

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1477H.011
 Bill No.: HB 601
 Subject: Taxation and Revenue - General; Tax Credits; Taxation and Revenue - Income;
 Tax Incentives; Revenue, Department of; Motor Fuel; Energy
 Type: Original
 Date: March 9, 2021

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund*	\$0	Less than or Greater than (\$2,046,041)	Less than or Greater than (\$2,046,041)
Total Estimated Net Effect on General Revenue	\$0	Less than or Greater than (\$2,046,041)	Less than or Greater than (\$2,046,041)

*The fiscal estimate is based upon a similar program in Iowa.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
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 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state, according to data from the [U.S. Energy Information Administration](#), Missouri consumed 7.3 million barrels of fuel ethanol in 2018. (7.3M barrels * 42 gallons per barrel) equals 306,600,000 gallons. If all of the fuel ethanol sold fit the eligibility for the tax credit, the cost to the state could be \$15,330,000 (0.05*306.6M).

This proposed legislation could reduce General Revenue (GR) and Total State Revenue (TSR) up to or could exceed (\$15,330,000) annually beginning in Fiscal Year 2023 and could impact the calculation under Article X, Section 18(e).

Officials from the **Missouri Department of Revenue (DOR)** state, starting January 1, 2022, 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 proposed legislation 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 U.S. Energy Information Administration reported that in 2018 (the most recent complete year of data), Missouri consumed 26.5 trillion Btu of ethanol. At a conversion rate of 120,286 Btu per gallon, it is estimated that Missouri used 212,826,098 gallons of fuel. This tax credit is five cents per gallon which is estimated to generate \$10,641,305 in tax.

Another report by the U.S. Energy Information Administration reported that in 2018 Missouri used 306.6 million gallons of E85 gasoline. At the five cents per gallon, it would have generated \$15,330,000.

DOR will assume this proposed legislation could generate between \$10,641,305 and \$15,330,000 in the future. This tax credit would not be filed on the returns until January 2023.

DOR states this is a new credit, primarily for business entities (corporations, maybe partnerships and S corporations and their members).

DOR does not currently collect information on the amount of gallons of ethanol sold at the retail level. DOR 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 \$2,000.

DOR anticipates the need for one (1) FTE Associate Customer Service Representative for every 6,000 tax credits redeemed and one (1) FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated.

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 assumes B&P's and DOR's estimates include ethanol blends that would **not** qualify for the tax credit created under this proposed legislation (such as E10 – assumed to be the most common of blends).

Oversight notes, for all tax years beginning on or after January 1, 2022, 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 [State Energy Consumption Estimates – 1960 through 2018](#), published by the U.S. Energy Information Administration, Oversight compared various energy consumption estimates for Iowa and Missouri. Oversight provides the comparison below:

2018 - State Energy Consumption Estimates - U.S. Energy Information Administration			
Iowa and Missouri	Iowa	Missouri	Iowa As a Percent of Missouri
Barrels of Fuel Ethanol	4,200,000	7,300,000	58%
Total Motor Gasoline - Including Fuel Ethanol (btu)	188,300,000,000,000	380,200,000,000,000	50%
Total Fuel Ethanol (btu)	14,800,000,000,000	25,600,000,000,000	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 (22,506,449 * \$0.05).

Oversight assumes, based on [Iowa's](#) tax credit utilization, when adjusted based on Missouri's estimated fuel ethanol operations, that the total number of taxpayer's claiming the tax credit created under this proposed legislation would be less than the threshold(s) established by the Missouri Department of Revenue for additional FTE. Therefore, for purposes of this fiscal note, Oversight will assume that the Missouri Department of Revenue can absorb the responsibilities of the tax credit created with existing resources. Should the number of tax credits claimed be significant, though, the Missouri Department of Revenue may seek additional FTE through the appropriation process.

Oversight notes the tax credit created if for all tax years beginning on or after January 1, 2022. Oversight notes taxpayers will not file their Tax Year 2022 tax returns until after January 1, 2023 (Fiscal Year 2023).

Oversight notes the actual and overall impact of this proposed legislation is unknown. Oversight assumes B&P's and DOR's estimates include ethanol blends that would **not** qualify for the tax credit created under this proposed legislation (E10 – assumed to be the most common of blends).

For purposes of this fiscal note, Oversight will report a revenue reduction to GR equal to "Less Than or Greater Than" \$2,046,041, as estimated by Oversight. Oversight assumes the estimated reduction to GR equal to \$2,046,041 was calculated using the most applicable information available.

Oversight notes the tax credit created would automatically sunset on December 31, 2025 unless reauthorized by the General Assembly.

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. 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 SOS for administrative rules is less than \$5,000. SOS 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 SOS can sustain with SOS's 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 the SOS could absorb the costs of printing and distributing regulations related to this proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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

Officials from the **Missouri Department of Agriculture**, and the **Missouri Department of Transportation**, do not anticipate this proposed legislation will have an impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 135.755 – Tax Credit For Blended Fuel Sales</u>	\$0	<u>Less than or Greater than (\$2,046,041)</u>	<u>Less than or Greater than (\$2,046,041)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>Less than or Greater than (\$2,046,041)</u>	<u>Less than or Greater than (\$2,046,041)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposed legislation could impact any small business operating as a retail dealer as such taxpayer could potentially qualify for the tax credit created under this proposed legislation and reduce or eliminate such taxpayer's state tax liability.

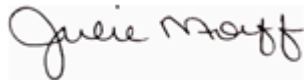
FISCAL DESCRIPTION

For all tax years beginning on or after January 1, 2022, this bill establishes a tax credit for retail dealers selling higher ethanol blend at the retail dealer's service station. The credit is equal to five cents per gallon of higher ethanol blend sold and dispensed through metered pumps at the service station during the tax year. The tax credit is nontransferable and nonrefundable. The tax credit will sunset on December 31, 2025, unless reauthorized by the General Assembly.

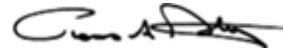
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division
Missouri Department of Revenue
Missouri Department of Agriculture
Missouri Department of Transportation
Missouri Secretary of State’s Office
Joint Committee on Administrative Rules



Julie Morff
Director
March 9, 2021



Ross Strobe
Assistant Director
March 9, 2021