

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3893H.02C
Bill No.: HCS for HB 1695
Subject: Taxation and Revenue - Income; Tax Credits; Motor Fuel
Type: Original
Date: February 1, 2022

Bill Summary: This proposal authorizes a tax credit for the sale of ethanol fuel.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Funds	\$0	Up to (\$2,046,041) to (\$5,000,000)	Up to (\$2,046,041) to (\$5,000,000)
Total Estimated Net Effect on General Revenue	\$0	Up to (\$2,046,041) to (\$5,000,000)	Up to (\$2,046,041) to (\$5,000,000)

*Oversight notes the fiscal impact estimate range from current average activity (or estimated activity) to the program's \$5 million annual cap.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other</u> 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 <u>All</u> 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 **Department of Revenue (DOR)** note:

Under this proposal, starting January 1, 2023, a taxpayer that is a retail dealer that sells higher ethanol blend at their service station can claim a tax credit equal to five cents per gallon on the higher ethanol blend sold. This proposal requires that the higher ethanol blend be more than 15% but less than 85% ethanol. This is the ratio of the ethanol sold generally as E85 fuel.

The tax credit is capped at \$5,000,000 per fiscal year, is not refundable, and cannot be transferred or sold, but excess tax credits can be carried forward to any of the five subsequent tax years.

The U.S. Energy Information Administration reported that in 2019 (the most recent complete year of data) that Missouri consumed 25.7 trillion British thermal units (Btu) of ethanol. At a conversion rate of 120,286 Btu per gallon, it is estimated that Missouri used 213,657,450 gallons of fuel. This tax credit is five cents per gallon which is estimated to generate \$10,682,872 in tax credits. However, since this credit is capped at \$5 million DOR will show the impact to general revenue as the cap amount. This proposal allows the credit to be apportioned among all eligible retail dealers claiming the credit.

This tax credit would not be filed on the returns until January 2024 (FY 2024).

This is a new credit, primarily for business entities (corporations, maybe partnerships and S corporations and their members). The Department does not currently collect information on the amount of gallons of ethanol sold at the retail level. The Department would need to create a form and make changes to the existing tax credit form for taxpayers to claim this tax credit. This would require form and computer changes of at least \$3,596. Additionally, DOR would need the following FTE should the number claiming the tax credit reach these thresholds.

- 1 Associate Customer Service Rep. for every 6,000 credits redeemed
- 1 Associate Customer Service Rep for every 7,600 errors/correspondence generated

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

This creates a tax credit, beginning in calendar year 2023, for retail dealers selling higher ethanol blend at their retail service station. The amount of the credit shall equal \$0.05 per gallon of higher ethanol blend sold by the retail dealer and dispensed through metered pumps during the tax year in which the tax credit is claimed. These credits cannot be transferred, sold, or assigned. The tax credit is not refundable but has a 5 year carry-forward. The total amount of tax credits authorized for any fiscal year shall not exceed \$5,000,000.

B&P notes this proposal could reduce general and total state revenue by up to \$5M annually beginning in FY24. Due to the carryforward provision, in any given year the amount redeemed may exceed the estimate shown after the first full fiscal year.

For purposes of this fiscal note, **Oversight** assumes DOR can absorb the responsibilities of this tax credit with existing resources. Oversight provides further explanation below.

Oversight notes, for all tax years beginning on or after January 1, 2023, a retail dealer that sells higher ethanol blend at such retail dealer's service station is allowed a tax credit to be taken against the retail dealer's state income tax liability. The tax credit shall be equal to five cents (\$0.05) per gallon of higher ethanol blend sold. The tax credits authorized shall not be transferred, sold, or assigned. The tax credits authorized shall not be refundable. Any amount of tax credits that exceeds a taxpayer's tax liability shall be permitted to be carried forward to any of the five (5) subsequent tax years.

Oversight notes the State of Iowa (Iowa) provides several tax credits for biofuel sales by retailers and blenders. Two (2) of Iowa's tax credits are the E15 Plus Gasoline Promotion Tax Credit and E85 Gasoline Promotion Tax Credit. Detailed information about Iowa's Biofuel Retailers Tax Credits can be found [here](#).

Iowa's E15 Plus Gasoline Promotion Tax Credit is available to retail dealers of gasoline who sell blended gasoline that is classified as E15 Plus but not classified as E85 gasoline. Currently, Iowa's tax credit is considered seasonal; providing various amounts of credit(s) at different times of the year. From June 1 – September 15 of each year, the tax credit is awarded at \$0.10 per gallon. At all other times, the tax credit is awarded at \$0.03 per gallon.

Iowa's E85 Gasoline Promotion Tax Credit is available to retail dealers of motor fuel that sell E85. A tax credit can be claimed for each gallon of E85 sold by the retailer during the tax year. The current tax credit is calculated at \$0.06 per gallon.

Using the 9 [State Energy Consumption Estimates – 1960 through 2019](#), published by the U.S. Energy Information Administration, Oversight compared various energy consumption estimates for Iowa and Missouri. Oversight provides the comparison below:

2019 - State Energy Consumption Estimates - U.S. Energy Information Administration			
Iowa and Missouri	Iowa	Missouri	Iowa As a Percent of Missouri
Barrels of Fuel Ethanol	4,2733,000	7,378,000	58%
Total Motor Gasoline - Including Fuel Ethanol (btu)	186,900,000,000,000	376,200,000,000,000	50%
Total Fuel Ethanol (btu)	14,900,000,000,000	25,700,000,000,000	58%
Total Energy Consumption by End - Use Sector (Transportation)	303,100,000,000,000	555,100,000,000,000	55%
Iowa As a Percent of Missouri/Topic Average			55%

Oversight assumes, based on the Iowa and Missouri energy consumption comparison shown above, that Iowa's fuel ethanol operations (specific to end user consumption/transportation) could be operating at 55% capacity of Missouri's fuel ethanol operations.

Using information included in Iowa's Biofuel Retailers Tax Credits Program Evaluation Study (December 2019), Oversight reviewed the amount of tax credits claimed in 2016 for Iowa's E15 Plus and E85 Promotion Tax Credit(s) to estimate the number of gallons sold by tax credit claimants and compared such estimate to the *actual* number of gallons sold:

State of Iowa Summary						
E85 Gasoline Promotion Tax Credit					Actual Total Number of E15-20 & E85 Gallons Sold In Iowa	
Iowa Actuals (2016)	Amount Claimed	Iowa Tax Credit %	Oversight Estimated Number of Gallons Claimed By Tax Credit Claimants	Actual Number of Gallons Sold		
E85 is a blend of gasoline that contains between 70% and 85% ethanol.	\$2,143,259	\$0.16 per gallon	13,395,368.75	13,471,861	22,506,449	
E15 Plus Gasoline Promotion Tax Credit						
Iowa Actuals (2016)	Amount Claimed	Iowa Tax Credit %	Amount Claimed Per %	8,915,127.11		9,034,588
E15 Plus are blends of gasoline that contain between 15% and 69% ethanol	\$426,788	June 1 - September 15 - \$0.10 per gallon	\$227,620			
		All Other Dates - \$0.03 per gallon	\$199,168			

Oversight notes the amount of estimated gallons sold by tax credit claimants and the actual amount of gallons sold are very similar. Therefore, Oversight anticipates a near one hundred percent (100%) participation rate in Missouri for each gallon of qualifying fuel sold.

Oversight notes, based on the data reported above, the total amount of E-15 & 20 & E85 gallons sold in Iowa during 2016 totals 22,506,449.

If the assumption that Iowa's fuel ethanol operations are operating at 55% capacity of Missouri's fuel ethanol operations is accepted, Oversight estimates Missouri's total E15 Plus and E85 gallons sold could total 40,920,816 gallons (22,506,449 / 55%). Oversight notes, a tax credit

equal to \$0.05 per gallon would generate a total amount of tax credits equal to \$2,046,041 (40,920,816 * \$0.05).

Oversight notes the tax credit created if for all tax years beginning on or after January 1, 2023. Oversight notes taxpayers will not file their Tax Year 2023 tax returns until after January 1, 2024 (Fiscal Year 2024).

Oversight notes the actual and overall impact of this proposed legislation is unknown. For purposes of this fiscal note, Oversight will report a revenue reduction to GR equal to a range beginning with an amount “Up to” \$2,046,041 (as estimated by Oversight) to \$5,000,000 beginning in Fiscal Year 2024.

Oversight notes the tax credit created would automatically sunset on December 31, 2028 unless reauthorized by the General Assembly.

Officials from the **Missouri Department of Agriculture, Missouri Department of Transportation, State Tax Commission, Missouri Department of Transportation, City of Claycomo, City of Kansas City, City of Springfield, Green County, and the City of Springfield** each 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.

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)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State’s office 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 Secretary of State’s office for Administrative Rules is less than \$5,000. The Secretary of State’s office 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 the office can sustain with the 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 SOS is provided with core funding to handle a certain amount of activity each year. Oversight assumes SOS could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, SOS could request funding through the appropriation process.

Difference between HCS and previous version of the bill:

Section 135.755 1. (3) - specify that only “retail dealer”, a person that owns and operates a retail service station in this state is able to obtain such a tax credit.

Section 135.755 .3 - specify, that in the event the total amount of tax credits claimed under this section exceeds the amount of available tax credits, the tax credits shall be apportioned among all eligible retail dealers claiming a tax credit by April fifteenth, or as directed by section 143.851, of the fiscal year in which the tax credit is claimed.

Lastly, **Section 135.755 4.** – proposes that this credit shall be claimed against the income tax liability imposed by chapter 143, excluding withholding tax

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
Revenue Reduction – Section 135.755 – Tax Credit For Ethanol Blended Fuel Sales	\$0	Up to (\$2,046,041) to (\$5,000,000)	Up to (\$2,046,041) to (\$5,000,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	\$0	Up to (\$2,046,041) to (\$5,000,000)	Up to (\$2,046,041) to (\$5,000,000)

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	\$0	\$0	\$0

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business that qualifies for the Ethanol tax credits.

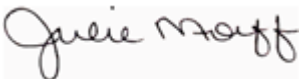
FISCAL DESCRIPTION

For all tax years beginning on or after January 1, 2023, this bill authorizes a tax credit for retail dealers selling higher ethanol blend at the retail dealer's service station, as such terms are defined in the bill. The credit will be equal to \$0.05 per gallon of higher ethanol blend sold and dispensed through metered pumps at the service station during the tax year. The tax credit will be nontransferable and nonrefundable but may be carried forward to any of the five subsequent tax years. The total amount of tax credits authorized under the bill in a given fiscal year will not exceed \$5 million. This bill will sunset on December 31, 2028, unless reauthorized by the General Assembly.

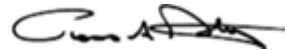
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration – Budget & Planning
Missouri Department of Agriculture
Missouri Department of Transportation
Missouri Department of Conservation
Joint Committee on Administrative Rules
City of Claycomo
City of Kansas City
Green County
City of Springfield



Julie Morff
Director
February 1, 2022



Ross Strobe
Assistant Director
February 1, 2022