COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1283S.09A
Bill No.: SS for SCS for HCS for HB 529 with SA 1 and SA 2
Subject: Agriculture, Department of; Energy; Motor Fuel; Revenue, Department of; Tax Credits; Weights and Measures
Type: Original
Date: May 7, 2021

Bill Summary: This proposal establishes a tax credit for the sale of ethanol and biodiesel fuel in the State of Missouri.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	$0	Up to ($20,000,000)	Up to ($20,000,000)
Total Estimated Net Effect on General Revenue	**$0**	**Up to ($20,000,000)**	**Up to ($20,000,000)**

*Both tax credit programs sunset on December 31, 2027. The Biodiesel tax credit is refundable.

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

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

§135.755 – Ethanol Tax Credit

Officials from the **Office of Administration - Budget and Planning (B&P)** assume the following regarding this proposal:

Section 135.755
This would create a tax credit for all tax years beginning on or after January 1, 2022 for a retail dealer that sells higher ethanol blend at such retail dealer's retail service station. The amount of the credit shall equal five cents per gallon of higher ethanol blend sold by the retail dealer and dispensed through metered pumps at the retail dealer's retail service station during the tax year in which the tax credit is claimed. These credits shall not be transferred, sold, or assigned. The credit is not refundable but may be carried forward to any of the five subsequent tax years. So in any given fiscal year, the amount redeemed may exceed the cap. The authorizations of the credit is capped at $4M for any given fiscal year.

This could decrease TSR and GR in an amount up to $4M beginning in FY 2023 and could impact the calculation under Article X, Section 18(e).

Officials from the **Department of Revenue (DOR)** assume the following regarding this proposal:

Section 135.755 Ethanol Fuel Tax Credit
Starting January 1, 2022, a taxpayer that is a retail dealer that sells higher ethanol blend at their service station can claim a tax credit equal to five cents per gallon on the higher ethanol blend sold. This proposal requires that the higher ethanol blend be more than 15% but less than 85% ethanol. This is the ratio of the ethanol sold generally as E85 fuel.

The U.S. Energy Information Administration reported that in 2018 (the most recent complete year of data) that Missouri consumed 26.5 trillion btu of ethanol. At a conversion rate of 120,286 btu per gallon, it is estimated that Missouri used 212,826,098 gallons of fuel. This tax credit is five cents per gallon which could generate $10,641,305 in tax.

Another report by the U.S. Energy Information Administration reported that in 2018 Missouri used 306.6 million gallons of E85 gasoline. At the five cents per gallon, it could generate $15,330,000.

This version of the proposal has placed a $4 million cap on the tax credit. Therefore, it is expected to reach the cap annually based on current consumption. This tax credit would be filed on the returns starting January 2023.

Administrative impact
The Department does not currently collect information on the amount of gallons of ethanol sold at the retail level. The Department would need to create a form and make changes to the existing tax credit form for taxpayers to claim this tax credit. This would require form and computer changes of at least $2,000.

This is a new credit, primarily for business entities (corporations, maybe partnerships and S corporations and their members):

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

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Oversight notes the tax credit created if for all tax years beginning on or after January 1, 2022. Oversight notes taxpayers will not filed their Tax Year 2022 tax returns until after January 1, 2023 (Fiscal Year 2023).

Oversight notes the actual and overall impact of this proposed legislation is unknown. For purposes of this fiscal note, Oversight will report a revenue reduction to GR equal to $4 million.

Oversight notes the tax credit created would automatically sunset on December 31, 2027 unless reauthorized by the General Assembly.

§135.775 – Biodiesel Tax Credit

Officials from the **Office of Administration - Budget and Planning (B&P)** assume the following regarding this proposal:

Section 135.775
This would create a tax credit for all tax years beginning on or after January 1, 2022 for a retail dealer that sells a biodiesel blend at a retail service station. The amount of the credit shall equal two cents per gallon of biodiesel blend of at least five percent but not more than ten percent or five cents per gallon of biodiesel blend in excess of ten percent sold. Credits shall not be transferred, sold, or assigned. The credit is refundable. The credit is capped at $20M and has a sunset date of December 31, 2027.

This could decrease TSR and GR in an amount up to $20M beginning in FY 2023 and could impact the calculation under Article X, Section 18(e).

Oversight notes Senate Amendment 2 of the Senate Substitute capped the amount of the tax credit at $16 million.

In response to a previous version, officials from the **Department of Revenue (DOR)** assumed the following regarding this proposal:

Section 135.775 Biodiesel Fuel Tax Credit
This proposal creates a new tax credit for seller of biodiesel fuel. To qualify as biodiesel fuel it must be a blend of diesel and biodiesel between 5% and 20% for on-road and off-road diesel-fuel vehicle use. Starting January 1, 2022, this creates a tax credit equal to two cents per gallon on biodiesel blend of 5% but no more than 10% mix or five cents per gallon sold on a biodiesel blend in excess of 10%. The credit is refundable but cannot be sold, transferred or assigned.

The U.S. Energy Information Administration reported that in 2018 (the most recent complete year of data) that Missouri consumed 4.7 trillion btu of ethanol. At a conversion rate of 120,286 btu per gallon, it is estimated that Missouri used 39,073,541 gallons of fuel. It should be noted this information does not indicate the percent of mix of the fuel.

For fiscal note purposes they assume that all of it would qualify for the five cents per gallon credit. It is estimated at five cents per gallon it could generate $1,953,677 in tax.

This proposal has a $20 million annual cap on the tax credit. This tax credit would be filed on the returns starting January 2023. This proposal requires that the credit be apportioned equally amongst all filers should the amount of credits claimed exceed the cap. The Department estimates this will result in a loss to general revenue of $1.9 million to $20 million annually.

Administrative impact
The Department does not currently collect information on the amount of gallons of biodiesel sold at the retail level. The Department would need to create a form and make changes to the existing tax credit form for taxpayers to claim this tax credit. This would require form and computer changes of at least $2,000.

This is a new credit, primarily for business entities (corporations, maybe partnerships and S corporations and their members):

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

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs DOR could request funding through the appropriation process.

Oversight notes Senate Amendment 2 of the Senate Substitute capped the amount of the tax credit at $16 million.

In response to a previous version, officials from the **University of Missouri – Economic and Policy Analysis Research Center** assumed the following regarding this proposal:

If enacted, this bill would "establish a tax credit for the sale of biodiesel fuel in the state of Missouri." Specifically, "For all tax years beginning on or after January 1, 25 2022, a retail dealer that sells a biodiesel blend at a retail service station shall be allowed a tax credit to be taken against the retail dealer's state income tax liability. The amount of the tax credit shall be as follows: (1) Two cents per gallon of biodiesel blend of at least five percent but not more than ten percent sold by a retail dealer at a retail service station during the tax year for which the tax credit is claimed; or (2) Five cents per gallon of biodiesel blend in excess of ten percent sold by a retail dealer at a retail service station during the tax year for which the tax credit is claimed." "The total amount of tax credits authorized pursuant to this section for any given fiscal year shall not exceed twenty million dollars."

As stated before, biodiesel consumption by state is unavailable for Missouri among common energy data resources, therefore they are unable to provide a precise impact estimate for this bill. The maximum impact this bill will have is equivalent to the annual credit cap of $20 million, annually.

Oversight notes Senate Amendment 2 of the Senate Substitute capped the amount of the tax credit at $16 million.

Officials from the **Missouri Department of Agriculture** and **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight notes, according to the Missouri Department of Natural Resources - Division of Energy, as of April 2020 there are five commercial biodiesel production facilities in Missouri.

Company	**City**	**Feedstock**	**Nameplate Capacity (MMGY)**
Ag Processing Inc.	St. Joseph	Soy oil	30
ADM	Deerfield	Soy oil	50
Mid-America Biofuels LLC	Mexico	Soy oil	50
Paseo Cargill Energy LLC	Kansas City	Soy oil	56
Seaboard Energy	St. Joseph	Animal fats/Corn oil	30
Total			216

*Lakeview Energy in Moberly and TARA Industries in Tina are currently shuttered from production. Production could resume in the future.

Oversight notes the tax credit created is for all tax years beginning on or after January 1, 2022. Oversight notes taxpayers will not filed their Tax Year 2022 tax returns until after January 1, 2023 (Fiscal Year 2023). Oversight notes 216,000,000 gallons x $0.02 = $4,320,000 ($10.8 million for $0.05).

Oversight notes the tax credit created would automatically sunset on December 31, 2027 unless reauthorized by the General Assembly.

Oversight notes, for all tax years beginning on or after January 1, 2022, a retailer that sells a biodiesel blend at a retail service station is allowed a tax credit to be taken against the retail dealer's state income tax liability. The tax credit shall be equal to two cents ($0.02) for biodiesel blend of 5% - 10% and five cents ($0.05) per gallon of biodiesel blend in excess of 10% during the tax year in which the tax credit is claimed. The tax credits authorized shall not be transferred, sold, or assigned. The tax credits authorized shall be refundable. The total amount of tax credits authorized for any given fiscal year <u>shall not exceed $16 million</u>.

<u>§33.282 (SA 1) – Approval of Tax Credits</u>

Oversight assumes this section removes the requirement that new tax credits be approved by the Senate Appropriations Committee and the House Budget Committee. Oversight assumes this change would not have a <u>direct</u> fiscal impact on the tax credit programs beyond what Oversight has reflected in the accompanying fiscal notes.

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.

In response to similar proposals with rule promulgation language, officials from the **Office of the Secretary of State** noted many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than $5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 their office can sustain with their core budget. Therefore, they reserve 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 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
Revenue Reduction – §135.755 – Tax Credit For Retailers of Biodiesel p. 4	$0	Up to ($4,000,000)	Up to ($4,000,000)
Revenue Reduction – §135.775 – Tax Credit For Retailers of Biodiesel p. 7	$0	Up to ($16,000,000)	Up to ($16,000,000)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	**$0**	**Up to ($20,000,000)**	**Up to ($20,000,000)**

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

FISCAL IMPACT – Small Business

§135.755 - This proposed legislation could impact any small business operating as a retail dealer as such taxpayer could potentially qualify for the tax credit created under this proposed legislation and reduce or eliminate such taxpayer's state tax liability.

§135.775 - Small biodiesel distributors could be impacted as a result of this proposal.

FISCAL DESCRIPTION

This proposal establishes tax credits for the sale of ethanol and biodiesel fuel in the State of Missouri.

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 the Secretary of State
Joint Committee on Administrative Rules
Office of Administration - Budget and Planning
Department of Revenue
Missouri Department of Agriculture
State Tax Commission
University of Missouri – Economic and Policy Analysis Research Center

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