COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4191H.01I
Bill No.: HB 2407
Subject: Economic Development; Department of Economic Development, Housing; Tax Incentives; Tax Credits
Type: Original
Date: February 5, 2024

Bill Summary: This proposal establishes tax incentives in relation to workforce and disaster recovery housing.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2031)
General Revenue Fund*	Up to ($18,923)	(Unknown, Could Exceed $12,114,684)	(Unknown, Could Exceed $12,076,382)	(Unknown, Could Exceed $12,110,156)
Total Estimated Net Effect on General Revenue	**Up to ($18,923)**	**(Unknown, Could Exceed $12,114,684)**	**(Unknown, Could Exceed $12,076,382)**	**(Unknown, Could Exceed $12,110,156)**

*Oversight cannot predict the level of participation in the new tax credit program. Therefore, Oversight will reflect the life-time costs of the program, $35 million for disaster recovery type of housing and $35 million for non-disaster recovery type of housing ($70 million total) divided over six years, 2 FTE for DOR and 2 FTE for DED annually. Oversight notes the program is set to sunset on December 31, 2030.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2031)
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or loss

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2031)
General Revenue Fund – DOR	0 FTE	2 FTE	2 FTE	2 FTE
General Revenue Fund – DED	0 FTE	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on <u>All</u> Federal Funds	**0 FTE**	**4 FTE**	**4 FTE**	**4 FTE**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2031)
Total Estimated Net Effect on FTE	**0**	**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 2025	FY 2026	FY 2027	Fully Implemented (FY 2031)
Local Government	**$0**	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Section 620.2022 Workforce Housing Program

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

This proposal attempts to create several new incentive programs to fund workforce housing projects. This section says that an eligible project would be entitled to tax credits and tax incentives. DED is to approve the projects.

Eligible Housing Projects that meet the following criteria:

- Four or more single family dwelling units located in a small city.
- A multiple dwelling building with three or more individual dwelling units.
- Two or more dwelling units located in an upper story of an existing multi-use building.

DED responsibilities in the program:

- Setting minimum and maximum dwelling unit costs.
- Creating an application for participation in the program.
- Review applications and award the tax credits and tax incentives.
- Collect a one-time $500 compliance fee from the applicants.
- Collect a fee of half of 1% of all incentives given to a project. (Approximately $5,000 per project).

Per the proposal a tax incentive includes:

  - A tax credit.
  - A sales and use tax refund.
  - Financial assistance.

It should be noted that no project may receive more than $1 million in incentives.

Tax Incentive Caps:

- $17.5 million cumulative cap on projects designated as disaster recovery housing projects in urban areas. This includes tax credits and tax incentives.
- $17.5 million cumulative cap on projects designated as disaster recovery housing projects in small towns. This includes tax credits and tax incentives.

- $35 million cumulative cap on housing projects. Does not specify tax credits or tax incentives.

DOR notes that for fiscal note purposes, DOR will show the full impact of the caps in the first fiscal year FY 2026 (based on when the returns will be filed claiming the credit).

This proposal allows for the tax credit certification to stand as payment of all taxes starting January 1, 2025. It is not clear which taxes this refers as DOR handles individual income tax, corporate tax, sales/use tax, and tire and battery taxes. Additionally, it is unclear if this tax exemption is just for this project or is it for all projects the business is involved in.

This additionally will allow a state and local sales and use tax refund. It should be noted that the state sales tax is 4.225% and is distributed 3% to general revenue, 1% to the School District Trust Fund, 0.125% to the Conservation Commission Fund and 0.1% to the Park, Soil & Water Funds. This proposal would result in an unknown loss to each of these funds.

In an effort to more accurately reflect the estimated local impact, B&P and DOR have moved from a population weighted average local sales tax rate to a location weighted average local sales tax rate. This change was made to reflect where sales actually occur, rather than exclusively where people live. Refunding sales tax paid would result in lost revenue to the locals as well. The amount is unknown as it is unknown how many projects may apply for the incentives.

<u>Administration of Proposal</u>

This proposal creates a new tax credit that would require a new line being added to the Form MO-TC ($7,138), updates to their website and changes to the individual income tax computer system ($1,785). These changes are estimated to cost $8,923.

This proposal creates new sales tax exemption and refund process. This will require changes to the sales tax use tax system as well as the distribution system. These changes are estimated to cost $10,000.

This proposal requires that DOR audit and approve the projects after they are complete. Verification of projects is outside the scope of the Department and would require an Auditor ($50,462) to handle this work. This would best be handled by DED.

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

Staff will be needed during the duration the claims are coming in.

Oversight notes the DOR will need to make a change to the tax credit form, update the individual income tax website, and change sales and use tax system including distribution system. Therefore, **Oversight** will reflect $18,923 costs for the DOR changes in the fiscal note effective FY 2025

Oversight notes DOR assumes the need for 2 additional FTE to properly administer this program. Therefore, **Oversight** will reflect costs for one Auditor at a salary of $50,462 annually and one Associate Customer Service Representative at a salary of $35,880 annually effective FY 2026.

Officials from the **Department of Natural Resources (DNR)** defer to the DOR for the potential fiscal impact of this proposal.

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

Sections 620.2022, 620.2024, 620.2026 and 620.2028 are added and creates the "Workforce Housing Tax Incentives Program", to be administered by the Department of Economic Development (DED) and establishes provisions for workforce recovery through housing development after a disaster. Beginning on or after January 1, 2025, a housing business can apply for tax incentives and credits for disaster recovery housing projects that are in a declared state disaster area and eligible for the Federal Emergency Management Agency (FEMA) Individual Assistance Program (IAP).

Eligible projects must be rehabilitation, repair, or redevelopment projects located at underutilized, underused, or undeveloped sites that will have single family, multi-family, or multi-use dwelling units as defined by the statute. A housing business applying for disaster recovery housing project tax incentives must submit housing project certification that meets the definition of a disaster recovery housing project. They must also submit documentation that provides evidence that the qualified disaster recovery housing project is needed due to the impact of the disaster that is the subject of the major disaster declaration.

Application documentation should include local matching funds of $1,000 per dwelling unit pledged for the housing project and a funding agreement between the housing business and the governing body of the community where the housing project will be located. Applications have a one-time compliance cost fee of $500 and a fee equal to 1/2 percent of the value of tax incentives claimed under the agreement. Housing companies must complete their housing project within three years from the date it's registered by the DED. The DED shall issue tax incentives under the program on a first-come, first-served basis until all tax incentives are allocated. The aggregate tax incentives cap for disaster recovery housing projects shall be $35M, with half, or $17.5M, being reserved for qualified housing projects in small cities. Subsection 620.2026.5(4) is for all other housing projects under this program which could be $35M once, or $35M annually, or $35M per project. It is unclear what the language states if it's a cumulative, annual, or a per project cap. The total aggregate cap for the disaster program is $35M, and an unknown total fiscal impact for all other programs.

Prior to completion of a housing project, housing businesses may claim a refund of paid sales and use taxes that are directly related to a housing project. This program will automatically sunset 6 years after the date it becomes effective, and terminate on September 1 of the following year. Therefore, the fiscal impact of this program is up to $70M in general revenue in fiscal year 2026, and is or could exceed $35M in fiscal year 2027 and beyond.

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

620.2022 establishes the "Workforce Housing Tax Incentives Program".

Housing projects including 1 of the following:

1. 4 or more single-family dwelling units, except for a housing project located in a small city, then 2 or more single-family dwelling units.
2. 1 or more multiple dwelling unit buildings each containing 3 or more individual dwelling units.
3. 2 or more dwelling units located in the upper story of an existing multi-use building

OR;
The housing project consists of any of the following:

1. Rehabilitation, repair, or redevelopment at a brownfield or grayfield site that results in new dwelling units.
2. The rehabilitation, repair, or redevelopment of dilapidated dwelling units.
3. The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.
4. For a housing project located in a small city, development at a greenfield site.
5. For a disaster recovery housing project.

A housing business seeking workforce housing tax incentives shall apply to DED. All housing project applications must be reviewed and scored on a competitive basis by DED, but disaster recovery projects are first-come-first-served.

Housing projects have a cumulative cap of $35M, and disaster recovery projects have a cumulative cap of $35M, which totals to $70M cumulative cap total for the life of the program.

620.2028. Establishes a way for housing businesses to refund of sales and use taxes. This part is administered by DOR.

For tax credits claimed by housing businesses:
1. For a housing project located in an urban area, 10% of the qualifying new investment.
2. For a housing project located in a small city, 20% of the qualifying new investment.
3. For a disaster recovery housing project, 20% of the qualifying new investment.

This legislation shall sunset on 12/31 6 years after the effective date, unless reauthorized by the general assembly.

DED is requesting 2.0 FTE to administer the program.

Oversight notes the DED assumes the need for 2 FTE Senior Economic Development Specialists at $74,664. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect DED costs in the fiscal note effective FY 2026.

Oversight notes the proposal, §§620.2026.5 (3) specify the aggregate amount of tax credits for disaster recovery housing projects must not exceed 35 million of which $17.5 million must be allocated to project in small cities.

Oversight notes the proposal, Section 620.2026.5 (4) states that all other housing projects under this program that are not disaster recovery housing projects shall be subject to a thirty-five million dollar cap.

Oversight notes the proposal, §§ 620.2026.3 (6) specify the maximum aggregate amount of tax incentives that may be awarded and issued under section 620.2028 to a housing business for a housing project shall not exceed one million dollars.

Oversight notes the provisions of the bill will expire December 31st, six years after the effective date. Oversight cannot predict the participation level in this tax credit. Therefore, Oversight will reflect a cost of $35 million divided over six years for both $35 million caps ($70 million in aggregate over the life of the program / 6 years). The first claims will not be field until FY 2026 with the tax credit sunsetting in FY 2031.

Oversight notes the proposal, §§ 620.2026.1 (2) (b) states the local political subdivisions pledge and enter into agreements between the entity and the housing businesses offering the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement. Therefore, Oversight will reflect loss of local funds of an unknown amount in cases where the housing businesses do not fulfil the contractual agreements.

Oversight notes the subsection 2 of this section requires payment of fees:

a) one-time compliance cost fee of five hundred dollars to be collected by the authority prior to the issuance of a tax incentive,
b) a compliance cost fee equal to one-half of one percent of the value of tax incentives claimed under an agreement that has an aggregate tax incentive value of one hundred thousand dollars or greater.

Therefore, **Oversight** will note the collection of both fees as an unknown revenue gain in the fiscal note effective FY 2026 in the fiscal note.

Oversight notes the proposal, §§620.2028.4 stipulates that the DOR and DED both will promulgate the rules and regulations of this program.

Oversight notes that under the proposal, the contractor and subcontractors are able to receive refund in form of sales or use tax owed, or tax credits.

Oversight notes that even though the refund could be issued in lieu of payment of use or sales tax owed in form of refund, it does not alter the tax. Therefore, Oversight will not reflect any changes to the school district trust fund, conservation fund, soil & water fund, or local funds.

Oversight notes that the proposal, §§620.2028.4 (1) & (2) allows for recapture of the monies from the contractors or subcontractors due to the non-compliance with the rules under the proposal from the administrator in the state or local governments. Therefore, Oversight will reflect avoidance cost of Unknown amount to the general revenue fund in the fiscal note effective FY 2026.

Officials from the **Department of Commerce and Insurance (DCI)** note:

A potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2026 and FY2027 as a result of the creation of Workforce Housing Tax Incentives Program. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the tax credit.

The department will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Oversight notes the Missouri Department of Commerce and Insurance assumes the contract computer programming can be absorbed with existing resources. Oversight does not have any information to the contrary. However, should multiple bills pass, the Missouri Department of Commerce and Insurance may seek additional equipment and expense appropriation through the appropriation process.

Additionally, **Oversight** assumes the fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

Officials from the **Office of the State Public Defender** 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.

Officials from the **Oversight Division** state they are responsible for providing a Sunset Report pursuant to Section 23.253 RSMo; however, Oversight assume it can absorb the cost with the current budget authority.

Officials from the **City of Osceola** and **City of Kansas City** both assume the proposal will have no fiscal impact on their organization.

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 the previous version of the bill, officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2031)
GENERAL REVENUE				
Costs – DOR Section(s) 620.2022-2028 - 2 FTEs needed p. 5				
Personnel Service	$0	($88,069)	($89,830)	($97,235)
Fringe Benefits	$0	($63,300)	($63,942)	($69,213)
Expense & Equipment	$0	($26,857)	($1,163)	($1,259)
Total Costs - DOR	$0	($178,226)	($154,935)	($167,707)
FTE Change	0 FTE	2 FTE	2 FTE	2 FTE

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2031)
Costs - Section(s) 620.2022-2028 – changes to PTC, Website, and tax systems needed p. 5	($18,923)	$0	$0	$0
Cost avoidance - Section 620.2028 4. (1) & (2) recapture of the funds p.8	Unknown	Unknown	Unknown	Unknown
Costs - 620.2026 5. (3) Disaster Housing Recovery Tax Credits p.7	$0	(Unknown, Could exceed $5,833,333)	(Unknown, Could exceed $5,833,333)	(Unknown, Could exceed $5,833,333)
Costs - Section 620.2026 5(4) All other housing projects p.7	$0	(Unknown, Could exceed $5,833,333)	(Unknown, Could exceed $5,833,333)	(Unknown, Could exceed $5,833,333)
Costs – DED Section(s) 620.2022-2028 - 2 FTEs needed p. 7				
Personnel Service	$0	($152,315)	($155,361)	($168,168)
Fringe Benefits	$0	($89,075)	($90,256)	($97,696)
Expense & Equipment	$0	($28,402)	($9,164)	($9,919)
Total Costs - DED	$0	($269,792)	($254,781)	($275,783)
FTE Change	0 FTE	2 FTE	2 FTE	2 FTE
Revenue Gain – Section 620.2026 3 (2) (a) - one time fee p.7	$0	Unknown	Unknown	Unknown
Revenue Gain – Section 620.2026 3 (2) (b) pro rata fee per project p.7	$0	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**Up to ($18,923)**	**(Unknown, Could Exceed $12,114,684)**	**(Unknown, Could Exceed $12,076,382)**	**(Unknown, Could Exceed $12,110,156)**

FISCAL IMPACT – Local Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2031)
LOCAL POLITICAL SUBDIVISIONS				
Costs - Section 620.2026 1. (2) (b) local property tax exemption, rebate, refund, or reimbursement p.7	$0	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**$0**	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill establishes the "Workforce Housing Tax Incentives Program" within the Department of Economic Development. The Program defines significant terms, which include "brownfield" and "greenfield" sites and different types of communities and housing projects (Section 620.2022, RSMo.).

Proposed housing projects must meet at least one of three specified dwelling unit minimums; projects consist of three types of rehabilitation and two project types that relate to greenfield sites. The bill specifies maximums for average dwelling unit costs for the project type and location. The Department must primarily consider the most recent annual Census Bureau building permits survey and historical program data in determining the maximum average dwelling unit cost. The units must meet the Federal housing quality standards in the Federal code (24 CFR 982) and all applicable local safety standards (Section 620.2024).

Housing businesses must apply to the Department as specified by rule to access the Program's tax incentives. Applications must include:

(1) Information about local participation in the project, which includes a supporting resolution by the governing body of the community where the housing project will be located, and documentation of local matching funds of at least $1,000 per dwelling unit.;

(2) An agreement between the business and the Department that specifies the eligibility requirements and how they will be maintained. The business must also report any environmental or worker safety law violations within the last five years, which the Department may use to deny assistance unless it finds the violations did not seriously affect health, safety, or the environment.

(3) Total costs and funding sources to allow determination of adequate financing, actual dwelling unit cost, and the qualifying amount of the investment; and

(4) Other necessary information required for the Department's evaluation of the application. Applications will be reviewed and scored competitively by the Department as specified in the bill. After all applications are reviewed, the Department may make a tax incentive award to a housing project, which must be approved by the Department Director. The Department must notify the housing business of the tax incentive award; the bill specifies the contents of the notice. The amount is contingent upon completion of requirements. Applicants that do not receive awards may make new applications during subsequent application periods.

Upon receiving the tax incentive award, the housing business must enter an agreement with the Department; the agreement identifies the award amount and date, project completion deadline, and total costs. The bill establishes two compliance fees and requires that projects be completed in three years from their registration with the Department. The Department may extend the deadline for good cause by up to 12 months, with the option for another 12 months. Upon completion of the project, the housing business must submit an examination completed by a certified public accountant on standards for attestation engagements and a statement of the final amount of qualifying new investment, plus any other information the Department requires for compliance.

The maximum aggregate amount of tax incentives for a housing project is $1 million. If a housing business qualifies for a higher amount than is allowed, the Department and business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund and the housing investment tax credits as long as the total aggregate amount of incentives does not exceed amount set by the bill.

The incentives must be issued on a first-come, first-served basis until the maximum amount of incentives is reached. The Department must maintain a list of registered projects and projects awarded incentives; it will also establish await list.

Failure of a housing business to complete a project or to comply with requirements may result in revocation, reduction, termination, or rescission of awards or incentives. Repayment of incentives is considered as a tax payment due and payable to the Department of Revenue. The county has the authority to recover the value of property taxes not collected as a result of exemption awarded to a business under the Program.

The Department of Economic Development may establish a disaster recovery housing project application period after the declaration of a major disaster. The bill specifies that tax incentives will be issued on a first-come, first served basis until the maximum amount of incentives is allocated. The bill allots $35 million to these projects, with $17.5 million for projects in small cities. All other housing projects that are not disaster recovery have a $35 million cap (Section 620.2026, RSMo).

The provisions of the bill will expire December 31 six years after the effective date (Section 620.2028).

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 Economic Development
Department of Commerce and Insurance
Joint Committee on Administrative Rules
Office of the Secretary of State
Department of Natural Resources
Missouri Office of Prosecution Services
Office of the State Public Defender
Oversight Division
City of Kansas City
City of Osceola

Julie Morff
Director
February 5, 2024

Ross Strope
Assistant Director
February 5, 2024