COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4006S.01I
Bill No.: SB 790
Subject: Taxation and Revenue - Income; Tax Credits
Type: Original
Date: January 23, 2022

Bill Summary: This proposal establishes a tax credit for grocery stores in a food desert.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund	$0	$0 Up To ($25,000,000)	$0 Up To ($25,000,000)
Total Estimated Net Effect on General Revenue	**$0**	**$0 Up To ($25,000,000)**	**$0 Up to ($25,000,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	**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 2023	FY 2024	FY 2025
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state 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 $25M in tax credits 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 1/1/2023; therefore, general and total state revenues may be reduced as early as FY 2024.

This provision could lower general revenues by up to ($25,000,000) beginning in FY24. This provision could impact total state revenue and the calculation under Article X, Section 18(e). 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 **Missouri Department of Revenue (DOR)** state the proposal would create a new tax credit for tax years beginning on or after January 1, 2023. The tax credit would be in the amount of 50% of the expenses incurred by any taxpayer 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 has a $25 million annual cap. With each person not eligible to claim more than $2.5 million per year.

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 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 would be a new income tax credit and it would be added to the MO-TC and information about the credit would be added to DOR's website and changes would be needed in DOR's individual income tax system. DOR notes the costs to update these items is $3,596.50. DOR will need the following FTE should the number of credits redeemed justify the FTE.

• 1 FTE Revenue Processing Technician for every 6,000 credits redeemed
• 1 FTE Revenue Processing Technician 1 for every 4,000 tax credit transfers with CISCO phones and license.
• 1 FTE Revenue Processing Technician for every 7,600 errors/correspondence generated

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.

Oversight notes the tax credit program proposed has an annual cap of $25 million. Furthermore, taxpayers who qualify for the tax credit created may claim a tax credit up to $2.5 million per tax year. Therefore, Oversight assumes the minimum number of taxpayers that could qualify and claim this tax credit each year (and utilize the entire cap) could be as low as ten (10). Thus, Oversight assumes DOR can absorb the responsibilities associated with the new tax credit program with existing resources. Should DOR experience the number of redemptions, transfers, and/or correspondence that warrant additional FTE, DOR may seek additional FTE through the appropriation process.

Officials from the **Missouri Department of Economic Development (DED)** state the proposal 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.

The taxpayer cannot claim more than $2.5M/tax year but tax credits may be carried over for three years until full credit has been claimed. The total that may be authorized in any calendar year shall not exceed $25M. Sunsets six years after effective date of January 1, 2023.

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 notes the tax credit program proposed has an annual cap of $25 million. Furthermore, taxpayers who qualify for the tax credit created may claim a tax credit up to $2.5 million per tax year. Therefore, Oversight assumes the minimum number of taxpayers that could qualify and claim this tax credit each year could be as low as ten (10). Thus, Oversight assumes DED can absorb the responsibilities of the tax credit program created with existing resources. Should the responsibilities of the tax credit program justify additional FTE(s), DED may seek additional FTE through the appropriation process.

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.

This proposed legislation defines "food desert" as a census tract that has a poverty rate of at least twenty percent (20%) or a median family income of less than eighty percent (80%) of the statewide average and where at least five hundred (500) people or thirty-three percent (33%) of the population are located at least one-half mile away from a full-service grocery store in urbanized areas or at least ten miles away in rural areas.

Based on data published by the United States Department of Agriculture (USDA) in 2019, there were approximately 466 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 will show the number of low-income/low-access tracts per county below (counties with no low-income/low-access are not included in the chart):

County	LILATracts_halfAnd10
Adair County Total	3
Andrew County Total	0
Atchison County Total	0
Audrain County Total	3
Barry County Total	0
Barton County Total	1
Bates County Total	1
Benton County Total	2
Bollinger County Total	0
Boone County Total	8
Buchanan County Total	9
Butler County Total	7

Caldwell County Total	1
Callaway County Total	0
Camden County Total	1
Cape Girardeau County Total	4
Carroll County Total	1
Carter County Total	1
Cass County Total	5
Cedar County Total	2
Chariton County Total	0
Christian County Total	1
Clark County Total	0
Clay County Total	12
Clinton County Total	1
Cole County Total	4
Cooper County Total	0
Crawford County Total	1
Dade County Total	1
Dallas County Total	2
Daviess County Total	0
DeKalb County Total	0
Dent County Total	3
Douglas County Total	3

Dunklin County Total	4
Franklin County Total	2
Gasconade County Total	0
Gentry County Total	0
Greene County Total	27
Grundy County Total	1
Harrison County Total	2
Henry County Total	4
Hickory County Total	0
Holt County Total	0
Howard County Total	1
Howell County Total	2
Iron County Total	2
Jackson County Total	83
Jasper County Total	6
Jefferson County Total	5
Johnson County Total	2
Knox County Total	1
Laclede County Total	2
Lafayette County Total	0
Lawrence County Total	1
Lewis County Total	0

Lincoln County Total	0
Linn County Total	1
Livingston County Total	3
McDonald County Total	0
Macon County Total	2
Madison County Total	2
Maries County Total	0
Marion County Total	4
Mercer County Total	0
Miller County Total	1
Mississippi County Total	2
Moniteau County Total	1
Monroe County Total	1
Montgomery County Total	1
Morgan County Total	0
New Madrid County Total	2
Newton County Total	2
Nodaway County Total	2
Oregon County Total	2
Osage County Total	0
Ozark County Total	2
Pemiscot County Total	3

Perry County Total	1
Pettis County Total	5
Phelps County Total	1
Pike County Total	2
Platte County Total	1
Pulaski County Total	1
Putnam County Total	0
Ralls County Total	0
Randolph County Total	1
Ray County Total	0
Reynolds County Total	0
Ripley County Total	1
St. Charles County Total	4
St. Clair County Total	0
Ste. Genevieve County Total	1
St. Francois County Total	0
St. Louis County Total	39
Saline County Total	3
Schuyler County Total	2
Scotland County Total	0
Scott County Total	5
Shannon County Total	1

Shelby County Total	0
Stoddard County Total	1
Stone County Total	0
Sullivan County Total	2
Taney County Total	2
Texas County Total	0
Vernon County Total	3
Warren County Total	0
Washington County Total	2
Wayne County Total	2
Webster County Total	1
Worth County Total	0
Wright County Total	2
St. Louis city Total	54
Grand Total	**390**

Oversight notes the proposed legislation would provide a taxpayer who establishes a full-service grocery store in a food desert a tax credit equal to fifty percent (50%) of the taxpayer's eligible expenses incurred. Oversight notes this could be any expenses incurred in the construction or development of real property for the purpose of establishing a full-service grocery store in a food desert.

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.

The tax credit authorized under this proposed legislation may not exceed the taxpayer's state tax liability and is; therefore, not refundable. However, any amount of tax credit that exceeds the taxpayer's state tax liability in the year in which the "contribution" was made may be carried forward to the next three (3) succeeding tax years.

Oversight assumes a "contribution" to be the expenses incurred in establishing a full-service grocery store.

Furthermore, this proposed legislation states that no taxpayer may claim a tax credit in an amount greater than $2.5 million per tax year. The proposed legislation places a $25 million per calendar year cap on the tax credit program. Thus, Oversight notes the minimum number of taxpayers that could potentially qualify for this tax credit could be as low as ten (10) each calendar year ($25,000,000 / $2,500,000).

The tax credits created under this proposed legislation may be transferred, sold, or assigned.

The tax credit program created would sunset on December 31, 2028.

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 and will not show an impact for this portion of this proposed legislation.

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, 2023. Thus, the first tax year in which taxpayers could claim the tax credit created is Tax Year 2023; Tax Year 2023 tax returns will not be filed until after January 1, 2024 (Fiscal Year 2024).

Therefore, Oversight will report a <u>reduction</u> to GR equal to "$0 up to $25,000,000" beginning in Fiscal Year 2024. A reduction to GR equal to $0 would occur if no full-service grocery store is established within a food desert in the particular tax year and a reduction to GR equal to $25,000,000 would occur if the annual cap is met.

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. 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 SOS for administrative rules is less than $5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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 SOS can sustain with SOS's core budget. Therefore, 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

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 **Missouri Department of Health and Senior Services** and the **Missouri Department of Agriculture** do not anticipate this proposed legislation will have a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, for purposes of this fiscal note, Oversight will not show a fiscal impact for these organizations.

FISCAL IMPACT – State Government	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
Revenue Reduction – Section 135.1620 – Tax credit for the establishment of a grocery store in a food desert	$0	$0 Up to ($25,000,000)	$0 Up to ($25,000,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0**	**$0 Up to ($25,000,000)**	**$0 Up to ($25,000,000)**

FISCAL IMPACT – Local Government	FY 2023 (10 Mo.)	FY 2024	FY 2025
	$0	**$0**	**$0**

FISCAL IMPACT – Small Business

This proposed legislation could impact any small business that establishes a full-service grocery store in a food desert as such small business may qualify for a tax credit that could reduce or eliminate such small business's state tax liability.

FISCAL DESCRIPTION

For all tax years beginning on or after January 1, 2023, this act authorizes a tax credit for expenses incurred in the establishment of a full-service grocery store located in a food desert, as such terms are defined in the act. Prior to claiming a tax credit, a taxpayer shall incur at least $1 million in eligible expenses 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.

The tax credit authorized by this act shall not exceed $2.5 million per tax year and shall not be refundable, but may be carried forward for three subsequent tax years. The total amount of tax credits authorized under this act shall not exceed $25 million per calendar year.

A taxpayer shall be required to repay any amount of tax credits issued if the taxpayer fails to complete construction of the full-service 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 ten consecutive years.

This act shall expire on December 31, 2028, unless reauthorized by the General Assembly.

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

Missouri Department of Economic Development
Office of Administration – Budget & Planning Division
Missouri Department of Revenue
Secretary of State's Office
Joint Committee on Administrative Rules
Missouri Department of Health and Senior Services
Missouri Department of Agriculture

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