COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1820S.03C
Bill No.: SCS for SB 519
Subject: Tax Credits; Agriculture; Motor Fuel
Type: Original
Date: April 10, 2023

Bill Summary: This proposal modifies provisions relating to tax credit for the production of biodiesel fuel.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	$0 Up to ($1,500,000)	$0 Up to ($1,500,000)	$0 Up to ($1,500,000)
Total Estimated Net Effect on General Revenue	**$0 Up to ($1,500,000)**	**$0 Up to ($1,500,000)**	**$0 Up to ($1,500,000)**

*Oversight notes the total general revenue expense reflects changes as proposed in Section 135.778. 3 - $1.5 million increase in maximum cap beginning FY 2024,

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

FISCAL ANALYSIS

ASSUMPTION

Section 135.772 Ethanol Tax Credit

Officials from the **Office of Administration (B&P)** assume this proposal would allow taxpayers with a non-calendar year filing timeline to claim the tax credit for their tax year that start in 2022, but ends in 2023. This provision does not change the amount of tax credits that can be authorized. Therefore, B&P estimates that this provision will not impact TSR.

Officials from the **Department of Revenue (DOR)** note HB 3 adopted in the special session of 2022, created this new tax credit for a retail dealer that sells ethanol fuel starting with tax year 2023. The tax credit was to be equal to five cents ($0.05) per gallon.

This tax credit was to begin on January 1, 2023, with the first tax returns claiming the credit being filed starting January 2024 (FY 2024). The tax credit was established with a $5 million cap annually.

This proposal adds language clarifying which taxpayers in calendar year 2023 would qualify for the credit. DOR does not estimate this will have any additional impact that was not already accounted for in HB 3's fiscal note.

At this time, the Department doesn't have any information on the number of retailers that may apply for this credit as the filing period has just opened.

Oversight notes DOR and B&P both assume this part of 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, for this specific Section, in the fiscal note.

Section 135.778 Biodiesel Producers Tax Credit

Officials from **Office of Administration – Budget & Planning (B&P)** assumed this proposal would remove language allowing this credit and the Biodiesel Producer Tax Credit (Section 135.778) to share their annual authorization caps. Currently the two programs have separate caps; however, if the maximum amount is authorized under one program, but not the other, the maxed out program can utilize the remaining amount of authorizations under the non-maxed out program.

B&P notes that this proposal does not change the $16 million authorization limit for this credit program. Therefore, B&P estimates that this section will not impact TSR or GR.

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

HB 3 adopted in the special session of 2022, created this new tax credit for a retail dealer that sells biodiesel fuel starting with tax year 2023. To qualify as biodiesel fuel it must be a blend of diesel and biodiesel between 5% and 20% for on-road and off-road diesel-fuel vehicle use. Proof that that biodiesel meets ASTM International specifications will need to be provided to the Department. The tax credit was to be equal to two cents ($0.02) per gallon on biodiesel blend of 5% but no more than 10% mix or five cents ($0.05) per gallon sold on a biodiesel blend in excess of 10%.

This tax credit was to begin on January 1, 2023, with the first tax returns claiming the credit being filed starting January 2024 (FY 2024). The tax credit was established with a $16 million cap annually. This credit was established that allowed the cap if reached the credit would be apportioned among all applicants. Additionally, there was a provision that allowed credits not distributed in a year to be rolled over to the biodiesel producers credit for use.

This proposal adds language clarifying which taxpayers in calendar year 2023 would qualify for the credit. DOR does not estimate this change will have any additional impact that was not already accounted for in HB 3's fiscal note.

At this time, the Department doesn't have any information on the number of retailers that may apply for this credit as the filing period has just opened.

Oversight notes DOR and B&P both 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, for this specific Section, in the fiscal note.

Section 135.778.2 Biodiesel Producers Tax Credit

Officials from **Office of Administration – Budget & Planning (B&P)** state this proposal would increase the authorization limit from $4 million annually to $5.5million annually. This proposal would also allow taxpayers with a non-calendar year filing timeline to claim the tax credit for their tax year that start in 2022, but ends in 2023. This provision does not change the amount of tax credits that can be authorized.

B&P notes that this credit started for tax year 2023, and annual returns have not yet been filed. Therefore, B&P estimates that this provision may decrease TSR and GR by $1.5 million annually starting in FY24.

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

HB 3 adopted in the special session of 2022, created this new tax credit for a producer of biodiesel fuel. Starting January 1, 2023, it would allow a credit against their state income tax liability in an amount of $0.02 per gallon of biodiesel fuel produced by a Missouri biodiesel producer. The Department noted when the bill was being discussed there were currently 6 producers in the state.

When established the credit had a $4 million annual cap. Additionally, the bill allowed that if the credit cap was reached then the credit would be apportioned among all applicants. It also contained a provision that if the $4 million cap on this credit was not fully used, then the remaining portion of the cap could be distributed to the retailers on their credit.

This proposal adds language clarifying which taxpayers in calendar year 2023 would qualify for the credit. This change will not have any additional fiscal impact.

This proposal removes the $4 million annual cap, the apportionment language in the credit and the provision that allows the credit to be shared with the retailer's credit. This proposal then increases the cap to $5.5 million. This proposal could potentially expand the number of credits that can be issued annually by $1.5 million. At this time, the Department doesn't have any information on the number of producers that may apply for this credit as the filing period has just opened. DOR assume this could result in an increase in the number of credits which would result in an additional $1.5 million loss to general revenue.

These changes will require updating the website, forms and computer programming at a cost of $7,193.

Oversight notes that this proposal, Section 135.778 3 removes the $4 million maximum cap allowing for all applicants who are able to claim the credit and allows for up to $5.5 million cap.

Oversight notes the officials from the DOR & B&P do not have any current information regarding the tax credit claimed under the HB 3 – 2022, which was passed by the general assembly, and signed by the Governor. Therefore, **Oversight** will reflect a range from $0 (reflecting the original $4 million cap was not surpassed by the change in this proposal) to negative $1.5 million ($5.5 million – $4 million) in a possible additional credits claimed in the fiscal note.

Additionally, Oversight will assume DOR's anticipated cost associated with the website updates, forms and computer programming as one time cost $7,193 in FY 2024 could be absorbed within their current appropriations.

Officials from the **Department of Commerce and Insurance**, the **Department of Natural Resources**, and the **Missouri Department of Agriculture** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>Rule Promulgation</u>

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 **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. 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 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 its 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.

FISCAL IMPACT – State Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
Reduction in Revenue – Section 135.778. 3 – changed cap from $4 million to $5.5 million p. 10-11	$0 Up to ($1,500,000)	$0 Up to ($1,500,000)	$0 Up to ($1,500,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**$0 Up to ($1,500,000)**	**$0 Up to ($1,500,000)**	**$0 Up to ($1,500,000)**

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

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business that qualifies for a tax credit under this proposed legislation as such small business could reduce or eliminate such small business's state tax liability.

FISCAL DESCRIPTION

TAX CREDITS FOR CERTAIN FUELS

Current law authorizes a tax credit for all tax years beginning on or after January 1, 2023, for the sale of higher ethanol blend fuel and biodiesel fuel and for the production of biodiesel fuel. This act provides that any taxpayer with a tax year beginning prior to January 1, 2023, but ending during the 2023 calendar year shall be allowed a tax credit for the amount of fuel sold or produced during the portion of such tax year that occurs during the 2023 calendar year.

Additionally, current law authorizing a tax credit for the production of biodiesel fuel limits the maximum amount of tax credits that may be authorized in a fiscal year to $4 million. This act increases such annual limit to $5.5 million and removes a provision requiring the Department of Revenue to apportion tax credits among biodiesel producers applying for such tax credits. (Sections 135.772 to 135.778)

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

<u>SOURCES OF INFORMATION</u>

Office of Administration- Budget & Planning
Department of Revenue
Missouri Department of Agriculture
Department of Natural Resources
Office of the Secretary of State
Joint Committee on Administrative Rules

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April 10, 2023

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