching [or exceeding] the cap. DOR notes giving priority to certain taxpayers over others and apportioning the credit equally among the filers appears contradictory and DOR, at this time, is unable to determine how such priority could be implemented without specific language specifying how to prioritize such tax credits. At this time, DOR is unable to determine whether additional administrative costs would be necessary if DOR is required to prioritize tax credits under this program.

DOR states, by expanding the eligibility for the type of adoptions that are eligible for the credit, it is likely an increase in the number of individual and corporate returns claiming the credit will occur.

DOR requires one (1) FTE Associate Customer Service Representative for every 4,000 apportioned credits redeemed, one (1) FTE Associate Customer Service Representative for every 4,000 tax credit transfers with CISCO phone licenses, and one (1) FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated.

Oversight notes DOR anticipates the need for three (3) FTE Associate Customer Service Representatives as a result of this section.

Oversight notes the minimum number of taxpayers that could claim this tax credit annually could be as low as 200 ($2,000,000 / $10,000). Furthermore, under current law, the total amount of tax credits that could be redeemed as a result of this section is $2,000,000. This section does not change the existing cap.

Therefore, Oversight assumes DOR can continue to administer this tax credit program with existing resources. Should DOR experience the number of redemptions, transfers, and/or errors generated to justify additional FTE, DOR could seek additional FTE through the appropriation process.

Officials from the **Missouri Department of Commerce and Insurance (DCI)** state this section could cause a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) as a result of the change to the "Adoption Tax Credit Act" tax credit. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the tax credit proposed.

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

Oversight notes DCI assumes the programming changes required as a result of this section can be done so under existing appropriation.

Oversight notes this section changes the name of the Special Needs Adoption Tax Credit to Adoption Tax Credit.

Currently, the Special Needs Adoption Tax Credit is limited to adoptions of special needs children who are residents or wards of residents of Missouri at the time the adoption is initiated.

This section removes the requirements that such child being adopted be a special needs child or a resident or ward of a resident of Missouri. Therefore, a tax credit may be awarded to residents of this state who adopts <u>any</u> child or to a business who provides the funds necessary for an employee to adopt <u>any</u> child.

This section states that priority shall be given to applications to claim the tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated.

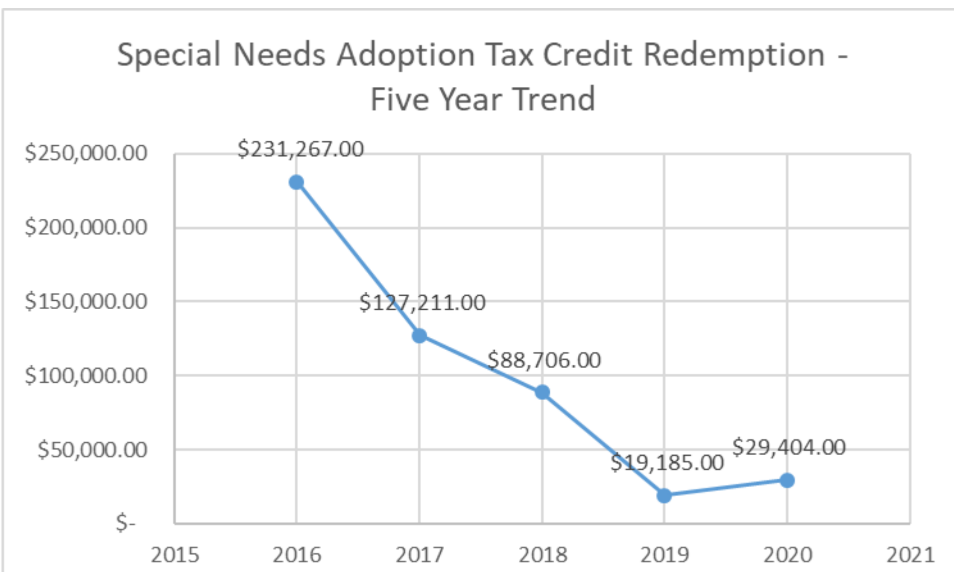
Oversight notes the definitions of "Handicap", "Disability", and "Special Needs Child" are modified. Oversight notes the tax credit program has a cap of $2 million which is not changed as a result of this section. Therefore, the changes to the definition(s) will not cause a fiscal impact.

Oversight assumes participation in the tax credit program under Section(s) 135.325 to 135.339 will increase as a result of the reduced requirements needed to receive the tax credit.

Oversight notes, per the Tax Credit Analysis submitted to Oversight by the Department of Revenue, the Special Needs Adoption Tax Credit had the following activity as it is currently administered:

Special Needs Adoption Tax Credit	FY 2018 ACTUAL	FY 2019 ACTUAL	FY 2020 ACTUAL	FY 2021 (year to date)	FY 2021 (Full Year – est.)	FY 2022 (Budget Year – est.)
Amount Redeemed	$88,706	$19,185	$29,404	*$0*	$45,000	$45,000

Oversight notes, based on information provided to Oversight by DOR, the three year average amount of Special Needs Adoption Tax Credit claimed and allowed on tax returns totals $45,765. Oversight further notes the five year average amount of Special Needs Adoption Tax Credit claimed and allowed on tax returns totals $99,155. Below is a visualization showing the five year redemption trend for the Special Needs Adoption Tax Credit:



Oversight assumes much of the downward trend shown above is a result of Senate Bill(s) 20, 15, and 19 of the 2013 Regular Session which modified the Special Needs Adoption Tax Credit program by prohibiting the Special Needs Adoption Tax Credit for the adoption of non-resident children.

Oversight assumes, if passed, this section would likely cause an upward trend in tax credit redemptions.

Oversight notes, per DOR, the estimated amount of Special Needs Adoption Tax Credit that will be claimed and allowed on tax returns during Fiscal Year 2022 totals $45,000. Oversight notes the modifications to the Special Needs Adoption Tax Credit proposed in this legislation would begin January 1, 2022. Tax returns for Tax Year 2022 would not be filed until after January 1, 2023 (Fiscal Year 2023).

Therefore, for purposes of this fiscal note, **Oversight** will show a reduction to GR equal to a range, beginning at $0 (participation in the tax credit program does not change) to the difference between the tax credit cap of $2 million and the estimated Fiscal Year 2022 redemption amount, as estimated by DOR, beginning in Fiscal Year 2023.

Section 143.1170 – Tax Deduction for Missouri Foster Parents

Officials from the **B&P** stated this section would grant foster parents an income tax deduction for the costs incurred related to providing care as a foster parent, beginning in Tax Year 2022. The total amount that may be granted is $2,500 for individuals filing single and $5,000 for individuals filing Married Filing Combined, so long as such individuals have been a foster parent for at least six months during the tax year. Individuals who have been foster parents for less than six months will be granted a pro rata portion of the maximum deduction. The following table shows the value of the tax deduction based on the length of fostering during a tax year.

Length of Fostering	Single	MFC
1 month	$417	$833
2 months	$833	$1,667
3 months	$1,250	$2,500
4 months	$1,667	$3,333
5 months	$2,083	$4,167
6 months or more	$2,500	$5,000

Based on information provided to B&P by the Missouri Department of Social Services, there are 13,875 children currently placed in 6,338 foster or relative home placements. There are 4,077 two parent foster homes and 2,261 one parent foster homes. For the purpose of this fiscal note, B&P assumes that two parent foster homes will file as married and one parent foster homes will file as single. Therefore, B&P estimates that 64.3% of foster homes are married filing joint and 35.7% are single.

Based on additional information provided by the Missouri Department of Social Services, there are currently 1,881 foster homes with placements less than six months. There are 4,457 foster homes with placements longer than six months.

Using the information and estimates above on the percent that are single versus married, B&P estimates that approximately 671 single individuals and 1,210 married individuals would qualify for a portion of the maximum deduction. B&P further estimates that approximately 1,590 single and 2,867 married foster parents will qualify for the maximum deduction.

B&P does not have information on the length of placements for foster homes that have operated for less than six months. Therefore, B&P will show a range where all foster parents qualify for one month of the deduction ($417 single and $833 married filing joint) and where all foster parents qualify for five months of the deduction ($2,083 single and $4,167 married filing joint). The following table shows the total estimated deductions that may be claimed during a tax year.

Foster Homes	Total Deduction	
	Low	High
Number Fosters < 6 months	$1,287,916	$6,439,584
Number Fosters > 6 months	$18,310,000	
Total Estimated Deduction Claims	**$19,597,916**	**$24,749,584**

However, deductions do not reduce revenues on a dollar for dollar basis, but rather in proportion to the top tax rate applied. Therefore, B&P will show the estimated impacts throughout the implementation of the tax rate reductions from SB 509 (2014).

Tax Rate	5.4%	5.3%	5.2%	5.1%
Low Estimate	$1,058,287	$1,038,690	$1,019,092	$999,494
High Estimate	$1,336,478	$1,311,728	$1,286,978	$1,262,229

Therefore, B&P estimates that this proposal could reduce TSR and GR by $1,058,287 to $1,336,478 (top tax rate 5.4%) or by $1,038,690 to $1,311,728 (top tax rate 5.3%) in Fiscal Year 2023. Once SB 509 (2014) has fully implemented, this proposal could reduce TSR and GR by $999,494 to $1,262,229 annually.

For purposes of this fiscal note, **Oversight** will report the impact for **each** fiscal year using an Individual Income Tax Rate of 5.3%.

Officials from **DOR** state, for all tax years beginning on or after January 1, 2022, a taxpayer shall be allowed a deduction for expenses incurred directly by the taxpayer in providing care as a foster parent to one or more children in this state. The deduction cannot exceed $2,500 per single taxpayer and $5,000 per combined return for those children in the taxpayer's custody for more than 6 months. The deduction amount shall be on a pro-rata basis determined by DOR if the child is placed for less than 6 months. DOR notes if at 6 months a person gets the full $2,500 as a single filer, then the proportional share would be approximately $417 per month the child is in the home. DOR assumed the monthly amounts as follows:

Length of Fostering	Single Filer	MFC
1 month	$417	$833
2 months	$833	$1,667
3 months	$1,250	$2,500
4 months	$1,667	$3,333
5 months	$2,083	$4,167

The Missouri Department of Social Services provided the following information regarding the foster care program:

- The total number of kids in foster care as of 11/30/2020 was 13,875.
- The number of kids in a foster home or relative placement for more than 6 months 6,087
- The number of kids in a foster home or relative placement for less than 6 months 4,950
- The number of foster homes or relative homes serving those kids 6,338
- Number of single person foster homes were 2,261
- Number of two person foster homes were 4,077
- Number of foster homes that served kids less than 6 months were 1,881
- Number of foster homes that served kids more than 6 months were 4,457

Using the information provided by the Missouri Department of Social Services, DOR was able to make the following assumptions to calculate the impact.

This section begins with the tax year starting January 1, 2022. The first returns filed claiming the deduction would start being received January 2023 (Fiscal Year 2023).

A deduction is not a reduction of tax on a dollar for dollar basis but on a proportional basis based on the Individual Income Tax rate.

Using the number and filing status of foster homes DOR was able to apportion the number of kids in the foster homes over/under six months to each taxpayer filing category.

Since the proposal allows taxpayers who have fosters kids more than 6 months to claim the maximum amount ($2,500 for singles and $5,000 for married filing joint) DOR was able to determine that the single filers could claim $3,975,000 and the married filing joint could claim $14,335,000 for a total of $18,310,000. Applying the 5.3% tax rate would result in a loss to GR of $970,430 ($18,310,000 * 5.3%).

Since foster homes that have kids less than 6 months can claim a deduction in a proportional amount, DOR estimated a range for these filers. DOR estimated an impact for the single filers of $279,583 to $1,397,917. This would result in a loss to GR of $14,818 to $74,090.

Those foster homes with kids less than 6 months and filing as married filing joint could claim from $1,008,333 to $5,041,667 for a resulting loss to GR of $53,442 to $267,208.

Combined, this section could potentially result in a loss to GR of $1,038,690 to $1,311,728.

DOR notes this section would require taxpayers claiming the deduction to provide an affidavit with their Missouri tax return. DOR will work with the Missouri Department of Social Services to create a form that foster parents can identify their eligibility for this deduction.

DOR anticipates the need for one (1) FTE Associate Customer Service Representative for every 14,700 errors created, one (1) FTE Associate Customer Service Representative for every 5,700 pieces of correspondence generated, one (1) part time employee for the new line item on tax forms, and a one-time cost of $2,000 for forms and programming changes.

Oversight notes DOR anticipates the need for two (2) FTE Associate Customer Service Representatives, one (1) part time employee, and a one-time cost of $2,000 for forms and programming changes.

Based on the estimates provided by DOR, the maximum number of returns in which the deduction would be claimed on totals 6,338. This is significantly less than the 14,700 errors needed to justify additional FTE. Oversight further assumes not every return will cause correspondence to be generated.

Therefore, for purposes of this fiscal note, Oversight assumes DOR can absorb the responsibilities associated with this new deduction with existing resources. Should DOR experience the number of errors and/or correspondence to justify additional FTE, DOR could seek additional FTE through the appropriation process.

Officials from the **Missouri Department of Social Services (DSS)** state this section would require DSS to create a process to calculate the number of months each foster parent had the child(ren) placed in their care. A file would be created of all foster parents that cared for children within the year. An affidavit would need to be printed and mailed to each foster parent identified for tax purposes post-marked on or before January 31st.

DSS assumes this section will cause IT consulting costs of approximately $158,211 in Fiscal Year 2022, $33,626 in Fiscal Year 2023, and $34,429 in Fiscal Year 2024.

For purposes of this fiscal note, **Oversight** will include DSS's IT cost's associated with this section of the proposed legislation.

Oversight notes this section creates an Individual Income Tax deduction for the expenses directly incurred by a taxpayer for providing care as a foster parent to one or more children in this state.

The Individual Income Tax deduction created is for all tax years beginning on or after January 1, 2022 and shall be equal to the amount of expenses directly incurred for providing care as a foster parent, but may not exceed $2,500 per taxpayer ($5,000 for individuals who file a tax return with a filing status of Married Filing Combined) provided the taxpayer provides care as a foster parent for at least six months during the tax year. Should a taxpayer provide care as a foster parent for less than six months during the tax year, the deduction shall equal a pro-rata amount which will be calculated using the maximum deduction of $2,500 per taxpayer.

DOR and DSS are to collaborate to establish and implement the procedures necessary to verify that a taxpayer is a foster parent.

This section would sunset December 31st, 2028.

Oversight notes pre-tax deductions do not reduce revenue(s) on a dollar-for-dollar basis. The estimated amount of deduction must be multiplied by the applicable tax rate to estimate the impact to state revenue(s)

The current Individual Income Tax rate is subject to be reduced by one-tenth of one percent (0.1%) three (3) more times pursuant to SB 509 (2014). A reduction in the rate of tax shall **only** occur if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least $150 million.

The Individual Income Tax rate for Tax Year 2021 is 5.4%

Oversight anticipates the Individual Income Tax rate will be reduced from 5.4% to 5.3% for **Tax Year 2022**. This assumption is largely based on the extended tax filing due date for Tax Year 2019 which pushed revenues that would have normally be recognized in Fiscal Year 2020 into Fiscal Year 2021.

Once the tax rate is reduced from 5.4% to 5.3%, two more rate reductions could occur in future, but separate, tax years, pursuant to SB 509 (2014).

Oversight does not anticipate the **fiscal years reported in this fiscal note** will be impacted by **additional** rate reductions. Therefore, for purposes of this fiscal note, the impact for **each** fiscal year reported will be calculated using an Individual Income Tax Rate of 5.3%.

For purposes of this fiscal note, Oversight will report the IT consulting costs, as stated by DSS and will report the fiscal impact (range), as a result of the tax deduction, as stated by B&P and DOR, beginning in Fiscal Year 2023.

Legislation as a Whole –

Officials from the **Office of the Secretary of State (SOS)** noted many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. 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 SOS for administrative rules is less than $5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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 SOS can sustain with SOS's core budget. Therefore, 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 the SOS could absorb the costs of printing and distributing regulations related to this proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

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

Oversight assumes JCAR will be able to administer any rules from this proposed legislation with existing resources.

Officials from the **Missouri Department of Health and Senior Services** and the **Office of State Courts Administrator** do not anticipate this proposed legislation will result in a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
Revenue Reduction – Section 135.327 – Increase in Adoption Tax Credit Participation	$0	$0 to ($1,955,000)	$0 to ($1,955,000)
Revenue Reduction – Section 143.1170 – Income Tax Deduction for Child Foster Care Services	$0	($1,038,690) to ($1,311,728)	($1,038,690) to ($1,311,728)
Cost – DSS – Section 143.1170 – IT Consulting	($158,211)	($33,626)	($34,429)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**($158,211)**	**($1,072,316) to ($3,300,354)**	**($1,073,119) to ($3,301,157)**

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

FISCAL IMPACT – Small Business

This proposed legislation could impact any small businesses that provides such small business's employee(s) the necessary funds to complete the adoption of a child. Such small business could then qualify for a tax credit that would reduce or eliminate such small business's tax liability.

FISCAL DESCRIPTION

This bill renames and alters the current "Special Needs Adoption Tax Credit Act" to the "Adoption Tax Credit Act".

Currently, any person residing in this state who proceeds in good faith with the adoption of a special needs child who is a resident or ward of a resident of this state is eligible for a $10,000 nonrefundable tax credit for nonrecurring adoption expenses for each child. Additionally, any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child is eligible to receive a tax credit of up to $10,000 for nonrecurring adoption expenses for each child, except that only one $10,000 credit is available for each special needs child that is adopted.

Beginning January 1, 2022, this bill removes the special needs and residency requirements for adoptions to be eligible for the tax credit. Priority will be given to applications to claim the tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated. The House Committee Substitute changes the bills definition of "handicap" to "disability" and modifies the definition of "special needs child". The perfected bill defines a "child" as any individual under 18 years old or over 18 but is physically or mentally incapable of caring for themselves.

This proposed legislation, beginning on January 1, 2022, allows a taxpayer a tax deduction for expenses incurred directly by the taxpayer in providing care as a foster parent to one or more children in this state. The amount of the deduction will be equal to the amount of expenses directly incurred by the taxpayer in providing such care; provided that: (1) If the taxpayer provides care as a foster parent for at least six months during the tax year, the total amount of the deduction claimed under this bill will not exceed $2,500 per taxpayer, or $5,000 per taxpayer if married and filing a combined return; and (2) If the taxpayer provides care as a foster parent for less than six months during the tax year, the maximum deduction limits described will still apply, but the limits will be reduced on a pro rata basis.

The Department of Revenue will collaborate with the Children's Division of the Department of Social Services in order to establish and implement a procedure to verify that a taxpayer claiming the deduction is a foster parent.

Each taxpayer claiming the deduction must file an affidavit with their income tax return. The affidavit will affirm that they are a foster parent and that they are entitled to the deduction in the amount claimed on their tax return.

The provisions of this bill sunset on December 31st, six years after the effective date.

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

SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division
Missouri Department of Commerce and Insurance
Missouri Department of Health and Senior Services
Missouri Department of Revenue
Missouri Department of Social Services
Office of Secretary of State
Office of State Courts Administrator
Joint Committee on Administrative Rules

Julie Morff
Director
March 8, 2021

Ross Strope
Assistant Director
March 8, 2021

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