

FIRST REGULAR SESSION

# HOUSE BILL NO. 1520

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

2134H.011

JOSEPH ENGLER, Chief Clerk

## AN ACT

To repeal section 135.1610, RSMo, and to enact in lieu thereof two new sections relating to tax credits for improving access to food.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 135.1610, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.1610 and 135.1620, to read as follows:

135.1610. 1. As used in this section, the following terms mean:

(1) "Eligible expenses", expenses incurred in the construction or development of establishing or improving an urban farm in an urban area **or a small-scale specialty crop farm in a food desert**. The term "eligible expenses" shall not include any expense for labor or any expense incurred to grow medical marijuana, **recreational marijuana**, or industrial hemp;

(2) "Food desert", a census tract that has a poverty rate of at least twenty percent or a median family income of less than eighty percent of the statewide average and where at least five hundred people or thirty-three percent of the population is located at least one mile away from a full-service grocery store in an urban area or at least ten miles away from a full-service grocery store in a rural area;

(3) "Rural area", a rural place as designated by the United States Census Bureau;

(4) "Small-scale specialty crop farm", a farm no larger than thirty acres and growing three or more types of specialty crops at any given time on at least half of its total acreage and located in a rural area;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           (5) "Specialty crop", fruits and vegetables, tree nuts, dried fruits, and  
18 horticulture and nursery crops, but shall not include floriculture;

19           (6) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding  
20 withholding tax imposed under sections 143.191 to 143.265;

21           ~~[(3)]~~ (7) "Taxpayer", any individual, partnership, or corporation as described under  
22 section 143.441 or 143.471 that is subject to the tax imposed under chapter 143, excluding  
23 withholding tax imposed under sections 143.191 to 143.265, or any charitable organization  
24 that is exempt from federal income tax and whose Missouri unrelated business taxable  
25 income, if any, would be subject to the state income tax imposed under chapter 143;

26           ~~[(4)]~~ (8) "Urban area", an urbanized area as defined by the United States Census  
27 Bureau;

28           ~~[(5)]~~ (9) "Urban farm", an agricultural plot or facility in an urban area that produces  
29 agricultural food products used solely for distribution to the public by sale or donation.  
30 "Urban farm" shall include community-run gardens. "Urban farm" shall not include  
31 personal farms or residential lots for **which more than ten percent of the land is for**  
32 personal use.

33           2. (1) For all tax years beginning on or after January 1, 2023, a taxpayer shall be  
34 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to  
35 fifty percent of the taxpayer's eligible expenses **in the tax year, not to exceed five thousand**  
36 **dollars for all tax years beginning on or before December 31, 2025, and not to exceed ten**  
37 **thousand dollars for all tax years beginning on or after January 1, 2026**, for establishing  
38 or improving an urban farm that focuses on food production.

39           (2) For all tax years beginning on or after January 1, 2026, in addition to the tax  
40 credits allowed under this subsection, a taxpayer shall be allowed to claim a tax credit  
41 against the taxpayer's state tax liability in an amount equal to fifty percent of the  
42 taxpayer's eligible expenses in the tax year, not to exceed ten thousand dollars, for  
43 establishing or improving a small-scale specialty crop farm in a rural food desert that  
44 focuses on food production.

45           3. ~~[The amount of the tax credit claimed shall not exceed the amount of the taxpayer's~~  
46 ~~state tax liability in the tax year for which the credit is claimed, and the taxpayer shall not be~~  
47 ~~allowed to claim a tax credit under this section in excess of five thousand dollars for each~~  
48 ~~urban farm.]~~ (1) The ~~[total]~~ **cumulative** amount of tax credits that may be authorized for all  
49 taxpayers for eligible expenses incurred on any given urban farm shall not exceed twenty-five  
50 thousand dollars **per tax year. Tax credits issued under the provisions of this section shall**  
51 **not be refundable but** any issued tax credit that cannot be claimed in the tax year in which  
52 the eligible expenses were incurred may be carried over to the next three succeeding tax years  
53 until the full credit is claimed.

54           **(2) For all tax years beginning on or after January 1, 2026, the cumulative**  
55 **amount of tax credits authorized for eligible expenses incurred on any single small-scale**  
56 **specialty crop farm in a rural food desert shall not exceed thirty thousand dollars per**  
57 **tax year. Tax credits issued under the provisions of this section shall not be refundable**  
58 **but any issued tax credit that cannot be claimed in the tax year in which the eligible**  
59 **expenses were incurred may be carried over to the next three succeeding tax years until**  
60 **the full credit is claimed.**

61           **4. (1) For all tax years beginning on or before December 31, 2025, the total**  
62 **amount of tax credits that may be authorized under this section shall not exceed two hundred**  
63 **thousand dollars in any calendar year.**

64           **(2) For all tax years beginning on or after January 1, 2026, the cumulative**  
65 **amount of tax credits allowed to all taxpayers under this section in any tax year shall not**  
66 **exceed one million five hundred thousand dollars for urban farms and one million five**  
67 **hundred thousand dollars for small-scale specialty crop farms.**

68           **(3) In the event the cumulative amount of tax credits claimed under this section**  
69 **exceeds the amount of available tax credits, the tax credits shall be apportioned among**  
70 **all taxpayers claiming a tax credit for eligible expenses incurred on urban farms and**  
71 **small-scale specialty crop farms by April fifteenth, or as directed by section 143.851, of**  
72 **the fiscal year in which the tax credit is claimed.**

73           **5. Tax credits issued under the provisions of this section shall not be transferred, sold,**  
74 **or assigned.**

75           **6. The Missouri agricultural and small business development authority shall recapture**  
76 **the amount of tax credits issued to any taxpayer who, within three years after receiving such**  
77 **tax credit, uses more than ten percent of the urban farm land for the production of**  
78 **agricultural food products for personal [benefit of] consumption by the taxpayer instead of**  
79 **for producing agricultural food products used [solely] predominantly for distribution to the**  
80 **public by sale or donation or who uses less than half of the small-scale specialty crop**  
81 **farm's total acreage for growing specialty crops.**

82           **7. The Missouri agricultural and small business development authority may**  
83 **promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as**  
84 **that term is defined in section 536.010, that is created under the authority delegated in this**  
85 **section shall become effective only if it complies with and is subject to all of the provisions of**  
86 **chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**  
87 **nonseverable and if any of the powers vested with the general assembly pursuant to chapter**  
88 **536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
89 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
90 **adopted after January 2, 2023, shall be invalid and void.**

91 8. Under section 23.253 of the Missouri sunset act:

92 (1) The program authorized under this section shall automatically sunset on  
93 December 31, 2028, unless reauthorized by an act of the general assembly;

94 (2) If such program is reauthorized, the program authorized under this section shall  
95 automatically sunset on December thirty-first twelve years after the effective date of the  
96 reauthorization of this section;

97 (3) This section shall terminate on September first of the calendar year immediately  
98 following the calendar year in which the program authorized under this section is sunset; and

99 (4) Nothing in this subsection shall prevent a taxpayer from claiming a tax credit  
100 properly issued before the program was sunset in a tax year after the program is sunset.

**135.1620. 1. As used in this section, the following terms mean:**

2 (1) "Department", the Missouri department of economic development;

3 (2) "Eligible expenses", expenses incurred in the construction or development of  
4 real property for the purpose of establishing a full-service grocery store in a food desert;

5 (3) "Food desert", a census tract that has a poverty rate of at least twenty  
6 percent or a median family income of less than eighty percent of the statewide average  
7 and where at least five hundred people or thirty-three percent of the population is  
8 located at least one-half mile away from a full-service grocery store in urbanized areas  
9 or at least ten miles away in rural areas;

10 (4) "Full-service grocery store", a grocery store that provides a full complement  
11 of healthful fruits, vegetables, grains, meat, and dairy products along with household  
12 items. Fresh fruits and vegetables shall be available for sale in quantities that are  
13 substantially similar to industry standards for facilities of similar size. A lack of  
14 availability of fresh fruits and vegetables in sufficient quantities due to a supply  
15 shortage, as determined by the department, shall not disqualify an entity from being a  
16 full-service grocery store otherwise eligible for tax credits pursuant to this section;

17 (5) "New location", a full-service grocery store facility located on a tract of real  
18 property within a food desert acquired by or leased to a taxpayer on or after January 1,  
19 2026. A location shall be deemed to have been acquired by or leased to a taxpayer on or  
20 after January 1, 2026, if the transfer of title to the taxpayer, the transfer of possession  
21 under a binding contract to transfer title to the taxpayer, or the commencement of the  
22 term of the lease to the taxpayer occurs on or after January 1, 2026, or if the  
23 commencement of the construction or installation of the facility by or on behalf of a  
24 taxpayer occurs on or after January 1, 2026;

25 (6) "Rural area", a town or community within the state that is not within a  
26 metropolitan statistical area and has a population of six thousand or fewer inhabitants

27 as determined by the last preceding federal decennial census or any unincorporated  
28 area not within a metropolitan statistical area;

29 (7) "Tax credit", a credit against the tax otherwise due under chapter 143,  
30 excluding withholding tax imposed under sections 143.191 to 143.265;

31 (8) "Taxpayer", any individual, partnership, or corporation as described under  
32 section 143.441 or 143.471 that is subject to the tax imposed under chapter 143,  
33 excluding withholding tax imposed under sections 143.191 to 143.265, or any charitable  
34 organization that is exempt from federal income tax and whose Missouri unrelated  
35 business taxable income, if any, would be subject to the state income tax imposed under  
36 chapter 143;

37 (9) "Urbanized area", an urbanized area as designated by the United States  
38 Census Bureau.

39 2. For all tax years beginning on or after January 1, 2026, a taxpayer shall be  
40 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal  
41 to fifty percent of the taxpayer's eligible expenses that are in excess of initial eligible  
42 expenses of:

43 (1) One million dollars if the full-service grocery store is established in a charter  
44 county, a county of the first classification, or a city not within a county; or

45 (2) Five hundred thousand dollars if the full-service grocery store is established  
46 in any other county.

47 3. (1) In order to claim a tax credit pursuant to this section, a taxpayer shall  
48 submit an application to the department, which shall include:

49 (a) All eligible expenses incurred by the taxpayer;

50 (b) The date of the commencement of construction of the full-service grocery  
51 store;

52 (c) The anticipated date of the commencement of operations of the full-service  
53 grocery store; and

54 (d) Any other information required by the department to implement the  
55 provisions of this section.

56 (2) The amount of the tax credit shall not exceed the amount of the taxpayer's  
57 state tax liability in the tax year for which the credit is claimed, and such taxpayer shall  
58 not be allowed to claim a tax credit in excess of two million five hundred thousand  
59 dollars per tax year. However, any tax credit that cannot be claimed in the tax year the  
60 eligible expenses were incurred may be carried over to the next three succeeding tax  
61 years until the full credit is claimed.

62           **4. The total amount of tax credits that may be authorized under this section shall**  
63 **not exceed twenty-two million dollars in any calendar year, which shall be authorized on**  
64 **a first-come, first-served basis.**

65           **5. Tax credits issued under the provisions of this section may be transferred,**  
66 **sold, or assigned.**

67           **6. (1) The issuance of tax credits authorized under this section shall cease and**  
68 **the department shall recoup from the taxpayer and deposit in the general revenue fund**  
69 **an amount equal to all credits previously issued to the taxpayer under this section, less**  
70 **any amounts previously repaid, increased by the amount of interest that would have**  
71 **been earned on the amount of such tax credits, in the event that the taxpayer:**

72           **(a) Fails to complete construction of a full-service grocery store within five years**  
73 **of the commencement of the project; or**

74           **(b) Fails to operate a full-service grocery store at the same new location for at**  
75 **least ten consecutive years.**

76           **(2) A taxpayer shall annually submit a report to the department, on a form to be**  
77 **developed by the department, indicating that the taxpayer is in compliance with the**  
78 **provisions of this section.**

79           **7. The department may promulgate rules to implement the provisions of this**  
80 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
81 **created under the authority delegated in this section shall become effective only if it**  
82 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
83 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
84 **vested with the general assembly pursuant to chapter 536 to review, to delay the**  
85 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**  
86 **then the grant of rulemaking authority and any rule proposed or adopted after August**  
87 **28, 2025, shall be invalid and void.**

88           **8. Under section 23.253 of the Missouri sunset act:**

89           **(1) The program authorized under this section shall automatically sunset on**  
90 **December thirty-first six years after the effective date of this section, unless**  
91 **reauthorized by an act of the general assembly;**

92           **(2) If such program is reauthorized, the program authorized under this section**  
93 **shall automatically sunset on December thirty-first twelve years after the effective date**  
94 **of the reauthorization of this section;**

95           **(3) This section shall terminate on September first of the calendar year**  
96 **immediately following the calendar year in which the program authorized under this**  
97 **section is sunset; and**

98           **(4) Nothing in this subsection shall prevent a taxpayer from claiming a tax credit**  
99 **properly issued before the program was sunset in a tax year after the program is sunset.**

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