COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1659S.01I
Bill No.: SB 385
Subject: Tax Credits; Railroads
Type: Original
Date: March 8, 2023

Bill Summary: The proposal authorizes a tax credit for certain railroad construction expenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	Up to ($14,643,869)	Up to ($14,769,638)	Up to ($14,753,740)
Total Estimated Net Effect on General Revenue	**Up to ($14,643,869)**	**Up to ($14,769,638)**	**Up to ($14,753,740)**

*Oversight has shown the potential tax credit issuances & redemptions up to the maximum cap ($14.5 million annually) under the proposal and DED's estimated FTE cost (Up to 2 FTE).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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 2024	FY 2025	FY 2026
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue (DED)	1-2 FTE	1-2 FTE	1-2 FTE
Total Estimated Net Effect on FTE	**1-2 FTE**	**1-2 FTE**	**1-2 FTE**

☒ 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 2024	FY 2025	FY 2026
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning (B&P)** assume the proposed legislation would authorize tax credits for all tax years beginning on January 1, 2023, but ending on or before December 31, 2028, to class II and class III railroads for qualified railroad expenditures or qualified new rail infrastructure expenditures completed. A class II railroad is a carrier earning revenue between $20 million and $250 million. A class III railroad is a carrier earning revenue less than $20 million. Subsection 135.1500.3(1) states the cumulative amount of tax credits for qualified railroad track expenditures shall not exceed four million five hundred thousand dollars per tax year. Subsection 135.1500.3(2) states the cumulative amount of tax credits for qualified rail infrastructure expenditures shall not exceed ten million dollars per tax year. If tax credits claimed exceed these amounts, tax credits will be allowed in the order in which they're claimed and any tax credit allowed that exceeds the eligible taxpayer's state liability may be carried forward for up to five subsequent tax years. The tax credit will sunset December 31, 2028 unless reauthorized. If the credit is reauthorized, it will sunset twelve years after the effective date. The tax credit will terminate on September 1 of the calendar year immediately following the calendar year it sunsets.

Therefore, the fiscal impact to TSR is up to $14,500,000 per fiscal year.

Officials from the **Department of Revenue (DOR)** note:

Starting January 1, 2023, this proposal creates two tax credits regarding railroads. One shall be allowed to a taxpayer for 50% of their qualified railroad expenditures. These qualified railroad expenditures shall not exceed $500,000 multiplied by the number of railroad track owned or leased. This credit is not allowed to exceed $500,000 per eligible taxpayer.

The second credit is for qualified new rail infrastructure expenditures. This credit shall not exceed $500,000 per new rail-served customer project.

These credits each have an annual cap. The railroad expenditures is capped at $4.5 million annually. The new rail infrastructure expenditures the cap is $10 million annually. These credits have a sunset of December 31, 2028.

In order to receive the credits the taxpayer must be file an application with the Department of Economic Development and receive a certificate to file with their tax return. The credits are not refundable, but can be carried forward up to 5 years. These credits are also transferrable.

This proposal would become effective on August 28, 2023, and this bill allows these credits to start with the tax year starting on January 1, 2023, therefore this will start to fiscally impact the state on January 1, 2024, when the first returns are filed claiming the credit.

Fiscal Year	Loss to General Revenue
2024	($14,500,000)
2025	($14,500,000)
2026+	($14,500,000)

Since these are new credits they will need to be added to the MO-TC form, their website and the individual income tax computer system will need to be updated. These changes are estimated at $14,386.

Due to the limited number of taxpayers each year that may qualify for this credit DOR assume it absorb the additional work from the redemptions of these credits using existing FTE. However, should the number of redemptions received equal the following limits or multiple tax credit bills pas, DOR would ask for additional FTE during the appropriation process. DOR needs FTE to process tax credits if the following number of items are received.

- 1 FTE Associate Customer Service Representative for every 6,000 credits redeemed
- 1 FTE Associate Customer Service Representative for every 4,000 tax credit transfers with CISCO phones and license.
- 1 FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated

Oversight assumes the DOR, if necessary, could request additional funding through the appropriation process. Therefore, for purpose of this fiscal note, **Oversight** will note zero impact for the DOR in the fiscal note.

Officials from the **Department of Economic Development (DED)** note:

Section 135.1500 creates "tax credit for certain railroad construction expenses"

The Tax Credit will likely reduce annual TSR by $4.5M for qualified railroad expenditures and $10M for new rail infrastructure expenditures, up to the annual total cap in the amount of $14,500,000 per year through 2028.

Tax credit authorized shall be equal to fifty percent of an eligible taxpayer's qualified railroad expenditures and qualified new rail infrastructure expenditures, provided that, for qualified railroad expenditures, the amount of the tax credit shall not exceed an amount equal to the product of five thousand dollars multiplied by the number of miles of railroad track owned or leased in the state by the eligible taxpayer as of the close of the tax year in which the tax credit is claimed and for qualified new rail infrastructure expenditures, the amount of the tax credit shall not exceed five hundred thousand dollars for each new rail-served customer project of the eligible taxpayer.

Applies to tax years beginning on or after January 1, 2023. The program will automatically sunset on 12/31/2028 unless reauthorized by an act of the general assembly.

DED will need to hire 2.0 FTE to administer the act.

Oversight notes the proposal, specifically Section 135.1500 2. (2) (a), allows for an amount equal to fifty percent of an eligible taxpayer's qualified railroad track expenditures or qualified new rail infrastructure expenditures up to $5,000 dollars per mile or $500,000 per each new project.

Oversight notes subdivision 3 (1) proposes the cumulative amount of tax credits for qualified railroad track expenditures shall note exceed $4.5 million, and subdivision 3(2) proposes the cumulative amount for new rail infrastructure expenditure shall not exceed $10 million.

Oversight notes according to the DED research on this subject Missouri is home to 19 railroads operating on nearly 4,400 miles of track, 2,500 miles of yard track, and about 7,000 public and private crossings.

Oversight notes the proposal would allow for expenditures, up to 50%, that will potentially affect up to 1,800 miles ($4,500,000 / $2,500 – (50% or $5,000)) or 40 projects ($10,000,000 / 250,000 (50% of $500,000).

Oversight notes DED requests two (2) additional FTE (Senior Economic Development Specialists) in order to assure compliance and administration of the act. However, Oversight notes the number of projects or taxpayers applying for this specific tax credit could be potentially lower than shown above. Therefore, **Oversight** will reflect a range of impact 1 Up to 2 FTE, at $74,664 each, for 6 months in FY 2024 and for twelve months in subsequent fiscal years.

Lastly, **Oversight** will note the maximum utilization of the tax credit up to $14.5 million begging in FY 2024 in the fiscal note. (Assuming the taxpayer files his or her tax return as soon as January 1, 2024).

In response to the similar proposal, HB 657 – 2023, officials from the **Department of Commerce and Insurance (DCI)** assumed a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2025 and FY2026 as a result of the creation of tax credit for qualified railroad infrastructure investments. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the new tax credit.

Oversight assumes the DCI is provided with core funding to handle a certain amount of activity each year. Oversight assumes DCI could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DCI could request funding through the appropriation process. Therefore, Oversight will note zero impact for DCI for purpose of this fiscal note.

Officials from the **Missouri Department of Transportation (MoDOT)** assume from the MoDOT 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.

FISCAL IMPACT – State Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
Cost – Section 135.1500 3 (1) – Railroad Track Expenditures Tax Credit (p.3,5)	Up to ($4,500,000)	Up to ($4,500,000)	Up to ($4,500,000)
Cost – Section 135.1500.3 (2) – New Railroad Infrastructure Tax Credit (p.3,5)	Up to ($10,000,000)	Up to ($10,000,000)	Up to ($10,000,000)
Cost – DED – Section(s) 135.1500 2. (2) (p. 5)			
Personnel Service	($37,332) Up to ($74,664)	($76,158) Up to ($152,315)	($77,681) Up to ($155,361)
Fringe Benefits	($21,759) Up to ($43,518)	($44,077) Up to ($88,153)	($44,646) Up to ($89,292)
Expense & Equipment	($12,843) Up to ($25,687)	($14,584) Up to (29,170)	($4,543) Up to ($9,087)
Total Costs -	($71,934) Up to ($143,869)	($134,819) Up to (269,638)	($126,870) Up to ($253,740)
FTE Change	1 Up to 2 FTE	1 Up to 2 FTE	1 Up to 2 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**Up to ($14,643,869)**	**Up to ($14,769,638)**	**Up to ($14,753,740)**
Estimated Net FTE Change on General Revenue	1 Up to 2 FTE	1 Up to 2 FTE	1 Up to 2 FTE

FISCAL IMPACT – Local Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
	$0	**$0**	**$0**

FISCAL IMPACT – Small Business

Small businesses that would qualify for this tax credit (or would complete the work on projects eligible for the tax credit) could be impacted.

FISCAL DESCRIPTION

For all tax years beginning on or after January 1, 2023, this act authorizes a tax credit in the amount of fifty percent of an eligible taxpayer's qualified railroad expenditures and qualified new rail infrastructure expenditures. "Qualified railroad expenditures" are defined as gross expenditures for maintenance, reconstruction, or replacement of railroad infrastructure, as described in the act. "Qualified new rail infrastructure expenditures" are defined as gross expenditures for new rail infrastructure, as described in the act.

A tax credit for qualified railroad expenditures shall not exceed $5,000 multiplied by the number of miles of railroad track owned or leased in the state by an eligible taxpayer, and the total amount of tax credits for qualified railroad expenditures authorized in a calendar year shall not exceed $4.5 million. A tax credit for qualified new rail infrastructure expenditures shall not exceed $500,000 for each new rail-served customer project, and the total amount of tax credits for qualified new rail infrastructure expenditures authorized in a calendar year shall not exceed $10 million.

An eligible taxpayer shall submit a certificate of eligibility to the Department of Economic Development after the completion of the qualified railroad expenditures or qualified new rail infrastructure expenditures.

Tax credits authorized by the act shall not be refundable, but may be carried forward for five subsequent tax years. Tax credits may be transferred as described in the act.

This act shall 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 Economic Development
Department of Revenue
Office of Administration
Missouri Department of Transportation

Julie Morff
Director
March 8, 2023

Ross Strope
Assistant Director
March 8, 2023

BB:LR:OD