COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0400H.02C
Bill No.: HCS for HB 350
Subject: Education, Elementary and Secondary; Department of Elementary and Secondary Education; Tax Credits; Treasurer, State; Disabilities
Type: Original
Date: April 20, 2023

Bill Summary: This proposal expands Missouri Empowerment Scholarship amounts for students with special needs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*/**	Up to ($57,012,929)	Up to ($171,131,358)	Up to ($170,995,704)
Total Estimated Net Effect on General Revenue	**Up to ($57,012,929)**	**Up to ($171,131,358)**	**Up to ($170,995,704)**

*Oversight notes the above cost includes the maximum cap in tax credits of $20 million per year as well as the potential add-on 15% adjustment ($3M) for childcare desert for three programs. Section(s) 135.1310 & 135.1325 "Child Care Contribution Tax Credit Act" and the "Employer-Provided Child Care Assistance Tax Credit Act" respectively, begin in FY 2024. Section 135.1350 "Child Care Providers Tax Credit" begins in FY 2025. Additionally, 10-20 FTE for DOR, DED and DESE. Lastly, cost includes DESE & DOR cost for ITSD (creation of database and software changes).
**Oversight notes total expenditure for the SUCCESS Tax Credit could potentially exceed $90,770,317 per year. Additionally DOR will need 10 additional FTE to process the tax credit at $31,200 per FTE, with fringe benefits and E&E annually. Oversight notes this tax credit is nonrefundable, nontransferable and may not be carried back or forward to other tax years.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
MO Empowerment Scholarship Accounts Fund	Up to $438,562	Up to $425,692	Up to $425,106
Total Estimated Net Effect on Other State Funds	**Up to $438,562**	**Up to $425,692**	**Up to $425,106**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue – DED	5 FTE	5 FTE	5 FTE
General Revenue – DESE	4 FTE	4 FTE	4 FTE
General Revenue – DOR	1 FTE	11 FTE	11 FTE
MO Empowerment Scholarship Accounts Fund - STO	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	**Up to 11 FTE**	**Up to 21 FTE**	**Up to 21 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 2024	FY 2025	FY 2026
Local Government	**$0 to Could exceed ($15,554,652)**	**$0 to Could exceed ($15,554,652)**	**$0 to Could exceed ($15,554,652)**

FISCAL ANALYSIS

ASSUMPTION

Sections 135.714 & 135.715 – Empowerment Scholarship Tax Credit Program

Officials from the **Office of Administration - Budget and Planning (B&P)** state the proposed language in section 135.714 would change the amount distributed per student but would not alter the maximum capacity outlined.

The changes in Section 135.715 would remove the existing $50 million annual authorization cap, but the $75 million cap in Section 135.713 would remain. Therefore, this proposal may reduce Total State Revenue and General Revenue by up to $25 million annually.

Officials from the **Department of Revenue (DOR)** state section 135.714 is cleanup language and will not fiscally impact DOR. Section 135.175 is removing the conflicting language about the tax credit cap that is also found in Section 135.713. This will not have any additional fiscal impact on DOR.

Oversight notes section 135.715, when enacted, reduced the cumulative amount of tax credits that could be authorized under the Missouri Empowerment Scholarship Accounts Program from $50 million to $25 million (first year) and from $75 million to $50 million (fully implemented). Oversight assumes this proposal would remove this reduction and increase the tax credit cap by $25 million annually as stated in section 135.713.

An increase of $25 million would allow an additional 3,922 students to receive scholarships (assuming each student received a scholarship valued at the state adequacy target or $6,375).

Oversight assumes there would be an offsetting savings to the Foundation Formula for scholarship students that choose to attend a private school. The average state aid payment per students is estimated at $3,966. Assuming 3,922 students transferred to private schools, Oversight estimates the savings to the Foundation Formula at approximately $15,554,652.

Officials from the **Office of the State Treasurer (STO)** state there are currently 4 budgeted FTEs and that if the program continues to grow more will be required. It's difficult to exactly state what might be required, but 1 additional FTE would be a fair estimate depending on the growth.

Oversight will show a cost to the MO Empowerment Scholarship Accounts Fund for up to 1 FTE (Research Analyst) with an estimated annual salary of $42,311.

Oversight notes 2% of qualifying contributions received by educational assistance organizations shall be deposited into the MO Empowerment Scholarship Accounts Fund. Based on the expansion of the cap by $25 million, Oversight estimates the MO Empowerment Scholarship Accounts Fund may receive up to $500,000 in additional revenue.

Section 135.1310 – Child Care Contribution Tax Credit Act

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

This section would create a tax credit for donations made to eligible childcare providers. The tax credits would begin for tax year 2023 and be equal to 75% of a qualifying donation. B&P notes that this provision may impact revenues beginning in FY24, when tax year 2023 annual income tax returns are filed.

A taxpayer may receive a tax credit of $100 ($175 donation) to $200,000 ($350,000 donation). The tax credits are non-refundable, unless a qualifying contributor is a 501(c)(3) non-profit. The tax credits may not be sold, transferred, or otherwise conveyed. The tax credits may be carried back one year and/or carried forward for up to five years.

Per subdivision 135.1310.8(1), no more than $20 million in tax credits may be authorized per year. However, per subdivision 135.1310.8(2) if the full $20 million is authorized, then an addition 15% ($3 million) may be authorized. The additional $3 million may only be used for contributions made to childcare facilities located within a childcare desert. Therefore, B&P estimates that this provision may reduce TSR and GR by up to $23 million annually beginning in FY24.

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

Starting January 1, 2023, a qualified taxpayer would be able to claim a tax credit against their state tax liability, in the amount of 75% of a qualified contribution to a qualified child care provider. The qualifying contribution could be cash, stocks, bonds or securities. To be a qualified child care provider the provider must be licensed under Section 210.221. The minimum amount of the credit that may be issued in credit is $100 ($175 donation) while the maximum qualifying amount of the credit is limited to $200,000 ($350,000 donation) annually.

The child care provider receiving the contribution must issue a written verification of the contribution to the taxpayer and file a copy with the Department of Economic Development (DED). This proposal allows the credit to be recaptured if the contribution is not used for providing child care.

This credit is not refundable, and cannot be transferred or sold but they can be carried forward up to five years or carried back one year. The credits are to be distributed on a first-come, first-serve basis with a cumulative $20 million annual cap. This proposal will sunset on December 31, 2029.

This proposal allows that if the cumulative $20 million cap is authorized in a single year, then the credit can be increased by 15%. However, the increased amount is reserved for child care providers in a child care desert. It should be noted that the cap resets to $20 million each year.

This proposal does establish a provision in Section 135.1310.7, that should a tax exempt organization as defined by the IRS qualify to receive the credit, they would be able to have the credit refunded to them without having a state tax liability. This allows DOR to establish a procedure should such an organization qualify for the credit.

This provision says the credit is to begin with tax years beginning on or after January 1, 2023. However, this proposal would not be effective until August 28, 2023 (FY 2024) and contributions could not be made nor credits distributed until after that date. This could impact the Department starting when the tax returns are filed in January 2024.

Fiscal Year	Loss to General Revenue
2024	(Could exceed $20,000,000)
2025	(Could exceed $20,000,000)
2026	(Could exceed $20,000,000)

This would be a new income tax credit and it would be added to the MO-TC and information about the credit would be added to DOR's website and changes would be needed in the individual income tax system. DOR notes the costs to update these items is $7,193. DOR assumes DOR will need at least 1 Associate Customer Service Representative ($31,200) to handle the new credits being redeemed. Additional FTE may be needed in the future if the number of new credit redemptions exceed the following amounts the Department would ask for additional FTE through the budget process if justified.

- 1 FTE Associate Customer Service Representative for every 6,000 credits redeemed
- 1 FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated

In response to a similar proposal, Perfected HCS HB 870 (2023), officials from the **Department of Economic Development (DED)** assumed this tax credit will be administered by the Department of Economic Development.

Child Care Desert - A census tract with poverty rate at least 20% or a median family income of less than 80% statewide average and at least 500 people or 33% of the population are located at least 1/2 mile away from a child care provider in urbanized areas or at least 10 miles away in rural areas.

Tax years beginning on or after 1/1/2023. Tax credit for contribution program. 75% tax credits. Minimum amount of any tax credit issued cannot be less than $100 and cannot exceed $200K per tax year. Credits are not transferable, sellable or refundable. 5-year carry forward period. Tax credits approved first-come-first-served.

Program cap: $20M per CY. If the full amount is authorized in a CY, the cap for the next CY will be increased by 15%. That increased amount must be used for child care providers located in a child care desert. The DED Director must publish the new amount. Contribution verifications must be turned into DED with 60 days of the contribution date. Donations must be used for child care for youth age 12 and younger, including by acquiring or improving child care facilities, equipment, or services, or improving staff salaries, staff training, or the quality of child care.

The department may promulgate rules. This program will sunset on 12/31/2029, unless reauthorized by the general assembly.

Oversight notes that Section 135.1310 "Child Care Contribution Tax Credit Act" allows taxpayers (corporations, charitable organizations which are exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax, and individuals or partnerships subject to the state income tax) to claim tax credit against state tax liability for the tax year in which a verified contribution was made.

Oversight notes the taxpayer is allowed to claim credit against the taxpayer's state tax liability for the tax year in which a verified contribution was made in an amount equal to up to seventy-five percent of the verified contribution to a childcare provider

Oversight notes that under this section the minimum amount of any tax credit issued shall not be less than one hundred dollars, and shall not exceed two hundred thousand dollars per tax year.

Oversight notes that any childcare facility receiving funds from taxpayer must provide the taxpayer with contribution verification. In case where such a facility fails to do so it must provide the taxpayer with refund of his or her contribution.

Oversight notes that there could be a minimum of 115 ($23 million / $200,000) and maximum of 230,000 ($23 million / $100) individual claims.

Oversight notes that the cumulative amount of tax credits authorized pursuant to this section shall not exceed twenty million dollars for each calendar year. Additionally, this section allows for additional 15% ($3 million add-on) in tax credits to be issued specifically to childcare facilities located in childcare deserts in Missouri. Therefore, Oversight will note the overall potential impact under the Section 135.1310 could reach Up to $23 million annually beginning in FY 2024.

Section 135.1325 Employer Provided Child Care Assistance Tax Credit

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

This section would create a tax credit for qualified childcare expenditures. The tax credits would begin for tax year 2023 and be equal to 30% of qualifying expenditures. B&P notes that this provision may impact revenues beginning in FY24, when tax year 2023 annual income tax returns are filed.

A taxpayer may receive a tax credit of up to $200,000 ($260,000 expenditures). The tax credits are non-refundable, unless a qualifying taxpayer is a 501(c)(3) non-profit. The tax credits may not be sold, transferred, or otherwise conveyed. The tax credits may be carried back one year and/or carried forward for up to five years.

Per subdivision 135.1325.7(1), no more than $20 million in tax credits may be authorized per year. However, per subdivision 135.1325.7(2) if the full $20 million is authorized, then an addition 15% ($3 million) may be authorized. The additional $3 million may only be used for childcare facility expenditures located within a childcare desert. Therefore, B&P estimates that this provision may reduce TSR and GR by up to $23 million annually beginning in FY24.

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

Starting January 1, 2023, a qualified taxpayer would be able to claim a tax credit in the amount of 30% of a qualified child care expenditures paid or incurred with respect to a child care facility. This proposal identifies what is a qualifying expenditure and facility. The maximum amount of credits that can be issued to any taxpayer is $200,000 annually.

This credit is not refundable, and cannot be transferred or sold but they can be carried forward up to five years and carried back one year. The credits are to be distributed on a first-come, first-serve basis with a cumulative $20 million annual cap. This proposal will sunset on December 31, 2029.

This proposal allows that if the cumulative $20 million cap is authorized in a single year, then the credit can be increased by 15%. However, the increased amount is reserved for child care providers in a child care desert. It should be noted that the cap resets to $20 million each year.

This proposal does establish a provision in Section 135.1325.6, that should a tax exempt organization as defined by the IRS qualify to receive the credit, they would be able to have the credit refunded to them without having a state tax liability. This allows DOR to establish a procedure should such an organization qualify for the credit.

This provision says the credit is to begin with tax years beginning on or after January 1, 2023. However, this proposal would not be effective until August 28, 2023 (FY 2024) and contributions could not be made nor credits distributed until after that date. This could impact the Department starting when the tax returns are filed in January 2024.

Fiscal Year	**Loss to General Revenue**
2024	(Could exceed $20,000,000)
2025	(Could exceed $20,000,000)
2026	(Could exceed $20,000,000)

This would be a new income tax credit and it would be added to the MO-TC and information about the credit would be added to their website and changes would be needed in the individual income tax system. DOR notes the costs to update these items is $7,193. DOR assumes the Associate Customer Service Representative needed for the previous credit would also handle this one. Additional FTE may be needed in the future if the number of new credit redemptions exceed the following amounts. They would ask for additional FTE through the budget process if justified.

- 1 FTE Associate Customer Service Representative for every 6,000 credits redeemed
- 1 FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated

Oversight notes that Section 135.1325 allows for tax credit associated with the expenditures paid or incurred with respect to a child care facility.

Oversight notes if all current childcare facilities file a claim under this proposal, there could be as many as 2,500 claims, but potentially many more new developed child care facilities, that would need to be processed by the DOR. (See DESE response for current totals of licensed childcares in MO below - page 9)

Oversight notes that DOR request is reasonable, given the uncertainty of the actual utilization of the tax credits at this time, and will note the cost of 1 FTE (Associate Customer Service Representative at $31,200 annually) to the general revenue in the fiscal note beginning FY 2024.

However, **Oversight** notes the DOR might, in the future, be requesting two additional FTE to appropriately handle the potentially greater amount of tax credit returns, customer service questions, and process of the tax credits as specified in Section(s) 135.1310, 135.1325 & 135.1350.

Lastly, **Oversight** will note the one-time cost at $28,772, associated with the updates of DOR's income tax system for all sections within the proposal, in the fiscal note beginning FY 2024.

In response to a similar proposal, Perfected HCS HB 870 (2023), officials from the **Department of Economic Development (DED**) note:

This tax credit will be administered by the Department of Economic Development and it applies to tax years beginning on or after 1/1/2023.

Program cap: $20M per calendar year. If the full amount is authorized in a CY, the cap for the next CY will be increased by 15%. That increased amount must be used for child care providers located in a child care desert. The DED Director must publish the new amount. A tax credit for employers' eligible child care assistance expenditures. The tax credit is for up to 30% of child care expenditures, with a total taxable year limit of $200,000 per taxing entity. Credits are not transferable, sellable or refundable. 5-year carry forward period and 1-year carry back period. Tax credits approved first-come-first-served.

The department may promulgate rules.

This program will sunset on 12/31/2029, unless reauthorized by the general assembly.

135.1350. creates the "Child Care Providers Tax Credit Act". Administered by the Department of Elementary and Secondary Education.

DED will need to hire 5.0 FTE to administer the two DED programs included in the act. The two DED administered tax credit programs will likely reduce annual TSR by $20M each ($40M total)

Oversight notes that per article from Childcare Aware of Missouri, as shown in the chart below, since the pandemic, of the 115 counties in Missouri, the number of childcare desert counties have increased by 49%.

	February 2020	**June 2020**	**Increase (%)**
Total Counties	115	115	
Total Population	5,988,927	5,988,927	
Desert Counties	63	94	49%

Oversight notes that recent research from Child Care Landscape in Missouri noted there were 3,301 open child care programs in CCAMO's database prior to the pandemic. (These include fully licensed programs and home care providers who do not require licensing.) As of late July 2020, the number of open programs decreased to 2,223 and most are operating at partial capacity. Many programs closed temporarily at the beginning of the pandemic.

<u>Section 135.1350 Employer Child Care Providers Tax Credit Act</u>

Officials from **Office of Administration - Budget and Planning** state this section would create two tax credits starting in tax year 2024. For childcare providers with at least three employees, the provider may claim a tax credit equal to qualified withholdings and/or a tax credit equal to 30% of capital expenditures. A childcare provider must make at least $1,000 in capital expenditures to claim the capital expenditures credit. B&P notes that this provision may impact revenues beginning in FY25, when tax year 2024 annual income tax returns are filed.

A taxpayer may receive a maximum tax credit of up to $200,000 per year. B&P notes that the $200,000 per taxpayer limit is for both tax credits. Therefore, a taxpayer may either use $200,000 in withholding taxes or $1,000 in capital expenditures and any combination in between to claim the maximum credit.

The tax credits are non-refundable, unless a qualifying taxpayer is a 501(c)(3) non-profit. The tax credits may not be sold, transferred, or otherwise conveyed. The tax credits may be carried back one year and/or carried forward for up to five years.

Per subdivision 135.1350.7(1), no more than $20 million in tax credits may be authorized per year. However, per subdivision 135.1350.7(2) if the full $20 million is authorized, then an addition 15% ($3 million) may be authorized. The additional $3 million may only be used for childcare facility expenditures located within a childcare desert. Therefore, B&P estimates that this provision may reduce TSR and GR by up to $23 million annually beginning in FY25.

Officials from **Department of Revenue (DOR)** state, starting January 1, 2024 a qualified child care provider with three or more employees would be able to claim a tax credit in the amount equal to the child care provider's eligible employer withholding tax and may claim another credit in an amount up to 30% of the child care provider's capital expenditures. To be a qualified child care provider the provider must be licensed under Section 210.221. Capital expenditures must be greater than $1,000 to qualify for the credit. No child care provider shall receive more than $200,000 in tax credits annually.

To claim the credit the child care provide must submit an application to the Department of Economic Development (DED). If DED approves the application, they will issue the tax credits.

These two credits are not refundable, and cannot be transferred or sold but they can be carried forward up to five years or carried back one year. The credits are to be distributed on a first-come, first-serve basis with a shared cumulative $20 million annual cap. This proposal will sunset on December 31, 2029.

This proposal allows that if the cumulative $20 million cap is authorized in a single year, then the credit can be increased by 15%. However, the increased amount is reserved for child care providers in a child care desert. It should be noted that the cap resets to $20 million each year.

This proposal does establish a provision in Section 135.1310.6, that should a tax exempt organization as defined by the IRS qualify to receive the credit, they would be able to have the credit refunded to them without having a state tax liability. This allows DOR to establish a procedure should such an organization qualify for the credit.

This provision says the credit is to begin with tax years beginning on or after January 1, 2024. This could impact the Department starting when the tax returns are filed in January 2025.

Fiscal Year	Loss to General Revenue
2024	$0
2025	(Could exceed $20,000,000)
2026	(Could exceed $20,000,000)

This would be two new income tax credits and they would be added to the MO-TC and information about the credits would be added to their website and changes would be needed in the individual income tax system. DOR notes the costs to update these items is $14,386. DOR assumes the Associate Customer Service Representative needed for the previous credits would also handle these. Additional FTE may be needed in the future if the number of new credit redemptions exceed the following amounts. DOR would ask for additional FTE through the budget process if justified.

• 1 FTE Associate Customer Service Representative for every 6,000 credits redeemed
• 1 FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated

Officials from the **Department of Elementary and Secondary Education (DESE)** assume Section 135.1350 proposes to develop the "Child Care Providers Tax Credit Act." This tax credit is designed to support childcare providers with a tax credit towards eligible employer withholding tax and capital expenditure investments. DESE assumes a new tax credit section would be required to administer this program. The team: one coordinator, one administrative support assistant and two program specialists, would be responsible for approval issuance, and monitoring of the credits for approximately 2,500 licensed childcare providers in the state.

Oversight notes Section 135.1350 "Child Care Providers Tax Credit Act" beginning on or after January 1, 2024, allows a childcare provider with three or more employees to claim a tax credit in an amount equal:

- to the child care provider's eligible employer withholding tax, and
- up to thirty percent of the child care provider's capital expenditures

Oversight notes that no tax credit for capital expenditures shall be allowed if the capital expenditures are <u>less than one thousand dollars</u> and the amount of any tax credit issued under this section shall not exceed <u>two hundred thousand dollars</u> per childcare provider per tax year.

Oversight notes that the cumulative amount of tax credits authorized pursuant to this section shall not exceed twenty million dollars for each calendar year. Additionally, this section allows for additional 15% ($ 3 million add-on) in tax credits to be issued specifically to childcare facilities located in childcare deserts in Missouri. Therefore, Oversight will note the overall potential impact under the Section 135.1350 could potentially reach <u>Up to $23 million</u> annually beginning in <u>FY 2025</u>.

Oversight notes all childcare providers claiming the tax credit must submit an application for the tax credit for preliminary approval to DESE.

Oversight notes this Section states that DESE may promulgate rules and adopt statements of policy, procedures, forms and guidelines to implement and administer the provisions of this section.

Oversight notes the DESE states it will need 1 Program Coordinator ($68,808 annually), 1 Administrative Support Assistant, and 2 Program Specialists in order to full implement and comply with the required provisions under this Section. **Oversight** does not have any information to the contrary. Therefore, Oversight will note the DESE projected FTE costs in the fiscal note beginning FY 2025.

DESE – ITSD Cost

Officials from the **Department of Elementary and Secondary Education (DESE)** note:

DESE is a consolidated agency under OA-ITSD. It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity. This section will require DESE to administer the new Child Care Providers Tax Credit. DESE assumes the administration of this new credit would require the development and programming of a new system to track the tax credit applications, approvals and monitoring data. DESE estimates a cost of **$500,000** for the development and initial programming with ongoing annual costs of **$50,000**.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a DESE ITSD impact in FY 2024 at $500,000 and $50,000 annually thereafter in the fiscal note.

Oversight notes this Section allows for taxpayers, on or after January 1 2024, to request DESE to issue preliminary findings for the potential tax credit redemption authorization prior to tax credit being given. Therefore, **Oversight** will note the onset of FTE and ITSD cost impact beginning in FY 2024.

Section 135.2560 SUCCESS Tax Credit

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

Beginning tax year 2024, this proposal would grant a tax credit for qualifying dependent care expenses. A tax credit of $1,800 shall be granted for expenses incurred for children ages 0-1 and a tax credit of $1,200 shall be granted for expenses incurred for children ages 2-5. B&P notes that this tax credit is non-refundable, cannot be carried forward or back, and is not transferrable.

In order to qualify for this deduction, a taxpayer must qualify for the federal dependent care deduction. In addition, taxpayers must have a Missouri adjusted gross income (MAGI) of $75,000 ($150,000 married filing combined) or less. Furthermore, an eligible taxpayer may only claim expenses for up to two children per year.

Based on IRS data there were 95,930 Missouri resident income tax returns that claimed the child and dependent credit in tax year 2020. Based on tax return data, B&P notes that on average, single and married filing combined returns claim one child dependent, while head of household returns claim an average of two dependents. Therefore, B&P estimates that 81,160 children could qualify under this proposal.

Using the 2020 U.S. Census population counts, B&P estimates that of the 81,160 children 26,424 are ages 0-1 and 54,736 are ages 2-5. Table 1 shows the estimated number of children by filing status and age.

Table 1: Estimated Qualifying Children by Filing Status

Filing Status	Children 0-1	Children 2-5	Total
Single	687	1,420	2,107
Head of Household	8,093	16,763	24,856
Married Filing Joint	17,644	36,553	54,197
Total	26,424	54,736	**81,160**

Using actual income tax liability data, B&P estimates that this proposal could reduce TSR and GR by $90,770,317 annually, beginning FY25. Table 2 shows the estimated impact by filing status.

Table 2: Estimated Tax Credits by Filing Status

Filing Status	Est. Credits
Single	$1,510,037
Head of Household	$18,046,508
Married Filing Joint	$71,213,772
Total Credits	**$90,770,317**

Officials from **Department of Revenue (DOR)** state this proposal allows a taxpayer that qualifies for the federal child and dependent care tax credit to apply to receive a tax credit on their Missouri return for the same qualifying child. The credit is for expenses paid out for child care. Starting January 1, 2024, a qualified taxpayer can receive a tax credit of $1,800 for each child under the age of 2 and $1,200 for each child ages 2 to 5 for which they received the federal credit. The tax credit is not refundable, and must be reported as the last credit on their return. The credit is nontransferable, and shall not be carried forward or back.

This proposal added a provision that restricted the credit to those with a Missouri adjusted gross income of less than $75,000 for those filing single, head of household and qualified widow(er) and $150,000 for those filing married filed combined. Since the taxpayer must still qualify for the federal tax credit to be eligible for the Missouri credit, the Department used the IRS published data for tax year 2020 that shows 95,930 tax returns claimed the federal tax credit. Based on tax return data, those that file a single return and those that file a married filing combined return, on average report one dependent child while those filing as head of household report two children. Therefore, DOR estimated that 81,160 children could qualify under this proposal.

Using the 2020 U.S. Census population counts by age, DOR was able to determine that the 81,160 qualifying kids would result in 26,424 kids are ages 0-1 and 54,736 kids are ages 2-5. Using their actual tax liability data, DOR was able to estimate the impact to general revenue of $90,770,317 starting in FY 2025 when the first returns are filed claiming the tax credit.

This proposal will require changes to the MO-1040 and MO-TC tax forms, website and individual income tax computer system. These costs are estimated at $14,386.

DOR notes this proposal requires this credit to be nonrefundable and to be applied as the last credit. Additionally, while the taxpayer must qualify under the federal program to be eligible for this credit this credit is calculated on the taxpayer's eligible employment related expenses and not the amount of federal credit they received. This will result in the staff needing to manually review each return to see if they qualify and to adjust the returns so this credit is applied last. The Department's temporary staff is not authorized to manually adjust returns only full time employees. Based on the estimate of over 81,160 returns, DOR would need one FTE for every 6,000 tax returns. This will result in DOR needing at least 10 Associate Customer Service Representatives ($31,200).

Oversight notes the proposal allows tax credits for two groups of filing with limits given as follow:

a) $1,800 for children under 1 to under 2 years of age
b) $1,200 for children 2 to under 6 year of age

Oversight used Department of Health and Senior Services data in order to calculate the probable participation as follow:

Children Age	2018	2019	2020
Under 1 to 2 y/o	221,817	217,996	217,071
2 y/o only	74,757	73,808	74,162
under 1 but under 2 y/o	**147,060**	**144,188**	**142,909**
2 to 6 y/o	375,745	375,031	376,627
6 y/o	75,023	75,161	76,052
2 but under 6 y/o	**300,722**	**299,870**	**300,575**
Total children under 1 to under 2 and 2 to under 6 y/o	**447,782**	**444,058**	**443,484**
under 1 but under 2 y/o	33%	32%	32%
2 but under 6 y/o	67%	68%	68%

children apportionment per family	186,576	185,024	184,785
2.4 children per family in this period			
w/ Labor participation 63.1% in 2020	117,729	116,750	116,599
Labor Participation 2020			
under 1 but under 2 y/o	**38,665**	**37,909**	**37,573**
2 but under 6 y/o	**79,065**	**78,841**	**79,026**
under 1 but under 2 y/o	$ 69,596,145.00	$ 68,236,971.00	$ 67,631,684.25
2 but under 6 y/o	$ 94,877,791.00	$ 94,608,985.00	$ 94,831,412.50
Total tax credits for both groups	$ 164,473,936	$ 162,845,956	$ 162,463,097
Total Average for the 2018-2020 period	**$ 163,260,996**		

Oversight notes the total tax credit expenditure of $163,260,996 would be applicable if all parents file tax return and have liability with minimum of $1,200 or $1,800 dollar because the tax credit, as per Section 135.2560.3 and .4, is not refundable and not transferable.

Oversight notes that according to the IRS statistics there were 3,009,120 tax filings and 2,105,890 filings have the type of tax liability that would be applicable to the proposal.

Oversight notes that 69.9 percent (2,105,890/3,009,890) of filers in 2020 would be potentially eligible for the tax credit.

Oversight estimates the total tax credit that could have been awarded in 2020 would have been $114,119,436 ($163,260,996 x 69.9 percent), thus Oversight assumes, since the DOR provided estimate is based on Missouri taxpayer data, the DOR & B&P projected impact has a greater level of accuracy. Therefore, **Oversight** will note the DOR & B&P estimate in the fiscal note beginning in FY 2025.

Oversight notes the DOR assumes the need for ten (10) Associate Customer Service Representatives (at $31,200 annually) based on the estimate of the 130,000 returns annually. Therefore, Oversight will note the estimated cost of FTE (for 6 months) in the fiscal note beginning FY 2025.

Section 166.700 & 166.705

Officials from the **Office of Administration - Budget and Planning (B&P)** state the additional language in section 166.700 adds a definition to 'qualified school' that includes public/private preschool programs for 3-5 year old students. It also changes the definition of 'qualified student' to include preschool students under IEP and free and reduced price lunch language. As this section does not change the cap on the existing program, there is no impact to total state revenues or to the calculation under Article X, Section 18(e) for this section.

The proposed language in section 166.705 would increase the number of students eligible for assistance by including 3-5 year old children, but would not alter the maximum capacity for the program.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Social Services** 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 this agency.

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 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
Costs – Section 135.715 – Empowerment Scholarship Tax Credit Cap – p.3-5	Up to ($25,000,000)	Up to ($25,000,000)	Up to ($25,000,000)
Savings – Section 135.715 – savings to the foundation formula from more students being eligible under the expanded cap – p.3-5	$0 to Could exceed $15,554,652	$0 to Could exceed $15,554,652	$0 to Could exceed $15,554,652
Cost – Section 135.1310 "Child Care Contribution Tax Credit Act" - p.4-7	Up to ($23,000,000)	Up to ($23,000,000)	Up to ($23,000,000)
Cost – Section 135.1325 "Employer Provided Child Care Assistance Tax Credit Act" – p. 7-11	Up to ($23,000,000)	Up to ($23,000,000)	Up to ($23,000,000)
Costs – DED Section(s) 135.1310 & 135.1325 (p.9)	Up to…	Up to…	Up to…
Personnel Service	($311,100)	($380,786)	($388,402)
Fringe Benefits	($181,324)	($220,382)	($223,221)
Expense & Equipment	($71,496)	($22,272)	($22,717)
Total Costs – DED	($563,920)	($623,440)	($634,340)
FTE Change	5 FTE	5 FTE	5 FTE
Cost – Section 135.1350 "Child Care Providers Tax Credit Act." (p.10-12)	$0	Up to ($23,000,000)	Up to ($23,000,000)
Costs – DESE Section(s) 135.1350 (p.11)	Up to…	Up to…	Up to…
Personnel Service	($226,032)	($230,553)	($235,164)
Fringe Benefits	($146,903)	($148,594)	($150,319)
Expense & Equipment	($61,568)	($44,167)	($45,050)
Total Costs – DESE	($434,503)	($423,313)	($430,533)
FTE Change	4 FTE	4 FTE	4 FTE
Cost – DESE – ITSD New Database and ongoing maintenance (p.12)	Up to ($500,000)	($50,000)	($50,000)

Reduction in Revenue – Section 135.2560 "SUCCESS Tax Credit"	$0	Up to ($90,770,317)	Up to ($90,770,317)
Costs – DOR – Section(s)135.1325 - (1 FTE) & 135.2560 - (10 FTE)		Up to…	Up to…
Personnel Service	($26,000)	($350,064)	($357,065)
Fringe Benefits	$0	($299,149)	($301,703)
Expense & Equipment	($43,158)	($169,727)	($6,398)
Total Costs -	($69,158)	($818,940)	($665,166)
FTE Change – DOR (p.8 & 14)	1 FTE	11 FTE	11 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**Up to ($57,012,929)**	**Up to ($171,131,358)**	**Up to ($170,995,704)**
Estimated Net FTE Change on General Revenue	10 FTE	20 FTE	20 FTE
MO EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND (0278)			
Revenue Gain – 2% of qualifying contributions to educational assistance organizations from the expanded cap - §135.715 – p.4	Up to $500,000	Up to $500,000	Up to $500,000
Costs – STO - §135.715 - p.4	Up to	Up to	Up to
Personnel Service	($35,259)	($42,734)	($43,161)
Fringe Benefits	($26,179)	($31,574)	($31,733)
Total Costs -	($61,438)	($74,308)	($74,894)
FTE Change	Up to 1 FTE	Up to 1 FTE	Up to 1 FTE
ESTIMATED NET EFFECT ON THE MO EMPOWERMENT SCHOLARSHIP ACCOUNTS FUND	**Up to $438,562**	**Up to $425,692**	**Up to $425,106**
Estimated Net FTE Change on General Revenue	Up to 1 FTE	Up to 1 FTE	Up to 1 FTE

FISCAL IMPACT – Local Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
SCHOOL DISTRICTS			
Loss - Section 135.715 – from additional students transferring to private schools – p.3-4	$0 to Could exceed ($15,554,652)	$0 to Could exceed ($15,554,652)	$0 to Could exceed ($15,554,652)
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	**$0 to Could exceed ($15,554,652)**	**$0 to Could exceed ($15,554,652)**	**$0 to Could exceed ($15,554,652)**

FISCAL IMPACT – Small Business

Small businesses that qualify for the credits will be positively impacted.

FISCAL DESCRIPTION

MISSOURI EMPOWERMENT SCHOLARSHIPS (Sections 135.714, 135.715, 166.700, and 166.705 RSMo.)

Currently, the Missouri Empowerment Scholarship grants are capped at the state adequacy target (SAT) and calculated by the Department of Elementary and Secondary Education.
This bill increases the grant amount for pupils with limited English proficiency by 160% over the SAT, for pupils qualifying for free and reduced price lunches 125% over the SAT, and for special education pupils by 175% over the SAT.

The bill removes language that imposed a $25 million dollar cap in the first year of the program and a cumulative $50 million dollar cap on the tax credit allowance.

The bill expands the current definitions for a "qualified school" and a "qualified student" in the program to include public and private preschool programs and children that are 3 years of age but not eligible for kindergarten.

CHILD CARE CONTRIBUTION TAX CREDIT ACT (Section 135.1310)

This bill establishes the "Child Care Contribution Tax Credit Act". Beginning January 1, 2023, a taxpayer may claim a tax credit for verified contributions to a child care provider in an amount up to 75% of the contribution. The tax credit issued shall not be less than $100, and shall not exceed $200,000 per tax year.

To be eligible for the tax credit, a donation must be:

(1) Used directly by a child care provider to promote child care for children 12 years of age or younger;
(2) Made to a child care provider in which the taxpayer or a person related to the taxpayer does not have a direct financial interest; and
(3) Not made in exchange for care of a child or children in the case of an individual taxpayer that is not an employer making a contribution on behalf of its employees.

The tax credits authorized by this section shall not be refundable and shall not transferred, sold, or otherwise conveyed. The cumulative amount of tax credits authorized shall not exceed $20 million for each calendar year. If the maximum amount of tax credits allowed in any calendar year is authorized, the maximum amount of tax credits shall be increased by 15%, provided that all such increases of tax credits shall be reserved for contributions made to child care providers located in a child care desert.

The program sunsets on December 31, 2029.

EMPLOYER PROVIDED CHILD CARE ASSISTANCE TAX CREDIT ACT (Section 135.1325)

This bill also establishes the "Employer Provided Child Care Assistance Tax Credit Act". Beginning January 1, 2023, a taxpayer may claim a tax credit in an amount equal to 30% of the qualified child care expenditures paid or incurred with respect to a child care facility. The maximum amount of any tax credit issued shall not exceed $200,000 per taxpayer per tax year. A facility shall not be treated as a child care facility with respect to a taxpayer unless the following conditions have been met:
(1) Enrollment in the facility is open to employees of the taxpayer during the tax year; and
(2) If the facility is the principal business of the taxpayer, at least 30% of the enrollees of such facility are dependents of employees of the taxpayer.

The tax credits shall not be refundable, transferable, sold, assigned, or otherwise conveyed. The cumulative amount of tax credits shall not exceed $20 million for each calendar year. If the maximum amount of tax credits allowed in any calendar year is authorized, the maximum amount of tax credits shall be increased by 15%, provided that all such increases of tax credits shall be reserved for contributions made to child care providers located in a child care desert.

The program sunsets on December 31, 2029.

CHILD CARE PROVIDERS TAX CREDIT ACT (Section 135.1350)

This bill also establishes the "Child Care Providers Tax Credit Act". Beginning January 1, 2024, a child care provider with three or more employees may claim a tax credit in an amount equal to the child care provider's eligible employer withholding tax, and may also claim a tax credit in an amount up to 30% of the child care provider's capital expenditures.

No tax credit for capital expenditures shall be allowed if the capital expenditures are less than $1,000. The amount of any tax credit issued shall not exceed $200,000 per child care provider per tax year. To claim a tax credit for capital expenditures, a child care provider shall present proof acceptable to the Department of Elementary and Secondary Education that the expenditures fall within the definition of capital expenditure, as defined in the bill.

The tax credits shall not be refundable and shall not be transferred, sold, assigned, or otherwise conveyed. Any amount of credit that exceeds the child care provider's state tax liability for the tax year for which the tax credit is issued may be carried back to the child care provider's immediately prior tax year or carried forward to the child care provider's subsequent tax year for up to five succeeding tax years. The cumulative amount of tax credits authorized pursuant to this section shall not exceed $20 million for each calendar year.

If the maximum amount of tax credits allowed in any calendar year is authorized, the maximum amount of tax credits shall be increased by 15%, provided that all such increases of tax credits shall be reserved for contributions made to child care providers located in a child care desert.

The program sunsets on December 31, 2029.

SUPPORTING USE OF CHILD CARE FOR ECONOMIC STABILITY AND SECURITY TAX CREDIT (SUCCESS TAX CREDIT) (Section 135.2560)

This bill establishes the "Supporting Use of Child Care for Economic Stability and Security Tax Credit".

Beginning January 1, 2024, an eligible taxpayer shall be allowed a nonrefundable tax credit equal to the employment-related expenses for up to two qualifying children, not to exceed:
(1) Expenses of $1,800 for each child who was under two years of age at any time during the tax year for which the tax credit is being sought; and
(2) Expenses of $1,200 for each child who was two years of age or older during all of the tax year and under six years of age at any time during the tax year for which the tax credit is being sought.

A tax credit under this proposal shall not be claimed by more than one taxpayer for the same child. This tax credit shall be nontransferable and nonrefundable, and shall not be carried back or forward to any other tax year.

The program sunsets on December 31, 2029.

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
Department of Revenue
Department of Economic Development
Department of Elementary and Secondary Education
Office of the State Treasurer
Joint Committee on Administrative Rules
Office of the Secretary of State

Julie Morff
Director
April 20, 2023

Ross Strope
Assistant Director
April 20, 2023