

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3571-01
Bill No.: HB 1495
Subject: Food; Economic Development; Tax Incentives; Tax Credits; Taxation and Revenue
Type: Original
Date: January 6, 2020

Bill Summary: This proposal authorizes a tax credit for the establishment of a grocery store in a food desert.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0	\$0 or Up to (\$25,000,000)	\$0 or Up to (\$25,000,000)
Total Estimated Net Effect on General Revenue	\$0	\$0 or Up to (\$25,000,000)	\$0 or Up to (\$25,000,000)

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

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

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

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

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

FISCAL ANALYSIS

ASSUMPTION

Section 135.1620 - Tax credit for establishment of full-service grocery store in food desert

Officials from the **Office of Administration - Division of Budget and Planning (B&P)** state the tax credit authorized by this proposed legislation is provided to taxpayers who establish, in a new location, a full-service grocery store acquired or leased on or after January 1, 2021, within a classified food desert within Missouri. Based on data provided by the United States Department of Agriculture, there are 466 census tracts within Missouri that are classified as low-income and have a population that is located at least one-half mile away from a full-service grocery store in urban areas or ten miles in rural areas. B&P states if a business was to establish a full-service grocery store within one of the 466 tracts, the qualifying taxpayer would be able to claim a tax credit against their state tax liability, up to fifty percent (50%) of their eligible costs after the initial expenses have exceeded: \$1 million for full-service grocery stores located in charter counties, counties with a first classification, or a city not within a county; or \$500,000 for full-service grocery stores located in any other county. The calendar year cap for the tax credit proposed is \$25,000,000; B&P notes the credit proposed may be transferred, sold, or assigned.

B&P notes a “new location” is defined as property acquired or leased after 01/01/2021; therefore, Total State Revenue (TSR) and General Revenue (GR) may be reduced as early as Fiscal Year 2022.

B&P note this proposal could reduce TSR and GR up to \$25,000,000 annually and could impact the calculation under Article X, Section 18(e).

Oversight notes the provisions of this proposed legislation limit individual taxpayers to a maximum of \$2.5 million in tax credits per year. However, tax credits claimed cannot exceed the taxpayer’s state tax liability. Any credits not used in the first year in which they were received may be carried forward three (3) years.

Officials from the **Missouri Department of Revenue (DOR)** state a taxpayer shall be allowed a credit against the taxpayer’s state tax liability in an amount equal to fifty percent (50%) of the taxpayer’s eligible expenses for establishing a full-service grocery store in a food desert after initial expenses of: \$1 million if the full-service grocery store is established in a charter county, a county with 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.

ASSUMPTION (continued)

DOR notes the real property must be acquired or leased to a taxpayer on or after January 1, 2021 to qualify for the tax credit proposed.

The amount of tax credit(s) shall not exceed the taxpayer's state tax liability in the year in which the credit is claimed and shall not exceed \$2.5 million per taxpayer per year. Any tax credit that exceeds the state tax liability of a taxpayer may be carried over to the next three succeeding tax years. The total amount of tax credits that may be authorized under this section may not exceed \$25 million in any calendar year. In addition, the tax credits proposed may be transferred, sold, or assigned. The program proposed under this section is set to sunset December 31st, six years after the effective date of this section unless reauthorized by the General Assembly.

DOR provides the following impact per Fiscal Year:

Fiscal Year	Impact to General Revenue
FY21	\$0
FY22	(\$25,000,000)
FY23	(\$25,000,000)

Officials from the **Missouri Department of Economic Development (DED)** state this proposed legislation allows a taxpayer to claim a tax credit equal to fifty percent (50%) of the taxpayer's eligible expenses for establishing a full-service grocery store in a food desert. No taxpayer may claim more than \$2.5 million within any given tax year but may carry forward any amount(s) not used for three tax years. DED states that the maximum amount of tax credits authorized under this section may not exceed \$25 million in any given calendar year. DED states the tax credit authorized under this section shall sunset six years after the effective date of this proposed legislation (January 1, 2021).

DED states two (2) Economic Development Incentive Specialists III (\$51,808 annually) are required to administer this program. Personal service, fringe benefits and equipment and expense costs are estimated at approximately \$174,000 annually.

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

ASSUMPTION (continued)

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 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 2017, there were approximately 466 census tracts in Missouri in 2010 that are 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):

State	Missouri
County	Sum of LILATracts_halfAnd10
Adair	4
Audrain	1
Barry	2
Barton	2
Bates	1
Benton	2
Bollinger	2
Boone	8
Buchanan	10
Butler	5
Caldwell	1
Callaway	1
Camden	2
Cape Girardeau	4
Carter	1
Cass	5
Cedar	2
Clay	15
Clinton	1
Cole	3
Cooper	1
Crawford	2

ASSUMPTION (continued)

Dade	1
Dallas	2
Dent	2
Douglas	3
Dunklin	5
Franklin	2
Gasconade	1
Greene	28
Grundy	2
Harrison	2
Henry	2
Hickory	1
Holt	1
Howard	1
Howell	3
Iron	1
Jackson	96
Jasper	9
Jefferson	8
Johnson	3
Laclede	5
Lafayette	1
Lawrence	2
Lewis	1
Linn	2
Livingston	1
Macon	2
Madison	2
Marion	3
McDonald	1
Mercer	1
Miller	1
Mississippi	2
Montgomery	2
New Madrid	2
Newton	3
Nodaway	2

ASSUMPTION (continued)

Oregon	3
Ozark	2
Pemiscot	3
Pettis	6
Phelps	3
Pike	3
Platte	2
Pulaski	1
Putnam	1
Randolph	2
Ray	1
Reynolds	1
Ripley	3
Saline	2
Schuyler	2
Scott	4
Shannon	1
Shelby	1
St. Charles	6
St. Francois	3
St. Louis	59
St. Louis City	54
Ste. Genevieve	1
Stoddard	1
Sullivan	1
Taney	4
Texas	2
Vernon	4
Warren	1
Washington	3
Wayne	3
Wright	2
Grand Total	466

ASSUMPTION (continued)

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. The tax credit authorized under this section may not exceed the taxpayer's state tax liability and is; therefore, not refundable; any amount of tax credit that exceeds the taxpayer's state tax liability in the year in which it is first allowed may be carried forward to the next three (3) succeeding tax years. Furthermore, this proposed legislation states that no taxpayer may claim a tax credit greater than \$2.5 million per tax year. The proposed legislation has placed a \$25 million cap per calendar year on the tax credit. Thus, Oversight notes that the number of taxpayers that could potentially claim this tax credit each year could be as low as 10.

Oversight notes this proposed legislation creates 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 the state and will not show an impact for this portion of the 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, 2021. Therefore, the first year that Oversight will show potential revenue reductions (TSR and GR) will be Fiscal Year 2022, as these taxpayers will not file their tax returns to claim this tax credit until after January 1, 2022. Oversight provides the following estimated revenue reductions (TSR and GR) per fiscal year:

Fiscal Year	Impact to General Revenue
FY21	\$0
FY22	(\$0 to \$25,000,000)
FY23	(\$0 to \$25,000,000)

Officials from the **Office of the Secretary of State (SOS)** state 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

ASSUMPTION (continued)

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 the 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.

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

Officials from the **Joint Committee on Administrative Rules (JCAR)** assume this proposal is not anticipated to cause a fiscal impact beyond current appropriations.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Oversight notes the **Missouri Department of Agriculture** and the **Department of Health and Senior Services** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2021	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Revenue Reduction</u> - (Section 135.1620)		<u>\$0 or Up to</u>	<u>\$0 or Up to</u>
Tax credit for the establishment of a grocery store in a food desert	<u>\$0</u>	<u>(\$25,000,000)</u>	<u>(\$25,000,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>\$0 or Up to (\$25,000,000)</u>	<u>\$0 or Up to (\$25,000,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposed legislation could impact any small business that establishes a full-service grocery store in a food desert as they may qualify for a tax credit that could reduce or eliminate their state tax liability. (Section 135.1620)

FISCAL DESCRIPTION

This bill authorizes an income tax credit for full-service grocery stores located in a food desert. A "food desert" is defined as a census tract that has a poverty rate of at least 20% or a median family income of less than 80% of the statewide average featuring at least 500 people or 33% of the population located at least one-half mile from a full-service grocery store in urban areas or 10 miles in rural areas. A taxpayer is allowed to claim a tax credit amount equal to 50% of the amount incurred in the construction or development of property for the purpose of establishing a full-service grocery store by the taxpayer after the initial expenses of \$1 million if the grocery store is established in a charter county, a first class county, or St. Louis city or \$500,000 if established elsewhere. A taxpayer cannot be allowed to claim a tax credit in excess of \$2.5 million per taxable year. The credit is nonrefundable, but may be carried over to the next three years. The credits can be transferred, sold, or assigned. The total amount of credits authorized cannot exceed \$25 million in any calendar year. A taxpayer must repay the credits if he or she fails to complete construction of a full-service grocery store within five years or fails to operate a full-service grocery store at the same new location for at least 10 consecutive years. These provisions sunset December 31st, six years after the effective date. (Section 135.1620)

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

Office of Administration - Division of Budget & Planning
Missouri Department of Revenue
Missouri Department of Economic Development
Missouri Secretary of State's Office
Joint Committee on Administrative Rules



Julie Morff
Director
January 6, 2020



Ross Strobe
Assistant Director
January 6, 2020