COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0172H.05C
Bill No.: HCS for HB 316
Subject: Tax Incentives; Historic Preservation; Economic Development; Department of Economic Development; Department of Natural Resources; Governor And Lieutenant Governor; Boards, Commissions, Committees, and Councils
Type: Original
Date: March 6, 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*	Less than or could exceed ($2,512,784)	Less than or could exceed ($4,964,768)	Less than or could exceed ($7,471,829)
Total Estimated Net Effect on General Revenue	Less than or could exceed ($2,512,784)	Less than or could exceed ($4,964,768)	Less than or could exceed ($7,471,829)

*Oversight notes the assumed need for an additional FTE for the DED, DNR, and potential expenditure from MLG due to the enactment of Section 26.950. Additionally, the proposal allows for CPI adjustment in Section 253.550 to the maximum authorization cap annually.

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

Section 26.950, 143.183, 194.400, 253.022, 253.390, 253.401 – 253.421 SHPO

Officials from the **Department of Revenue (DOR)** assume his proposal transfers the State Historic Preservation Office (SHPO) to the Office of the Lt. Governor. This will not fiscally impact DOR.

In response to the similar proposal, HB 639 (2023), officials from the **Office of the Lieutenant Governor (MLG)** noted**:**

While unknown at this point, there would be an impact on the MLG with this transfer. This note is written with the assumption that SHPO and associated funding would continue to come from the Non-Resident Athletes and Entertainers Tax. Other entities funded by this tax are under the MLG budget, and in this respect, such a change makes sense. Beyond budget considerations, work-space issues would need to be addressed as the MLG space within the capitol does not currently support the additional personnel within SHPO. None of these impacts are beyond the scope of a solution, and this note is written with the sole intent of identifying areas that would need to be addressed depending upon General Assembly's actions on the bill.

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

The proposed legislation includes the state historic preservation office allocation pursuant to 143.183 RSMo. DNR uses this appropriation to fund its matching share required to be eligible for federal grant funds from the Historic Preservation Fund (HPF) ($386,869 in 2021). DNR uses the HPF grant to fund the majority of staffing and operational costs of the SHPO, including activity of the Missouri Advisory Council for Historic Preservation. A condition of the grant, and for future eligibility, SHPO must pass through a minimum 10% of HPF funds to certified local governments. No other functions of the Department are funded through this allocation. There is substantially net neutral effect of the transfer so long as the appropriation to SHPO is the amount described in 143.183 and so long as SHPO continues to be managed consistent with HPF grant requirements.

In addition to existing staffing funded by HPF, SHPO is projecting two (2) new, additional FTEs in the next 12 months to comply with the 30 day review period required by federal regulation for 106 reviews associated with every project involving federal permits and/or assistance. There is a projected influx of requests due to several federal funding programs made available to Missouri through infrastructure, ARPA, and other programs. This cost may exceed HPF resources, and in that event would be a cost to Office of Lieutenant Governor.

The terms and conditions of the HPF grant prohibit use of its funds for evaluation, consultation and reporting required by the Native American Graves Protection and Repatriation Act (25 USC

3001)(NAGPRA). Missouri law requires SHPO to assume jurisdiction to unmarked human burials pursuant to 194.400 et seq. (being transferred by 253.408.2(10)). Pursuant to definitions in NAGPRA, all entities accepting federal funds are required to comply. Because SHPO (and DED) accepts federal funds, this will be an ongoing responsibility. To comply, DNR has used a strategy of shared resources with other Division of State Parks archeologist staffing and supplies, included contracting for osteological services.

In addition, an ongoing vestige of the type I transfer of the State Historic Preservation Revolving Fund (253.400, et seq) from DNR to Office of Lieutenant Governor are the real estate interests acquired with the fund, and the associated cost to monitor and maintain. If the fund balance is adequate to pay HPF matching share as described above, it is an appropriate source of funds to pay the costs associated with these properties, but are costs required to be paid regardless whether there is a fund balance. There are approximately 95 easement interests of perpetual duration, and two fee title interests subject to historic preservation covenants. DNR estimates a bare minimum cost to continue to monitor and maintain existing easements; to maintain the fee interests consistent with deed covenants, and a reserve for demolition, if needed. The covenants required by statute associated with the fee interests require reversion to the Missouri Governor if the historic property "is not operated, maintained, restored and repaired." To the extent that costs needed to monitor and maintain real estate interests subject to SHPRF covenants exceed the balance in the appropriation pursuant to 143.183 RSMo, this would also be a savings to DNR and a cost to DED.

Lastly, this Act authorizes the Department to act as fiscal agent for awarding grants for historic county courthouses and historic county courthouse grounds, pursuant to a promulgated rule. There is no current fiscal impact related to a courthouse grant program because a rule has not been promulgated. Projected cost, if undertaken, would be the administrative cost of the rulemaking, cost of grant administration, cost to monitor, and amount to be distributed by grant.

ITSD Changes:

The proposed legislation will move staff and operation of the State Historic Preservation Office from the Department of Natural Resources to the Office of Lieutenant Governor resulting in the need for moving computer equipment, printers, as well as operational updates including email address, website hosting and functionality. Both departments fall under the consolidated information technology department and therefore all equipment would remain under the same inventory.

The transition will also require IT support to provide shared access if possible, or a separate system if not possible, to access archeological and other cultural resource systems that would need to remain at DNR for use by cultural resources staff within the Division of State Parks. These include: permissions for the archeological database, NAGPRA reporting database. In addition, there are two ongoing IT projects currently in process that impact SHPO functions. The first is an electronic 106 system for submission and to track reviews being developed in two phases; the first phase is in process, the second phase is intending to incorporate GIS functionality. The second will be the need within 12 months for electronically accepting and tracking federal tax credit applications (ideally to function in coordination with DED's state historic tax credit program).

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 Office of Lieutenant Governor and the SHPO, there could be IT costs to develop an integrated system and/or enhancements for or overhauling either agency's system.

Oversight assumes that currently, for all tax years on or after January 1, 1999, through December 31, 2030, the Office of Administration estimates annually the amount of the nonresident athlete and entertainer tax collected.

Oversight notes that subject to appropriation, ten-percent of this tax is allocated annually and transferred from general revenue to the Historic Preservation Revolving Fund to be made available for historic preservation efforts.

Oversight notes that §143.183, currently allows for the revenues from the nonresident tax on athletes and entertainers to be distributed to cultural entities in Missouri - 60% of the funds to the Missouri Arts Council Trust Fund (0262); and 10% each to the Library Networking Fund (0822) for public libraries to purchase library materials; 10% to the Missouri Humanities Council Trust Fund (0177); 10% to the MO Public Broadcasting Corporation Special Fund (0887) for public television and public radio stations; and 10% to the Missouri Department of Natural Resources for the Missouri Historic Preservation Revolving Fund (0430).

Oversight shows, for informational purposes, the nonresident tax on athletes and entertainers has brought in the following amounts:

FY 2022 $33,061,172
FY 2021 $26,810,287
FY 2020 $30,671,167
FY 2019 $35,381,113
FY 2018 $22,036,517

Using the collected amount in FY 2022 of $33,061,172 the funds would receive the following amounts:

Missouri Arts Council Trust Fund $19,836,703 (60%)
Library Networking Fund $ 3,306,172 (10%)
Missouri Humanities Council Trust Fund $ 3,306,172 (10%)
MO Public Broadcasting Corporation Special Fund $ 3,306,172 (10%)
Missouri Historic Preservation Revolving Fund $ 3,306,172 (10%)

Oversight notes the **MLG** and **DNR** assume the move of staff and operation of the State Historic Preservation Office from the Department of Natural Resources to the Office of Lieutenant Governor will result in unknown cost to the MLG. Therefore, Oversight will note unknown negative cost for the MLG in Section 26.950 beginning FY 2024, and same time potential of unknown savings to the DNR.

Oversight will note that DNR - SHPO is projecting 2 new, additional FTEs in the next 12 months to comply with the 30 day review period required by federal regulation for 106 reviews associated with every project involving federal permits and/or assistance. Therefore, Oversight will note additional cost to the MLG office in order to comply with the 30-day review requirement where the HPF resources are not sufficient and DNR needs more FTE.

In response to the previous version of the bill, officials from the **Office of Administration – Budget & Planning (B&P)** noted:

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)** noted:

<u>Section 253.544</u>

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.

<u>Section 253.545</u>

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.

<u>Section 253.550</u>

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.

<u>Section 253.557</u>

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.

<u>Section 253.559</u>

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.

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 will leave the caps in place but add a Consumer Price Index adjustment for inflation. Therefore, these credits will result in an additional loss to general revenue in future years. For fiscal note purposes when doing inflation adjustments, DOR uses a 2% inflation factor for each year. Therefore, DOR would expect the cap on this program to increase as follows:

Fiscal Year	Cap	Difference
2023	$120,000,000	$0
2024	$122,400,000	($2,400,000)
2025	$124,848,000	($4,848,000)
2026	$127,344,960	($7,344,960)
2027	$129,891,859	($9,891,859)
2028+	$132,489,696	($12,489,696)

This proposal makes additional changes to how the credit works. This credit is administered by the Department of Economic Development. DOR defers to them for impact from these changes.

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.

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.

Changes to the Historic Preservation tax credit program will require changes to the MO-TC form, website and individual income tax computer system. These changes are estimated at $7,193.

Officials from the **Department of Economic Development (DED)** note:

Section 26.950 moves the State Historic Preservation Office and Missouri Advisory Council on Historic Preservation to the Office of the Lieutenant Governor.

143.183 Establishes the Office of the Lieutenant Governor's role in the State Historic Preservation Office and Missouri Advisory Council on Historic Preservation.

253.544. Creates the Missouri Historic, Rural Revitalization and Regulatory Streamlining Act.

This legislation revises the Historic Preservation Tax Credit. Increases tax credit to 35% for applicants not participating in the Missouri Low Income Housing Tax Credit Program and eligible single family housing located in a qualifying area, and adds non-profit entities to the definition of eligible recipients. Allows for 10% of the total costs of rehabilitation to be incurred prior to application.

Total program cap is not increased, however, the legislation increases the threshold for projects not subject to the cap, from $275,000 to $300,000, and allows for this threshold to increase each year based on consumer price index. DED estimates this revision will have an impact on TSR of ($1,250,000) estimating approximately 50 projects at an increase of $25,000 per project.

Allows for projects located within a qualified census tract to be authorized out of $90M cap after the $30M QCT-only cap has been met in a given fiscal year. Allows for the $30M QCT-only cap to increase annually based on the increase in the Consumer Price Index.

Instructs the Department to allow application submission year-round. Allows for properties with a federal Part 1 application or draft national register of historic places nomination submission to the state historic preservation office to be eligible for application to the program. Adjusts evaluation criteria for projects over $300,000, and adds vacant schools or theaters to the projects that are not subject to evaluation criteria.

Allows for third party review to determine whether proposed rehabilitation satisfies the qualified rehabilitation standard. Creates standards processing time requirements for processing projects, including determination of project's alignment with rehabilitations standards within 90 days of filing of application the legislation includes a provision that would require DED to issue 75% of the credit within 60 days. Includes requirements for the approval and issuance of tax credits for phased projects. Modifies the commencement of rehabilitation limitations to 10% within 18 months of the date of approval.

DED needs 1.0 FTE to oversee all the additional requirements this legislation would add to the Historic Preservation Tax Credit.

Oversight notes that Section 253.544 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 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.

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 the amount of tax credit allotted each year shall be annually adjusted by the percentage increase in the Consumer Price Index for All Urban Consumers. Therefore, Oversight will note the B&P and DOR estimated cost for the CPI adjustment beginning in FY 2024 in the fiscal note.

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

253.559 4. (2) If the state historic preservation office approves the application for tax credits within the ninety-day determination period established in subdivision (1) of this subsection, such office shall forward the application with any review comments to the National Park Service and shall forward any such review comments to the applicant. If such office fails to approve the application within the ninety-day determination period, such office shall forward the application without any comments to the National Park Service and shall have no further opportunity to submit any comments on such application.

Additional SHPO staff will be necessary to maintain a mandated review period of less than 90 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 struggles 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.

Oversight notes the officials from the DNR, via e-mail, 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.

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			
Cost savings – Section 26.950 DNR (p.6)	Unknown	Unknown	Unknown
Cost – Section 26.950 MLG (p.6)	(Unknown)	(Unknown)	(Unknown)
Cost – Section 253.559 MLG pays for resources that exceed HPO fund capacity to hire more DNR FTE (p.6)	(Unknown)	(Unknown)	(Unknown)
Cost – 253.550 2. (2) & (3) & 3 (2) CPI adjustments of tax credits (p. 8,10)	($2,400,000)	($4,840,000)	($7,344,960)
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	**Less than or could exceed ($2,512,784)**	**Less than or could exceed ($4,964,768)**	**Less than or could exceed ($7,471,829)**
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

By expanding the eligibility of tax credits beyond the current pool of candidates, additional properties and their owners/applicants (i.e., nonprofit entities formerly not eligible for the credits) could increase the number of rehabilitation projects and therefore utilize the services of more small businesses (i.e., building contractors, preservation consultants, historians, architectural historians, architects, accountants, etc.).

FISCAL DESCRIPTION

This bill transfers the state historic preservation office (SHPO) and Missouri advisory council on historic preservation to the Office of the Lieutenant Governor (Sections 26.950 and 253.390, RSMo). The bill deletes reference to the Department of Natural Resources and replaces it with the Office of the Lieutenant Governor (Sections 143.183, 194.400, 253.022, 253.402, 253.404, 253.405, 253.408, 253.420, and 253.421).

This bill modifies provisions relating to the Historic Preservation tax credit, and renames such tax credit the "Missouri Historic, Rural Revitalization, and Regulatory Streamlining Act". (Section 253.544)

This bill defines terms, including "structure in a certified historic district", "theater", and "vacant school". The bill specifies the applicable percentages for the rehabilitation of low income properties to receive a 25% tax credit; properties located in a qualifying area approved for a tax credit of 35% and property not located in a qualifying area of a 25% tax credit. The "Department" is defined as the Department of Economic Development (Section 253.545).

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Currently, any tax payer that incurs costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, may receive a credit of 25% of the total costs and expenses of rehabilitation incurred after January 1, 1998, provided that the costs and expenses exceed 50% of the total basis in the property. The bill states that 10% of such total costs and expenses of rehabilitation upon which the tax credit is based may be incurred before the taxpayer submits an application for tax credits. For costs and expenses incurred for an eligible property in a qualifying area which is also a certified historic structure or a structure in a certified historic district, shall receive a credit in an amount equal to 35% of the total costs and expenses of rehabilitation on or after July 1, 2023. Ten percent of such total costs and expenses of rehabilitation upon which the tax credit is based may be incurred before the taxpayer submits an application for tax credits. The State historic rehabilitation standards shall not be more restrictive than the Secretary of Interior's Standards for Rehabilitation.

The bill deletes reference to the amount of tax credits that the department can approve for defined time periods. The amount of tax credits that the Department can approve is limited to $90 million in the aggregate for properties that are not located in a qualified census tract, as defined in the bill. The limitations do not apply to projects that receive less than $300,000 in tax credits, which number is annually adjusted to the Consumer Price Index for All Urban Consumers (CPI index).

Currently, $30 million in tax credits are authorized for projects located in the qualified census tract. Under the bill, projects that receive a preliminary approval located in a qualified census tract may receive tax credits under the $90 million or $30 million categories but the $30 million tax credit category must first be applied. The $30 million tax credits that are allowed shall be adjusted to the CPI index.

Under current law, the eligible property 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. Under the bill, on or after January 1, 2010, no more than $250,000 in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of a non-income producing single family residential property occupied by the taxpayer or any relative within the third degree of consanguinity or affinity of the applicant, that is either in a certified historic structure or a structure in a certified historic district. For properties that are not located in a qualifying area, to receive the tax credits the property should be located in a distressed community as described in the bill (Section 253.550).

The bill authorizes not-for-profit entities to be eligible for the tax credits and provides that the eligible taxpayers may transfer, sell or assign the credits (Section 253.557).

The bill requires the Department to establish an application cycle that allows for year-round submission and year-round receipt and review of the applications. The bill adds a requirement to be included in the application for approval, for proof that a property is an eligible property and a certified historic structure or a structure in a certified historic district or a part 1 of a federal application or a draft national register of historic places nomination that has been submitted to SHPO. Further, the bill modifies existing evaluation criteria for the Department to consider for the projected net fiscal benefit of the project to the state and local municipality to be calculated based upon reasonable methods that exclude proprietary computer models; and for the overall size and quality of the proposed project to factors indicated in the bill. However, said provisions do not apply to vacant schools or theaters or applications for projects to receive less than $300,000 in tax credits annually adjusted to the CPI index.

The bill authorizes review by a third-party to ensure compliance with the qualified rehabilitation standards. Further, the Department is required to promptly notify SHPO of each preliminary application for tax credits. SHPO is to make its determination within 90 days of a taxpayer filing an initial application for tax credits. The bill sets forth what evidence is to be considered in making such determination. If SHPO approves the application within 90 days, SHPO will forward any review comments to the National Park Service (NPS) and to the applicant. If SHPO fails to approve the application within 90 days the application will be forwarded to NPS without any comments. Conditions noted on the preliminary application or on part 2 of the federal application are to be addressed as part of the final approval of the application.

The bill includes provisions relating to the submission of a phased rehabilitation project which includes information included in the bill. Upon approval of costs submitted and work completed on each phase of the project, the Department shall issue 80% of the amount of the state tax credit. The remaining 20% of the tax credit is issued upon final approval. The bill includes language relating to a change in the scope of the project with material changes after approval of the application.

Under the bill, taxpayers are required to notify the Department of any loss of site control or failure to exercise any option of getting site control within 10 days of such loss or failure. The bill includes provision relating to rescission of tax credits or that taxpayer's voluntary forfeiture of the approval. 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 shall remain eligible expenditures for the purposes of determining the amount of tax credits.

The bill includes language governing the taxpayer's application for final approval by SHPO or an approved part 3 of the federal application. 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 total 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, including amounts approved based upon material change in the scope of the project, whichever is less. Within 120 days of receipt of an application for final approval with the materials, 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.

The bill sets forth appeals of any official decisions made by the Department or SHPO. 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 appeals officer or review panel as 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 appeal is considered an administrative review of the decision and is not conducted as an adjudicative proceeding. There is an independent review panel consisting of members of the private sector and the Department. Further, an independent appeals officer will be the chair who receives the information relating to the appeal. Upon providing the information to SHPO or the Department, the latter may respond to the appeal within 30 days. The bill authorizes one meeting with the appeals officer or review panel with discretionary authority to schedule additional meetings. A decision is to be rendered no later than 90 days after the initial receipt of the appeal by the appeals officer or review panel. 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, 10% to the Department for the administration of the bill, 10% to SHPO for the administration of the bill, and the remaining 42.5% to the Economic Development Advancement Fund for purposes allowed by current law (Section 620.1900).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

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

Julie Morff
Director
March 6, 2023

Ross Strope
Assistant Director
March 6, 2023