COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3573H.02I
Bill No.: HB 1480
Subject: Business and Commerce; Department of Economic Development, Tax Credits; Tax Incentives
Type: Original
Date: January 15, 2024

Bill Summary: This proposal incentivizes advanced manufacturing.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund*	Up to ($200,330,002)	Up to ($200,325,031)	Up to ($200,330,297)
Total Estimated Net Effect on General Revenue	**Up to ($200,330,002)**	**Up to ($200,325,031)**	**Up to ($200,330,297)**

*Oversight reflect costs up to the maximum $200 million annual cap, 3 DOR FTE's ($35,880 annually), and 1 DED FTE ($74,664).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue - DOR	3 FTE	3 FTE	3 FTE
General Revenue - DED	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	**4 FTE**	**4 FTE**	**4 FTE**

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

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development (DED)** assume the Missouri Advanced Manufacturing Recruitment Act (§620.1920) begins January 1, 2025. The cap is $200,000,000 per tax year. A manufacturing company must invest at least $1,000,000,000 and create 500 or more new jobs. This program will require one (1) DED FTE to administer the program.

Oversight notes the DED is required to promulgate rules, to provide a report quarterly, after January 1, 2026 and thereafter.

Oversight notes officials from the DED assume the need for 1 FTE to administer the program. Oversight does not have any information to the contrary. Therefore, Oversight will reflect the cost for 1 FTE (Senior Economic Develop. Specialist at $74,664 annually) in the fiscal note, effective FY 2025.

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

Section 620.1920 creates the "Missouri Advanced Manufacturing Act" and the Missouri advanced manufacturing program. This program has an annual cap of $200M. Beginning on or after January 1, 2025, the Department of Economic Development (DED) can award to qualified manufacturing company a tax credit that equals up to twenty percent of manufacturing capital investment in four equal installments for up to five years. Eligible companies must submit an application outlining a capital investment of at least $1B. In order to receive benefits, the company must enter into an agreement with DED detailed performance requirements, repayment penalties for non-performance, and clawback provisions. Before January 1, 2026, DED must submit a quarterly report detailing benefits issued to the general assembly.

B&P notes that this proposal places the $200M cap on tax credits issued per year, not tax credits authorized per year. B&P further notes that while DED can only issue 25% of credits to a specific company, they could issue a total of $200M per year over all participating businesses. Therefore, the $200M issuance cap would be equivalent to an $800M authorization cap. In addition, if DED issues the full $200M of credits in the first year, no new businesses would be able to participate in this program until all existing business finish at year five.

B&P also notes that this tax credit allows for withholding retention, which does not require the business wait until their tax year 2025 return is filed in 2026. Therefore, this proposal could reduce TSR and GR by up to $200M beginning in FY25.

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

This proposal attempts to create a new tax credit program for qualified manufacturing companies. To be eligible the manufacturing company must make a $1 billion manufacturing capital investment and create at least 500 new jobs. The Department of Economic Development (DED) would be required to verify the $1 billion expenditure and verify the jobs. It should be noted that this does not require the jobs to be full-time; therefore, they could be part time or temporary.

For all tax years beginning on or after January 1, 2025, this proposal says that a qualified manufacturing company can receive a tax credit for up to $20% of their qualified investment. Therefore, a qualified company could receive at least $200M in credits for every $1 billion spent. This proposal states the credits are to be awarded in four equal allotments as they reach the designated percentage of investment made goals. They get the credits after 25% of the investment is made, 50% of the investment is made, 75% of the investment is made and when 100% of the investment is made. While DOR believe that most companies will make this investment over a period of four years, this proposal does not prohibit a company from making 50% of the investment in year 1 and getting the first 2 tax credit amounts in that year.

For fiscal note purposes, DOR will assume that each company will make the full investment of capital over four years and will receive the maximum allowed $50 million in credits each year. Therefore, should there be more than 4 companies qualifying for this credit, one company could not participate until year 5.

This proposal states that DED is allowed to issue no more than $200M in credits per tax year. While individuals have a tax year of January 1st through December 31st, many companies do not. There tax year is based on when they became a company. Therefore, the differences in tax years could be problematic for DED.

Fiscal Year	Credits Issued
Year 1	(Up to $200,000,000)
Year 2	(Up to $200,000,000)
Year 3	(Up to $200,000,000)
Year 4	(Up to $200,000,000)
Year 5	(Up to $200,000,000)

This proposal also states the tax credits are to be applied against taxes in Chapter 143 and Chapter 148; however, it does not exclude applying the credits to withholding taxes. These chapters contain the individual income tax and financial institutions taxes. Not excluding the credits from withholding tax would allow a company to use the credits to stop remitting withholding tax. Withholding tax is an employee's tax and is credited to their account, not a company's. The company is the remitter of the tax on behalf of their employees.

DOR would have to manually track the tax credits that are applied against withholding tax to ensure credit is made to the employee's account. With a minimum of $50 million in credits per one company with at least 500 employees DOR would need additional FTE to handle this tracking. DOR may need at least 2 FTE Associate Customer Service Rep at a salary of $35,880 each to handle this tracking.

Section 620.1920.12 states that before a company receives the tax credit or retains withholding tax it must have no tax due statements from DOR and the Department of Commerce & Insurance. Providing this information, would not have a fiscal impact on DOR. However, this implies that a company may be eligible for retaining withholding taxes in addition to the tax credits; not just using their credit against withholding owed. It appears no limits or restrictions were placed on the amount that can be retained. Therefore, this could result in additional revenue loss not in the above calculations.

This proposal creates a new tax credit that would require a new line being added to the Form MO-TC ($7,138), updates to DOR's website and changes to DOR's individual income tax computer system ($1,785) and FIT database ($1,785). These changes are estimated to cost $10,708.

DOR states their existing tax credit redemption staff is no longer able to take on any additional tax credits without additional resources. Due to the intensive knowledge of credits that is needed DOR is not able to use temporary staff to help with processing these returns. This proposal would require at least 1 FTE Associate Customer Service Rep at a salary of $35,880 to handle the redemptions.

Oversight notes §620.1920 12 requires DOR to verify delinquency (with additional stage agencies) of taxes paid by the prospective taxpayer and if any such a delinquency exist use the tax credit to reconcile the money owed. After the applicable delinquency is paid, the DOR should pay the remaining of the tax credit to taxpayer.

Oversight notes officials from the DOR assume the proposal will have direct administrative impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a cost for 2 FTE (Associate Customer Service Representative at $35,888) for tracking of withholding of qualified companies) and 1 FTE (Associate Customer Service Representative at $35,888) to process the returns.

Oversight notes that the proposal, Section 620.1920.3 denotes that a company is allowed a tax credit of up to 20% of a qualified manufacturing capital investment if the qualified manufacturing company:

a) Makes at least 1 billion of a qualified manufacturing capital investment
b) Creates at least 500 jobs

Oversight notes the qualified company has three years after the tax credit approval to meet the 25% threshold. After the 25% threshold is met, the company has 5 years to receive the full tax credit maximum. If the company makes the qualified investment the first year the company is automatically allowed to start receiving the tax credits, but the maximum amount of tax credit that taxpayer can receive is still the 20% of the total investment. (Investor with $1 billion is allowed to receive $200 million in tax credits in 25% increments over 5 year period)

Oversight notes recent article from Business Expansion Journal notes: Three global manufacturing companies are currently investing more than $1 billion in new facilities or expansions in different parts of the St. Louis region, and another $1.2 billion investment is planned on the downtown St. Louis Riverfront.

Oversight is not sure how many companies will be eligible in FY 2025 and thereafter, but for purpose of this fiscal note, Oversight will assume the maximum amount of tax credit ($200 million) may be awarded in FY 2025.

Oversight requested additional information from DED regarding Section 620.1920.12, withholding tax. DED officials noted - this new program only includes authority to award tax credits. The section is missing the usual language about the tax credits not being able to be used to offset withholdings in Ch 143. From a fiscal impact, the only benefit is tax credits and the tax credits are capped. As such, the maximum impact aside from FTE and associated costs is the tax credit cap amount.

Based on DED's, response, **Oversight** assumes the benefits is limited to tax credits and does not include the option for retained withholdings. Therefore, Oversight will limit the cost to the maximum $200 million cap in program benefits.

Lastly, if the manufacturer violates written agreement, DED may retrieve the money awarded in tax credits. Therefore, Oversight will note an unknown positive amount in revenue effective FY 2025.

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
GENERAL REVENUE			
Cost – Section 620.1920 Missouri Advanced Manufacturing Act - annual cap of $200 million	Up to ($200,000,000)	Up to ($200,000,000)	Up to ($200,000,000)
Revenue Gain – Section 620. 1920 7 (2) Claw back provision	Unknown	Unknown	Unknown
Costs – Section 620.1920 DED FTE			
Personnel Service	($62,220)	($76,157)	($77,680)
Fringe Benefits	($36,632)	($44,538)	($45,128)
Expense & Equipment	($19,121)	($6,022)	($6,143)
Total Costs – DED p.3	($117,973)	($126,717)	($128,951)
Total FTE	1 FTE	1 FTE	1 FTE
Costs – Section 620.1920 DOR FTE			
Personnel Service	($89,700)	($109,793)	($111,989)
Fringe Benefits	($71,688)	($86,810)	($87,612)
Expense & Equipment	($50,641)	($1,711)	($1,745)
Total Costs – DOR p.4	($212,029)	($198,314)	($201,346)
Total FTE	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**Up to ($200,330,002)**	**Up to ($200,325,031)**	**Up to ($200,330,297)**
Estimated Net FTE Change on General Revenue	4 FTE	4 FTE	4 FTE

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

FISCAL IMPACT – Small Business

A direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Beginning January 1, 2025, a qualified manufacturing company may be allowed a tax credit of up to 20% of a capital investment in property within the state of Missouri for a period of 5 years. Such capital investment must equal at least $1 billion and create 500 or more jobs. The total amount of tax credits issued annually under this section must not exceed 200 million dollars per tax year.

A qualified manufacturing company shall submit an application to the Missouri Department of Economic Development (DED) in order to be eligible for consideration. A qualified company shall also enter into a written agreement with DED that details performance requirements and repayment penalties in the event of non- performance. The agreement shall specify, at a minimum:

1) The committed number of retained jobs, payroll, and new qualified manufacturing capital investment for each year during the project period;

2) Clawback provisions, as may be required by the DED; and

3) Any other provisions DED may require.

In determining the amount of tax credits to award to a qualified company, DED shall consider the following factors:

1) The significance of the qualified manufacturing company's need for program benefits;

2) The amount of projected economic impact to the state of the project and the period in which the state would realize such net fiscal benefit;

3) The overall size and quality of the proposed project, including the number of new jobs, new qualified manufacturing capital investment, proposed wages, growth potential of the qualified manufacturing company, the potential multiplier effect of the project, and similar factors;

4) The financial stability and creditworthiness of the qualified manufacturing company;

5) The level of economic distress in the area; and

6) An evaluation of the competitiveness of alternative locations for the project facility, as applicable.

DED shall award tax credits to a qualified manufacturing company that satisfies the qualified manufacturing capital investment requirement in four separate installments of equal value, equivalent to 1/4 of the total agreed upon value of awarded incentive when the value reaches:

1) 25% of the agreed-upon qualified capital investment;
2) 50% of the agreed-upon qualified capital investment;
3) 75% of the agreed-upon qualified capital investment; and
4) 100% of the agreed-upon qualified capital investment.

Qualified manufacturing companies shall have three years after DED has approved a tax credit to meet 25% of its qualified manufacturing capital investment. Once the 25% threshold is met, a qualified company has five years to receive the full agreed-upon tax credits. If a qualified company does not meet the 25% threshold by year three, the agreement shall be deemed void.

A qualified company shall provide an annual report detailing the number of jobs and such other information as may be required by DED no later than 90 days prior to the end of the qualified company's tax year. Tax credits may be claimed within one year of the close of the tax year for which they were issued.

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

<u>SOURCES OF INFORMATION</u>

Office of Administration – Budget & Planning
Department of Revenue
Department of Economic Development
Office of the Secretary of State
Joint Committee on Administrative Rules

Julie Morff
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