

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3027-01  
Bill No.: HB 1308  
Subject: Taxation and Revenue - General; Tax Credits; Taxation and Revenue - Income; Business and Commerce, Agriculture; Department of Revenue; Department of Economic Development.  
Type: Original  
Date: January 13, 2020

Bill Summary: This proposal modifies provisions relating to the Small Business Guarantee Fees Tax Credit.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue*	(Less than \$200,000) to (\$13,900,000)	(Less than \$200,000) to (\$13,900,000)	(Less than \$200,000) to (\$13,900,000)
<b>Total Estimated Net Effect on General Revenue*</b>	<b>(Less than \$200,000) to (\$13,900,000)</b>	<b>(Less than \$200,000) to (\$13,900,000)</b>	<b>(Less than \$200,000) to (\$13,900,000)</b>

\*Historical activity of the tax credit suggests the impact to be less than \$200,000; however data published by United States Department of Agriculture and United States Small Business Administration provides the notion the impact could amount up to \$13,900,000.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 135.766 - Small Business Guaranteed Fees Tax Credit

Officials from the **Office of Administration - Division of Budget & Planning (B&P)** state this proposed legislation reauthorizes the tax credit for small businesses equal to the amount they pay in a guaranty fee to the United States Small Business Administration and the United States Department of Agriculture. This was a pre-existing tax credit which sunset in 2009. There is no annual cap placed on this tax credit. In 2008, B&P noted that the Loan Guarantee Fee Tax Credit authorizations averaged \$170,045 and redemptions averaged \$60,437 annually over the prior three years.

These tax credits may offset Tax Year 2020 liabilities; therefore, General Revenue (GR) and Total State Revenues (TSR) may be reduced as early as FY 2021. This proposal could result in a direct decrease to GR and TSR in excess of \$60,437 annually and could impact the calculation under Article X, Section 18(e).

This program may encourage other economic activity, but B&P does not have data to estimate the induced revenues.

Officials from the **Missouri Department of Revenue (DOR)** state this proposed legislation restarts the Small Business Guarantee Fee Tax Credit. The credit originally stopped in 2009. The tax credit is allowed equal to the amount paid to the U.S. Small Business Administration or U.S. Department of Agriculture for a guaranty fee. The guaranty fee is based on the size of the loan and can be anywhere from 2% to 3.75% of the loan amount.

This proposed legislation would allow for the issuance of the credit starting January 1, 2020. The credit can not be transferred, sold or assigned. The credit is non-refundable but can be carried forward ten years. DOR notes this tax credit does not have an annual cap and, while it would impact GR, it is by an unknown amount. DOR assumes it could exceed \$100,000 annually.

**Oversight** notes Section 135.766.3 provides that no tax credit issued under this section shall be transferred, sold, or assigned if reauthorized as of January 1, 2020. Oversight also notes this tax credit originally stopped in 2009.

Officials from the **Missouri Department of Economic Development (DED)** state this proposed legislation reauthorizes the tax credit for business guarantee fees paid to the United States Small Business Administration to obtain Small Business Administration guaranteed financing for

ASSUMPTION (continued)

certain loans. DED states this proposed legislation adds language to prohibit the transfer of tax credits from one taxpayer to another.

DED states the proposed legislation does not provide a cap on the program but DED calculated the average amount of credits issued under this program for the last four (4) fiscal years that the program was in effect for (Fiscal Year(s) 2005-2008) and the average amount of credits issued was \$153,432 each fiscal year. DED assumes that GR could be reduced by an estimated \$153,432 each year from the reauthorization of this tax credit program.

DED states one (1) Economic Development Incentive Specialist III (\$51,808 annually) is required to administer the reauthorization of this tax credit as it is currently sunset. DED estimates personal service, fringe benefits, and equipment and expense costs at approximately \$88,000 annually.

**Oversight** assumes, based on the historical data of this tax credit program, DED could absorb the responsibilities of this tax credit with existing resources. Should the tax credit program authorized by this proposed legislation surpass the historical utilization, DED may request to hire any additional employee(s) through the appropriations process.

**Oversight** notes, based on the USDA Rural Development 2016 Progress Report, that Missourians were awarded approximately \$46,533,000 in Business and Industry Loan Guarantees, with a total of 25 guarantees, during Fiscal Year 2016. The Business and Industry Loan Guarantee Program offers loans to rural businesses (for-profit, non-profits, cooperatives, etc.) that will, primarily, create new jobs or retain existing jobs for rural residents. Oversight notes these loans are guaranteed at 80 percent for loans up to \$5 million, 70 percent for loans between \$5 million and \$10 million and 60 percent for loans between \$10 million and \$25 million (max). Oversight determined that the average Business and Guarantee Loan awarded to Missourians during Fiscal Year 2016 equaled \$1,861,320 ( $\$46,533,000/25$ ). Oversight notes the United States Department of Agriculture states the initial guarantee fee for Business and Industry Guarantee Loans totals 3 percent of the guaranteed amount. If each loan to Missourians during Fiscal Year 2016 totaled \$1,861,320 (average), then the guaranteed amount by the United States Department of Agriculture, would equal 80 percent of the loan. Thus, Oversight notes the guarantee fee for a loan totaling \$1,861,320 would amount to \$44,672 ( $(\$1,861,320 \times 80\%) \times 3\%$ ). Knowing that 25 Business and Industry Guarantee Loans were awarded to qualifying entities of Missouri during Fiscal Year 2016, Oversight assumes that the estimated guarantee fee(s) paid for Fiscal Year 2016 for rural development, by Missourians, would total \$1,116,792 ( $\$44,672 \times 25$ ). Oversight is unable to determine how many of the 25 entities awarded Business and Industry Guarantee Loans during Fiscal Year 2016 would qualify as an "eligible small business, as defined in Section 44 of the Internal Revenue Code," required by Section 135.766 RSMo and believes that \$1,116,792 would be the maximum amount of tax credit(s) that could be awarded for guarantee fees paid by Missourians for rural development financing. Oversight notes

ASSUMPTION (continued)

that further research did not provide evidence of Missouri receiving any other guaranteed financing loans for rural development.

Oversight notes there were approximately 473 Farm Guaranteed Loan applications submitted to the United States Department of Agriculture by Missourians during Fiscal Year 2018. Of these 473 applications submitted, 379 were approved.

Oversight notes, of the 379 applications approved in Fiscal Year 2018, 108 were for Guaranteed Operating Loans totaling \$24,281,000 and 270 were for Guarantee Farm Ownership Loans totaling \$94,526,000 (378 loans total - Oversight notes there is a difference of one loan, which may have been terminated before reporting the total amounts). Oversight determined the average loan amount per Missourian for Guaranteed Operating Loans equaled \$224,824 ( $\$24,281,000 / 108$ ) and the average loan amount per Missourian for Guaranteed Farm Ownership Loans equaled \$350,096 ( $\$94,526,000 / 270$ ).

Oversight notes the United States Department of Agriculture usually guarantees 90 percent of the loan. The borrower is required to pay a guarantee fee of 1.5 percent of the guaranteed loan amount. Thus, Oversight assumes the total guarantee fee paid by Missourians for Guaranteed Operating Loans, totaled \$327,793 during Fiscal Year 2018 ( $(\$224,824 \times 90\%) \times 1.5\% \times 108$ ) and the total guarantee fee paid by Missourians for Guaranteed Farm Ownership Loans totaled \$1,276,100 ( $(\$350,096 \times 90\%) \times 1.5\% \times 270$ )

Oversight assumes the total guarantee fee(s) paid for Fiscal Year 2018 for farm services by Missourians would total \$1,603,893 ( $\$327,793 + \$1,276,100$ ). Oversight is unable to determine how many of the 378 entities awarded Farm Services Guarantee Loans (either Guaranteed Operating Loans or Guaranteed Farm Ownership Loans) during Fiscal Year 2018 would qualify as an "eligible small business, as defined in Section 44 of the Internal Revenue Code," as required by Section 135.766 RSMo and believes that \$1,603,893 would be the maximum amount of tax credit(s) that could be awarded for guarantee fees paid by Missourians for farm services.

Oversight notes there is data published by the United States Small Business Administration in relation to SBA 7(a) Loans (Guarantee Loans).

The published data includes information such as: the borrowers name, address (street, city, zip, state), the lender's information (name, address), the gross amount of the loan, the SBA guaranteed amount, the fiscal year the loan was approved, the project county and state, jobs supported and other. Oversight used this data to determine the number of loans awarded by the United States Small Business Administration to entities of the State of Missouri during Fiscal Year 2018. Based on the data, Oversight recognizes there were approximately 938 SBA 7(a)

ASSUMPTION (continued)

Guarantee Loan(s) awarded to Missourians. Oversight applied the fee percentage, as stated in the terms and conditions published by the United States Small Business Administration, to the guaranteed amount stated by the United States Small Business Administration to determine what the guarantee fee paid by Missourians in Fiscal Year 2018 would be. Oversight estimates that in Fiscal Year 2018, Missourians paid \$11,136,269 in guarantee fees for SBA 7(a) Guarantee Loans.

Oversight is unable to determine how many of the 938 entities awarded SBA 7(a) Guarantee Loans during Fiscal Year 2018 would qualify as an "eligible small business, as defined in Section 44 of the Internal Revenue Code," as required by Section 135.766 RSMo and believes that \$11,136,269 would be the maximum amount of tax credit(s) that could be awarded for guarantee fees paid by Missourians to the United States Small Business Administration for SBA 7(a) Guarantee Loans.

Oversight provides the following estimate(s) for fees paid by Missourians for guaranteed financing programs offered by the United States Department of Agriculture of the Small Business Administration:

<b>Missouri Small Business Guarantee Fees Tax Credit</b>	
<b>Type</b>	<b>Amount</b>
USDA Rural Development - Business and Industry Guaranteed Loans	\$1,116,792
USDA Agricultural - Farm - Guaranteed Operating Loans	\$327,793
USDA Agricultural - Farm - Guaranteed Farm Ownership Loans	\$1,276,100
SBA 7(a) Guaranteed Loans	\$11,136,269
<b>Total</b>	<b>\$13,856,954</b>

Oversight will range the fiscal impact (revenue reduction) from the historical data of the program (less than \$200,000) to a calculated maximum (\$13,900,000) beginning in Fiscal Year 2021, as the program proposed would start on January 1, 2020; taxpayers would file their Tax Year 2020 tax returns after January 1, 2021 (Fiscal Year 2021).

**Oversight** notes the **Missouri Department of Agriculture** has stated the proposed legislation would not have a direct 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 organization.

FISCAL IMPACT - State Government                      FY 2021                      FY 2022                      FY 2023

**GENERAL REVENUE FUND**

<u>Revenue Reduction - Section 135.766 -</u>	<u>(Less than</u>	<u>(Less than</u>	<u>(Less than</u>
Extension of the Small Business Guaranty	<u>\$200,000) to</u>	<u>\$200,000) to</u>	<u>\$200,000) to</u>
Fees Tax Credit	<u>(\$13,900,000)</u>	<u>(\$13,900,000)</u>	<u>(\$13,900,000)</u>

<b>ESTIMATED NET EFFECT ON</b>	<b><u>(Less than</u></b>	<b><u>(Less than</u></b>	<b><u>(Less than</u></b>
<b>GENERAL REVENUE FUND*</b>	<b><u>\$200,000) to</u></b>	<b><u>\$200,000) to</u></b>	<b><u>\$200,000) to</u></b>
	<b><u>(\$13,900,000)</u></b>	<b><u>(\$13,900,000)</u></b>	<b><u>(\$13,900,000)</u></b>

\*Historical activity of the tax credit suggests the impact to be less than \$200,000; however data published by United States Department of Agriculture and United States Small Business Administration provides the notion the impact could amount up to \$13,900,000.

FISCAL IMPACT - Local Government                      FY 2021                      FY 2022                      FY 2023

\$0                      \$0                      \$0

FISCAL IMPACT - Small Business

This proposed legislation could positively impact any small business that may qualify for the tax credit reauthorized as they could reduce their state tax liabilities (Section 135.766).

FISCAL DESCRIPTION

Beginning January 1, 2020, this bill reauthorizes a tax credit for an eligible small business equal to the amount the small business paid as a guaranteed fee to the United States Small Business Administration to obtain guaranteed financing and to programs administered by the United States Department of Agriculture for rural development or farm service agencies. The tax credit is not transferable, cannot be sold, but may be carried forward 10 years. (Section 135.766)

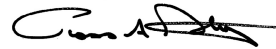
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Missouri Department of Economic Development  
Missouri Department of Revenue  
Missouri Department of Agriculture  
Office of Administration - Division of Budget & Planning



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January 13, 2020



Ross Strobe  
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