COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4660H.01I
Bill No.: HB 2438
Subject: Tax Credits; Taxation and Revenue - Income; Taxation and Revenue - General; Department of Revenue; Food; Economic Development; Department of Economic Development,
Type: Original
Date: March 22, 2024

Bill Summary: This proposal modifies provisions of the urban farm tax credit to include certain specialty crop farms located in a food desert and establishes a tax credit for grocery stores in a food desert.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	Up to ($3,105,086)	Up to ($25,111,114)	Up to ($25,116,433)
Total Estimated Net Effect on General Revenue	Up to ($3,105,086)	Up to ($25,111,114)	Up to ($25,116,433)

*Oversight reflects the max credit cap for Section 135.1610 up to $2.8 million ($3,000,000 – current $200,000) and a range for Section 135.1620 as $0 (no grocery store is build) up to maximum cap of $22 million. Additionally, Oversight reflects DOR (1) and up to DED (2) FTEs.

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

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue - DOR	1 FTE	1 FTE	1 FTE
General Revenue - DED	Up to 2 FTE	Up to 2 FTE	Up to 2 FTE
Total Estimated Net Effect on FTE	**Up to 3 FTE**	**Up to 3 FTE**	**Up to 3 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 2025	FY 2026	FY 2027
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Section 135.1610 - Tax Credit for Urban Farms & Specialty Crop Farms

Officials from the **Office of Administration – Budget & Planning Division (B&P)** assume this proposal adds small-scale specialty crop farms to the urban farms tax credit program. This proposal also increases the authorization limit from $200,000 per year to $3 million per year.

B&P notes that this tax credit program become effective on January 1, 2023. Therefore, there is no authorization/redemption history. B&P estimates that this provision could reduce TSR by $2.8 million annually beginning in FY25.

Official from the **Department of Revenue (DOR)** assume this proposal would expand the urban farm tax credit program to include small-scale specialty crop farms in the list of eligible farms. This proposal also changes the existing cap on the program from $200,000 to $3,000,000. The increase in the cap will be an additional loss of $2,800,000 of general revenue.

HB 3 adopted in 2022 created this tax credit program, so the Department does not have any information on the usage of the program.

Officials from the **Department of Economic Development (DED)** assume §135.1610 allows a taxpayer to claim a tax credit equal to 50% of the taxpayer's eligible expenses for establishing or improving an urban farm or small-scale specialty crop farm in a food desert that focuses on food production. The taxpayer cannot claim more than $500,000 for each urban farm or small-scale specialty crop farm. The total amount of tax credits that may be authorized for all taxpayers for eligible expenses incurred on any given urban farm or small-scale specialty crop farm will not exceed $25,000. May be carried over for three consecutive years. The program is capped at $3 million per year. This is not a new program and it is currently capped at $200,000; therefore, the impact to TSR would be a reduction of $2,800,000.

Oversight notes the proposal indicates that the Urban Farms shall include community-run gardens and shall not exceed five acres in size.

Oversight notes proposal, specifically for this section, allows for the tax credit cap to be increased to $3 million.

Oversight is unsure of the utilization of the program currently; therefore, Oversight will reflect up to $2.8 million ($3,000,000 - $200,000) million fiscal impact beginning FY 2025.

Section 135.1620 Grocery Store Tax Credit

Officials from the **Office of Administration – Budget & Planning (B&P)** assume this proposal creates tax credits for taxpayers who establish a new location within a classified food desert within the state . Based on data published in 2019 by the United States Department of Agriculture, there are 453 census tracts within Missouri that are classified as low-income and have a population that is located at least one-half mile from a full-service grocery store in urban areas or ten miles in rural areas. If these businesses were to locate in one of these tracts, the qualifying taxpayer would be able to claim tax credits against their state tax liability up to 50% of their eligible costs after the initial expenses have exceeded $1,000,000 for stores established in charter counties, counties of first classification, or a city not within a county; or $500,000 for stores located in any other county. No more than $22M in tax credits that can be authorized in any given calendar year. This proposal also allows any tax credits that have been issued to be transferred, sold, or assigned.

"New location" is for real property acquired after 1/1/2025; therefore, general and total state revenues may be reduced as early as FY26.

This provision could lower general revenues by up to ($22,000,000) beginning in FY26. Due to the carryforward provision in any given year, the amount redeemed may exceed the estimate shown after the first full fiscal year.

Officials from the **Department of Revenue (DOR)** assume the proposal would create a new tax credit for tax years beginning on or after January 1, 2025, for the construction or development of real property for the purpose of establishing a full-service grocery store in a food desert. The tax credit would be in the amount of 50% of the eligible expenses that are in excess of initial eligible expenses. A taxpayer becomes eligible for the tax credit only after initially expending $1,000,000 (in a charter county, county of the first classification, or city not within a county) or expending $500,000 (in any other county). The tax credit would be 50% of the expenses over these minimum limits.

The tax credit has a $22 million cap. With each person not eligible to claim more than $2.5 million per year. The tax credit can be carried forward for three tax years and is transferable but is not refundable.

The full amount of the tax credits issued, plus a reasonable rate of return on the value of the credits, is subject to"'clawback" if the taxpayer fails to complete construction of the full-service grocery store within five years of project commencement or fails to operate that store at the same location for ten consecutive years. DED is given regulatory authority regarding this credit, and the credit is subject to a sunset clause.

This proposed legislation could potentially decrease Total State Revenue, specific to General Revenue by an estimated $22 million per year. DOR notes this tax credit begins January 1, 2025, and therefore, the first tax returns will be filed starting in January 2026.

Fiscal Year	Decrease to Total State Revenue - General Revenue
FY 2025	$0
FY 2026	($22,000,000)
FY 2027	($22,000,000)

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

Oversight notes DOR is responsible for the redemption of tax credits against a taxpayer's state tax liability as well as reallocating tax credits as a result of any sale, transfer, or assignment of tax credits. Furthermore, DOR is responsible for generating correspondence should tax returns fail to provide the necessary documentation to warrant tax credit redemption(s) and appropriately process the correspondence they receive in response. Therefore, Oversight will reflect the DOR (1) FTE in the fiscal note.

Oversight notes the tax credit program proposed has an annual cap of $22 million. Furthermore, taxpayers who qualify for the tax credit created may claim a tax credit up to $2.5 million per tax year.

Officials from the **Department of Economic Development (DED)** assumed 135.1620 allows a taxpayer to claim a tax credit equal to 50% of the taxpayer's eligible expenses for establishing a full-service grocery store in a food desert effective January 1, 2025. The taxpayer cannot claim more than $2.5M/tax year but may be carried over for three years until full credit has been claimed. Program is capped at $22M per year.

DED will need to hire 2.0 FTE to review applications, determine qualifications, and calculate eligible amounts, review final qualifying expenses, complete compliance and to administer the program.

Oversight will reflect "Up to" the DED (2) FTE ($74,666 each) to properly initiate and develop processes to comply with the rules in this proposal.

Oversight notes this proposed legislation creates a tax credit for individuals, partnerships, corporations or various charitable organizations who establish a full-service grocery store within a food desert.

Oversight notes, based on latest data published by the United States Department of Agriculture (USDA) in 2021, there were approximately 453 census tracts in Missouri in 2010 that were classified as low-income and low-access (one-half mile from a full-service grocery store in urban areas or ten miles from a full-service grocery store in rural areas).

Oversight notes that the proposal allows a minimum of 9 businesses to receive this tax credit (22 million cap where each business obtain the max of 2.5 million per each, as specified in Section 135.1620 3. (2)); however, the number could be substantially greater (up to 453 in the areas of need as shown above) for such grocery stores in Missouri.

Oversight notes, in order to qualify for the tax credit created, initial expenses must be incurred equal to $1 million if the full-service grocery store is established in a charter county, a county of the first classification, or a city not within a county or $500,000 if the full-service grocery store is established in any other county.

Oversight notes this proposed legislation creates a clawback provisions for taxpayers that are issued credits authorized under this section but fail to complete construction of a full-service grocery store within five years of the commencement of the project or fails to operate a full-service grocery store at the same new location for at least ten consecutive years. Oversight is unable to determine whether or not this clawback provision will have an impact on state revenues; therefore, will not show an impact for the clawback provisions.

Oversight notes the proposed legislation states a new location is a full-service grocery store located on a tract of real property within a food desert that is acquired or leased on or after January 1, 2025. (Fiscal Year 2026).Therefore, Oversight will reflect a reduction to general revenue equal to "$0 up to $22,000,000" beginning in Fiscal Year 2025.

Responses regarding the proposed legislation as a whole

Officials from **Missouri Department of Agriculture (MDA)** 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 MDA.

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

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
Costs – Section 135.1610 Urban Farms & Specialty Crop Farms	Up to ($2,800,000)	Up to ($2,800,000)	Up to ($2,800,000)
Costs – DOR - Section 135.1620 redemption of the tax credit			
Personnel Service	($29,900)	($36,598)	($37,330)
Fringe Benefits	($23,896)	($28,937)	($29,204)
Expense & Equipment	($13,311)	($570)	($582)
Total Costs – DOR p.5	($67,107)	($66,105)	($67,116)
FTE Change	1 FTE	1 FTE	1 FTE
Costs – Section 135.1620 ITSD – DOR update to form, database, and website	($8,923)	$0	$0
Costs – DED - Section 135.1620 Administration of the tax credit	Up to	Up to	Up to
Personnel Service	($124,440)	($152,315)	($155,361)
Fringe Benefits	($66,374)	($80,650)	($81,671)
Expense & Equipment	($38,242)	($12,044)	($12,285)
Total Costs – DED p.6	($229,056)	($245,009)	($249,317)
FTE Change	2 FTE	2 FTE	2 FTE

FISCAL IMPACT – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
Costs – Section 135.1620 Grocery Store Tax Credit p.6	$0	Up to ($22,000,000)	Up to ($22,000,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**Up to ($3,105,086)**	**Up to ($25,111,114)**	**Up to ($25,116,433)**
Estimated Net FTE Change on General Revenue	3 FTE	3 FTE	3 FTE

FISCAL IMPACT – Local Government	FY 2025 (10 Mo.)	FY 2026	FY 2027
	$0	**$0**	**$0**

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

Currently, a tax credit is authorized for 50% of eligible expenses incurred for establishing or improving an urban farm. This bill expands this tax credit to include expenses incurred for establishing or improving a small-scale specialty crop farm in a food desert, as such terms are defined in the bill.

The bill also modifies the definition of "urban farm" to provide that urban farms must not exceed five acres in size. Additionally, the maximum amount of such tax credits that may be authorized in a calendar year is increased from $200,000 to $3 million.

Beginning January 1, 2025, a tax credit will be authorized for expenses incurred in the establishment of a full-service grocery store located in a food desert, as defined in the bill. The tax credit will be equal to 50% of eligible expenses that are in excess of initial expenses. The initial eligible expenses must be at least $1 million if the full-service grocery store is located in a charter county, a first class county, or in St Louis City, or at least $500,000 if located in any other county.

A taxpayer must apply to the Department of Economic Development (DED) and indicate the amount of eligible expenses, the date of the commencement of construction and operations, and any other information required by the DED.

The tax credit authorized cannot exceed $2.5 million per tax year and is not refundable, but may be carried forward for three subsequent tax years. The total amount of tax credits authorized cannot exceed $22 million per calendar year, and will be issued on a first-come, first-serve basis.

The DED will recoup from a taxpayer any amount of tax credits issued if the taxpayer fails to complete construction of the fullservice grocery store within five years of commencement of the project or if the taxpayer fails to operate the full-service grocery store for at least 10 consecutive years. The taxpayer must submit an annual report to the DED indicating compliance. This program sunsets on December 31st, six years after the effective date.

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 & Planing
Missouri Department of Agriculture
Department of Economic Development
Office of the Secretary of State
Joint Committee on Administrative Rules
Oversight Division

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