COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0172H.01I
Bill No.: HB 316
Subject: Tax Incentives; Historic Preservation; Economic Development; Department of Economic Development; Department of Natural Resources
Type: Original
Date: January 31, 2023

Bill Summary: This proposal modifies the Historic Preservation Tax Credit.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	($112,784)	($124,768)	($126,869)
Total Estimated Net Effect on General Revenue	**($112,784)**	**($124,768)**	**($126,869)**

*Oversight notes the assumed need for an additional FTE for the Department of Economic Development due to the changes in Section 253.559.9

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Economic Development Enhancement Fund (0783) – DNR**	($6,800)	($7,917)	($8,045)
Historic Preservation Revolving Fund (0430) – DNR**	($20,400)	($23,752)	($24,133)
Total Estimated Net Effect on Other State Funds	**($27,200)**	**($31,669)**	**($32,178)**

Numbers within parentheses: () indicate costs or losses.
**Oversight notes the assumed need for an additional FTE for the Department of Natural Resources due to the changes in Section 253.559.9

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Natural Resource Fund (0142)**	($40,800)	($47,504)	($48,267)
Total Estimated Net Effect on All Federal Funds	**($40,800)**	**($47,504)**	**($48,267)**

**Oversight notes the assumed need for an additional FTE for the Department of Natural Resources due to the changes in Section 253.559.9

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund - DED	1 FTE	1 FTE	1 FTE
Economic Development Enhancement Fund (0783) - DNR	.1 FTE	.1 FTE	.1 FTE
Historic Preservation Revolving Fund (0430) - DNR	.3 FTE	.3 FTE	.3 FTE
Federal Fund – Natural Resources (0142) - DNR	.6 FTE	.6 FTE	.6 FTE
Total Estimated Net Effect on FTE	**2 FTE**	**2 FTE**	**2 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**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

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

Section 253.550

This section modifies the existing cap of $90M for projects not located in a qualified census tract and an additional $30M for projects in a qualified census tract. The proposal adds that if the maximum amount of tax credits allowed in any fiscal year is authorized for projects located in a qualified census tract, such projects may be authorized for tax credits under the limitations provided for projects not located in a qualified census tract if the maximum amount of such tax credits has not been authorized for such fiscal year.

This section also creates a reserve within the caps for essential community or heritage facility projects.

Section 253.557

This section eliminates the carry-back and carry-forward provisions after June 30, 2023.

This section also allows non-profit corporations to qualify for historic preservation tax credits.

Section 620.1900

This section changes the distribution schedule for the fees collected on historic preservation tax credits. These distributions remain subject to appropriation.

Summary

This proposed legislation will have no direct impact on TSR and will not impact the calculation pursuant to Art. X, Sec. 18(e).

To the extent additional projects utilize the program and more tax credits are issued, there could be a decrease in General and Total State Revenue. Conversely, to the extent this proposal encourages other economic activity, General and Total State Revenues may increase, but B&P cannot estimate the induced revenues.

B&P notes that the three-year average of authorizations is $130,949,558.

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

Section 253.544

This renames the Historic Preservation Tax Credit Program to the Missouri Historic, Heritage, Tourism and Rural Revitalization Act. Renaming the tax credit program will not have a fiscal impact on the Department.

Section 253.545

This provision adds definitions for applicable percentage, eligible recipient and qualified rehabilitation standards. Adding these definitions will not have a fiscal impact on the Department.

Section 253.550

This provision is modified to clearly identify which types of projects are eligible for what amount of credit. Example: a heritage facility is eligible for 50% of expenses or $500,000 whichever is less. This provision requires that some of the credits be reserved for essential community or heritage facilities. This proposal however, does not change the original cap on the Historic Preservation tax credit. The requirements that the credit be given to certain types of projects over others may change the number of people that choose to participate in the program but will not result in any additional fiscal impact to the state.

Section 253.557

The Historic Preservation Tax Credit currently has a three year carry back or ten year carry forward should a taxpayer be unable to use all of their tax credit in a single tax year. This credit is non-refundable but can be sold or transferred. This proposal adds language stopping this carry forward and back as of July 1, 2023 and stops the ability of the credit to be sold or transferred. This could result in a savings to the state from credits not being able to be redeemed. The amount however, is unknown.

Section 253.559

This section changes the paperwork required to be submitted to apply for the credit and what kind of review the Department of Natural Resources is to do. Additionally, this proposal adds an appeal process should a taxpayer not be approved for a credit. These changes are not expected to have a fiscal impact on the Department.

Section 620.1900

Currently taxpayers who receive the Historic Preservation tax credit must pay a 4% fee that is deposited into the Economic Development Advancement Fund. This proposal adds language specifying what the money is allowed to be spent on. The Department defers to the Department of Economic Development and the Department of Natural Resources for impact as they are designated to receive the funds.

For informational purposes, DOR is providing information on the Historic Preservation tax credit. It was created in 1997 and has an annual cap on larger scale projects of $120 million with $30 million reserved for specific projects and no limit on homeowner claims.

Year	Authorized	Issued	Total Redeemed
FY 2022	$127,701,891.25	$119,310,869.31	$106,311,497.14
FY 2021	$108,876,422.99	$113,974,281.81	$118,211,637.42
FY 2020	$134,740,008.39	$108,648,413.83	$88,487,136.31
FY 2019	$149,232,242.59	$95,790,454.95	$54,566,148.49
FY 2018	$151,542,287.87	$37,275,810.30	$56,483,070.60
FY 2017	$154,152,769.59	$85,136,858.50	$49,742,926.72
FY 2016	$90,749,410.21	$59,590,350.87	$57,496,338.08
FY 2015	$97,136,286.75	$53,206,337.42	$47,638,885.69
FY 2014	$146,635,428.72	$41,791,636.18	$59,829,670.95
FY 2013	$93,923,651.90	$71,495,993.81	$78,483,650.67
FY 2012	$98,591,345.91	$105,272,650.95	$133,937,746.83
TOTALS	$1,353,281,746.17	$891,493,657.93	$851,188,708.90

This proposal may require changes to their MO-TC form e, website and individual income tax computer system. These changes are estimated at $7,193.

Oversight notes the OA-B&P and DOR both noted the current law permits that any amount of Historic Preservation Tax Credit that exceeds a taxpayer=s state tax liability may be carried back to any three preceding tax years and carried forward for ten years.

Oversight notes that OA-B&P & DOR both 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 <u>zero</u> impact for both respective organizations in the fiscal note.

Officials from the **Department of Economic Development (DED)** assume Section 253.544. Creates the Missouri Historic, Heritage, Tourism, and Rural Revitalization Act.

This legislation revises the Historic Preservation Tax Credit, allocating a portion of the program cap for the preservation and rehabilitation of historic county courthouses. This portion starts at $5 million, but can increase up to $10 million. The program cap will not change, meaning there will not be a fiscal impact as far as the program cap is concerned, but one (1) FTE will need to be hired to administer this allocation of funds.

This provision is currently not included in the program and would require separate reviews with different requirements than are currently in place for the program as well as additional tracking that is also currently not in place. The legislation includes a provision that would require DED to issue 75% of the credit within 60 days. DED does not currently have the resources available to achieve a 60 day turn-around without adding staff. Tracking of site control is also added as a new requirement. An appeals process is added as well where an applicant may appeal any official decision, including all preliminary or final approvals and denials which would result in additional documentation and tracking. DED needs one (1) FTE to oversee all the additional requirements this legislation would add to the Historic Preservation Tax Credit.

Oversight notes that Section 253.554 allows tax credit for rehabilitation of a historic county courthouse, vacant school, or theater that is significant in the history, architecture, archaeology, or culture of this state or its communities, as designated by the governing body of a county. Additionally, the Act specifically provides certain percentages of funds for taxpayers who intends to rehabilitate properties under the Act as follows:

a) 50% for rehabilitation of an essential community or heritage facility or five hundred thousand dollars, whichever is less
b) 25% for rehabilitation of any property considered to be Missouri Low Income housing property
c) 35% for any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district; and
d) 25% for any taxpayer who rehabilitating property which is a non-income producing single-family, owner-occupied residential property and is either a certified historic structure or a structure in a certified historic district

Oversight notes that this Act will not allow for any additional expenditure beyond the current cap maximum of $90M for projects not located in a qualified census tract and an additional $30M for projects in a qualified census tract.

Oversight provides overview of the approved expenditures (submitted by DED) in last three years below:

	FY 2020 ACTUAL	FY 2021 ACTUAL	FY 2022 ACTUAL	3 year Average
Certificates Issued (#)	179	191	123	**164**
Projects/Participants (#)	141	145	131	**139**
Amount Authorized	$ 134,740,008.39	$ 108,876,422.99	$ 127,744,891.75	**$ 123,787,107.71**
Amount Issued	$ 108,648,413.83	$ 113,974,281.81	$ 119,310,869.31	**$ 113,977,854.98**
Amount Redeemed	$ 88,487,136.31	$ 118,211,637.42	$ 106,311,497.14	**$ 104,336,756.96**

Oversight notes the program is currently utilized close to its maximum allotted capacity; therefore, Oversight will assume the proposal will have no fiscal impact on the general revenue for additional program expenditures.

Oversight notes DED assumes one (1) FTE Senior Economic Development Specialist is needed as a result of the administrative changes made to the Historic Preservation Tax Credit. For purposes of this fiscal note, **Oversight** will report DED=s need for an additional FTE Economic Development Specialist at $74,664 annually to the General Revenue Fund.

Officials from **Department of Natural Resources (DNR)** note:

253.545 (7) (b) a. "as designated by the governing body of the county"
It is uncommon for historical significance evaluations to be determined solely by the governing body of a local authority, which may vary from county to county and lead to program inconsistencies. The National Register of Historic Places (NRHP) criteria for eligibility typically are used as the standard for determining historical significance and integrity. The federal definition of "historic property" is rooted in whether or not the property is listed or eligible for listing in the NRHP. Using different methods to determine the eligibility of properties for certain preservation programs may lead to conflicts for SHPO staff and constituents, thereby complicating and bogging down programs and agencies.

253.545, (12) "The state historic preservation office (SHPO) of the department of natural resources shall determine whether a rehabilitation satisfies the standards within thirty days of a taxpayer filing an initial application for tax credits. The department of economic development shall promptly notify the state historic preservation office of each initial application for tax credits." This proposal would require the SHPO to review the rehabilitation in less than 30 days because it does not take into account the time it takes for the application to be processed at DED upon its receipt of the application, before it is forwarded to the SHPO. The proposal does not specify any number of days that the taxpayer's application may remain at DED before it is received at SHPO; therefore (for example), if the application is not forwarded to SHPO within 10 days of DED's receipt, SHPO's review time is reduced to 20 or less days.

Additional SHPO staff will be necessary to maintain a mandated review period of less than 30 days. The SHPO currently is unable to review the current workload of tax credit applications within a 90 day period. As the historic tax credit program continues to see an increase in applications and more rehabilitation projects must be evaluated for their compliance with the SOI Standards, the program will see an increase in rehabilitation reviews. Presently, the Architectural Preservation Services (APS) Unit is comprised of four FTEs and is utilizing the services of one TSL, and several contracted reviewers. The unit remains focused on tax credit applications from rehabilitation projects although there are other expectations of this unit and the staff struggle to fulfill those other duties (i.e., monitoring preservation easements, developing scope of work for historic properties, providing technical advice for non-HTC projects, etc.) due to the tax credit workload.

Lastly, the State Historic Preservation Office (SHPO) is currently using IT services to upgrade an antiquated Access tax credit database that is being taxed to produce reports for queries it was not designed to answer. With more data to collect and manage in the future and with greater intent to coordinate interagency IT needs (including data entry and data sharing) between Department of Economic Development (DED) and the SHPO, there could be IT costs to develop an integrated system and/or enhancements for overhauling agency's system.

Oversight notes the officials from the DNR assume the proposal will have a fiscal impact due to the fast around requirement in application process, as required in the Section 253.559. 9. The DNR anticipates the need for one (1) additional FTE (Architectural Historian at $44,005).

Oversight notes the DNR pays the FTE from three different funds by certain percentage from each fund. The Economic Development Enhancement Fund – state money at 10%, Historic Preservation Revolving Fund – state money at 30%, and Natural Resources Fund – federal money at 60%.

Oversight notes that upon further discussion with the officials from the DNR, it is not anticipated there would be a need for any additional general revenue this time as the DNR currently has a sufficient appropriation in the funds to fund the FTE. Therefore, **Oversight** will note the 1 FTE impact in the fiscal note beginning in FY 2024 affecting all three funds with the appropriate percentage of appropriation to the funds.

Officials from the **Department of Commerce and Insurance**, the **Office of Administration**, the **Missouri University System**, the **City of Kansas City,** and the **City of Springfield** 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 organizations.

Oversight notes the following activity in the Economic Development Advancement Fund (0783) over the past three fiscal years.

FY	Beginning Balance	Receipts	Disbursements	Ending Balance
'22	$5,673,915	$5,457,013	($6,185,487)	$4,945,442

’21	$4,570,512	$5,922,240	($4,818,837)	$5,673,915
’20	$3,006,186	$5,614,495	($4,050,169)	$4,570,512
Average:		**$5,664,582**		

37.5% of average = $2,124,217
25.0% of average = $1,416,146
25.0% of average = $1,416,146
12.5% of average = $ 708,073

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 – DED Section 253.559 7.			
Personnel Service	($62,220)	($76,157)	($77,680)
Fringe Benefits	($36,265)	($44,076)	($44,646)
Expense & Equipment	($14,299)	($4,454)	($4,543)
Total Costs – DED	($112,784)	($124,768)	($126,869)
FTE Change (p.6-7)	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**($112,784)**	**($124,768)**	**($126,869)**
ECONOMIC DEVELOPMENT ENHANCEMENT FUND (0783)			
Costs – DNR - Section 253.559 7-9			
Personnel Service	($3,667)	($4,488)	($4,578)

Fringe Benefits	($2,671)	($3,238)	($3,271)
Expense & Equipment	($462)	($191)	($195)
Total Costs – DNR	($6,800)	($7,917)	($8,045)
FTE Change (p.8)	.1 FTE	.1 FTE	.1 FTE
ESTIMATED NET EFFECT ON ECONOMIC DEVELOPMENT ENHANCEMENT FUND	**($6,800)**	**($7,917)**	**($8,045)**
HISTORIC PRESERVATION REVOLVING FUND (0430)			
Costs – DNR - Section 253.559 7-9			
Personnel Service	($11,001)	($13,465)	($13,735)
Fringe Benefits	($8,012)	($9,713)	($9,814)
Expense & Equipment	($1,387)	($573)	($585)
Total Costs – DNR (p.8)	($20,400)	($23,752)	($24,133)
FTE Change	.3 FTE	.3 FTE	.3 FTE
ESTIMATED NET EFFECT ON HISTORIC PRESERVATION REVOLVING FUND	**($20,400)**	**($23,752)**	**($24,133)**
NATURAL RESOURCES FEDERAL FUND (0140)			
Costs – DNR - Section 253.559 7-9			
Personnel Service	($22,002)	($26,931)	($27,469)
Fringe Benefits	($16,024)	($19,427)	($19,628)
Expense & Equipment	($2,274)	(1,147)	($1,170)
Total Costs – DNR	($40,800)	($47,504)	($24,133)
FTE Change (p.8)	.6 FTE	.6 FTE	.6 FTE
ESTIMATED NET EFFECT ON NATURAL RESOURCES FEDERAL FUND	**($40,800)**	**($47,504)**	**($48,267)**

FISCAL IMPACT – Local Government	FY 2024 (10 Mo.)	FY 2025	FY 2026

	$0	**$0**	**$0**

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill modifies provisions relating to the Historic Preservation tax credit, and renames such tax credit the "Missouri Historic, Heritage, Tourism, and Rural Revitalization Act".
This bill allows counties to designate certain structures as "essential community or heritage facilities", which will be structures that are historic county courthouses located in a qualifying county, vacant structures or theaters, as defined in the bill, or structures that are significant in the history, architecture, archeology, or culture of the state or its communities, which must have been constructed at least 50 years prior to an application for tax credits, and which will have at least $100,000 in estimated eligible costs and expenses to be incurred in the rehabilitation of such structure. Of the amount of tax credits that may be authorized under this bill, $5 million will be reserved for essential community or heritage facility projects, provided that no county will have more than two such projects approved in a given fiscal year, and provided that such projects will only receive tax credits from the reserved amount. If the maximum amount reserved for such projects is authorized in any fiscal year, the amount reserved will be increased by $1 million, provided that no more than $10 million will be reserved for such projects. Any amount of reserved tax credits not authorized by March 31 of a fiscal year will no longer stand reserved, and may be authorized for any project under the bill.

Currently, the amount of tax credits that may be issued under this bill is limited to $90 million, with an additional $30 million available for projects that are located in a qualified census tract, as defined in the bill. The bill modifies this provision to provide that the $90 million limit will be used only for projects not located in a qualified census tract. If the maximum amount of the $30 million allowed for projects located in a qualified census tract is authorized, such projects may be authorized under the $90 million limit, provided such maximum amount has not been authorized. The bill also modifies the tax credits which may be claimed under the Act for residential structures. Currently, the amount of tax credits that a project may receive is limited to 25% of the total costs and expenses of rehabilitation incurred. This bill modifies the amount for low-income housing residential projects to 25% of total costs. For essential community or heritage facility projects that are historic county courthouses, the amount will be 50% of total costs or $500,000, whichever is less. For all other projects located in a qualifying county, except low-income housing projects, the amount will be 35% of total costs. For all other projects located in a county that is not a qualifying county, the amount will remain 25% (Section 253.545, RSMo).

This bill allows the structure to be either owner-occupied or occupied by a relative within the third degree of consanguinity or affinity of the applicant. For applications approved on or after July 1, 2023, any residential project located in a county that is not a qualified county will only receive tax credits if it is located in a distressed area, as described in the bill (Section 253.550). This bill modifies the carry-back and carry-forward provisions of tax credits issued under this bill to apply only for all tax credits authorized on or after January 1, 2010, and before July 1, 2023. Currently, not-for-profit entities are prohibited from receiving historic preservation tax credits. This bill allows these entities to claim such tax credits (Section 253.557).

If the scope of an approved project materially changes, such project will be eligible to receive additional tax credits, as described in the bill. If the project was originally approved prior to August 28, 2018, the Department of Economic Development will evaluate the change in scope under the criteria in effect prior to such date (Section 253.559). Projects that receive approval for tax credits must commence rehabilitation within 18 months, rather than nine months, of the date of approval. Additionally, "commencement of rehabilitation" is defined as the date that physical work has begun, the taxpayer will have incurred no less than 20%, rather than 10%, of the estimated costs of rehabilitation. Taxpayers must notify the Department of any loss of site control, or of failure to obtain site control, within 10 days of such failure. Taxpayers may voluntarily forfeit project approval at any time. The amount of tax credits authorized for such forfeited or rescinded project will be made available for other projects. If a taxpayer later submits an application for the same project, any expenditures which are incurred after the date of the rescinded or forfeited approval will remain eligible expenditures for the purposes of determining the amount of tax credits (Section 253.559).

After completion of a project, the taxpayer is required to submit an application for the final approval of costs and issuance of tax credits. Within 60 days of receipt of such application, the Department must issue to the taxpayer tax credits in the amount of 75% of the amount of tax credits for which the taxpayer is eligible based on the application for final approval, or 75% of the amount of tax credits approved under the initial application, whichever is less. Within 120 days of an application for final approval, the Department must make a determination of final costs and the amount of tax credits to be issued, and must issue the balance of tax credits owed to the applicant and not issued in the initial tax credit issuance. If the amount initially issued exceeds the amount that the taxpayer is eligible for, as determined by the Department's final approval, the taxpayer must repay such excess amount to the Department (Section 253.559).

An applicant or their duly authorized representative may appeal any official decision made by the Department with regard to the application submitted to an independent third-party appeals officer designated by the Department. This appeal must be submitted in writing within 30 days of the applicant's receipt of the decision being appealed. The appeals officer must deliver a written decision no later than 90 days after initial receipt of the appeal (Section 253.559).

Currently, the Department may charge a fee of 4% of the value of tax credits issued under the bill for deposit in the Economic Development Advancement Fund, with 37.5% of such revenue appropriated for business recruitment and marketing and the remainder appropriated for various purposes in the Department. This bill modifies such provision to distribute the revenues as follows: 37.5% in the Economic Development Advancement Fund for business recruitment and marketing, 25% to the Department for the administration of the bill, 25% to the Department of Natural Resources for the administration of the bill, and the remaining 12.5% to the Economic Development Advancement Fund for purposes allowed by current law (Section 620.1900).

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

SOURCES OF INFORMATION

Department of Revenue
Office of Administration – Budget & Planning
Department of Commerce and Insurance
Office of Administration
Office of the State Treasurer
Office of the Secretary of State
Joint Committee on Administrative Rules
Missouri Central University
Missouri University System
City of Kansas City
City of Springfield

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