

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3110-06
Bill No.: SB 1117
Subject: Administration, Office of; Construction and Building Codes; Elementary and Secondary Education Department; Energy; Natural Resources Department; Revenue Department; Tax Credits
Type: Original
Date: March 5, 2008

Bill Summary: This proposal creates requirements and provides incentives for environmentally sustainable buildings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown greater than \$338,454)	(Unknown greater than \$1,185,881)	(Unknown greater than \$1,948,733)
Total Estimated Net Effect on General Revenue Fund	(Unknown greater than \$338,454)	(Unknown greater than \$1,185,881)	(Unknown greater than \$1,948,733)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
State Facility Maintenance & Operations Fund	(\$93,385)	(\$113,677)	(\$116,864)
Facility Maintenance Reserve Fund	(Unknown over \$100,000)	(Unknown over \$100,000)	(Unknown over \$100,000)
Conservation Fund	(Unknown)	(Unknown)	(Unknown)
Parks and Soil Fund	(Unknown)	(Unknown)	(Unknown)
School District Trust Fund	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown over \$93,385)	(Unknown over \$113,677)	(Unknown over \$116,864)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Department of Natural Resources	4 FTE	4 FTE	4 FTE
Department of Elementary and Secondary Education	0 FTE	1 FTE	1 FTE
Office of Administration	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	5 FTE	6 FTE	6 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Section 8.812 Energy Standards for State Buildings

Officials at the **Office of Administration's Division of Facilities Management, Design and Construction (FMDC)** assume the overall cost to the CI budget to comply, has many variables that would affect cost such as:

- Type of building,
- Square footage of a building,
- New Construction or renovation/modernization,
- Rehab existing building,
- Renovation/modernization project cost over \$100,000 or \$500,000,
- Modify spaces in buildings,
- Flexibility and adaptability of project,
- Evaluation process in the daily activities of the facility,
- Overall five-year plan and other issues.

This bill would have considerable fiscal effect FMDC. The preliminary estimate by FMDC is the total cost will be between multi-millions to billions for all state buildings to comply to the Facility Maintenance Reserve Fund.

FMDC's operating budget (SFMOF-State Facility Maintenance and Operations Fund) would increase based on staffing needs and EE needs. At this time we are unable to determine the exact position needs but it should include a Professional Engineer (civil, electrical, mechanical, structural engineering or engineering management) at a salary of \$69,456.

Officials at the **Department of Conservation (MDC)** assume this proposal would effect MDC funds due to additional construction costs and certification process for LEED. The exact amount of impact is unknown.

Officials at the **University of Missouri** assume the impact of this proposal is difficult to determine. It will fluctuate but could cost more than \$1,000,000 on a given year.

Officials at the **Lincoln University** assume modest fiscal impact in the form of increased costs for both design and construction.

Officials at the **Moberly Area Community College** assume it is not possible to determine the fiscal impact.

ASSUMPTION (continued)

Oversight assumes that the costs of this proposal to Colleges and Universities is not state revenue. Additionally, Oversight assumes that the Colleges and Universities will raise tuition to cover any costs associated with this proposal.

Section 8.852 10% Renewable Energy Source

Officials at the **Department of Natural Resources** assume no direct impact to the department, technical support or energy-related information and/or data, including energy sustainability, renewable energy and green building information/data as stipulated in section 640.157 may be requested or supplied by the department to the meet the requirements of this section.

Section 135.032 Green Building Tax Credit

Officials at the **Department of Natural Resources** assume this would require the department to administer a tax credit program beginning January 1, 2009, promulgate rules and certify that applicants have met all program requirements prior to receiving state certification authorizing the tax credit. It is assumed that tax credits and their recipients would be tracked in the Missouri Consumer Management System administered by the Department of Economic Development. The department assumes we would request one (1) Energy Engineer II and .5 Office Support Assistant to implement this portion of the proposal. The tax credit is capped at \$1 million annually.

Officials at the **Department of Revenue** assume computer changes and changes to the tax forms would be required. Additionally, Personal Tax would require one Tax Processing Technician for every 6,000 credits claimed. Corporate Tax would require one Tax Processing Technician I for every additional 5,200 returns to be verified and 2,080 additional pieces of correspondence generated. Customer Assistance would require two Tax Collection Technician I's and 3 Tax Processing Technician I's.

Oversight assumes that since the tax credit does not begin until January 1, 2009 then no more than half of the \$1 million tax credit could be distributed in FY 2010.

Section 143.121 Adjusted Gross Income Deduction

Officials at the **Budget and Planning** assume the legislation's proposed section 143.121.9 adds an income tax deduction for the purchase price, up to \$1000, of energy-star appliances. US BEA consumption data does not have an explicit category for appliances, but these data suggest a substantial portion, perhaps 1% of expenditures, may be made on appliances each year. Missourians file an estimated 2.6 million tax returns each year. Assuming 10% of these

ASSUMPTION (continued)

taxpayers purchase a qualifying appliance, at \$1,000, this would be an expenditure (and thus income tax deduction) of \$260 million. At an effective tax rate of 4.5%, this could reduce general and total state revenues by \$11.7 million.

Officials at the **Department of Revenue (DOR)** assume this section allows a new subtraction of 50% of the cost incurred by a taxpayer for a qualified home energy audit, from the taxpayer's federal adjusted gross income, to the extent the amount paid for such audit is included in federal taxable income. In addition this allows a new subtraction of 100% of the purchase price paid, not to exceed \$1,000, for energy star products purchased within the taxable year, shall be subtracted from the taxpayer's federal adjusted gross income, to the extent the amount paid for such products is included in federal taxable income. This will reduce general and total state revenue by an unknown amount.

DOR assumes this would require individual income tax form and instruction changes as well as changes to the MINITS, COINS and CAFE systems. Additionally, Personal Tax would require one Tax Processing Technician for every 19,000 credits claimed returns to be verified and one Tax Processing Technician I for every additional 2,400 pieces of correspondence generated. Additionally they would need two Temporary Tax Employees for key-entry.

Section 144.526 Show Me Green Sales Tax Holiday

Officials at the **Department of Natural Resources** assume this creates a tax abatement period of 7 days to extend from April 19 and ending April 25 annually beginning in 2009. Certain appliances that reflects the "ENERGY STAR" label are exempt from state and local sales tax during that period. Political subdivisions may adopt ordinances to opt-out of this sales tax holiday. The Department's Parks and Soil Fund, the Conservation Fund and the School District Trust Fund in addition to General Revenue would be effected by a sales tax exemption.

Officials at the **Budget and Planning** assume this proposal would exempt the purchases of "Energy Star" certified appliances from sales tax for the seven day period beginning April 19th and ending April 25th, starting in 2009. Based on Personal Consumption data as provided by the US Bureau of Economic Analysis, sales of qualifying appliances would be approximately 0.04% of annual retail sales. Gross GR sales tax collections in FY07 were \$1,977.7M. Therefore, general and total state revenues would be reduced by proposed section 144.526 in the following ways, beginning in FY09:

ASSUMPTION (continued)

Reductions (\$million)	
General Revenue	.791
Prop C	.264
Conservation	.033
DNR	.026
Total	1.114

Officials at the **Department of Revenue** assume changes to the computer systems would be required. Additionally the Department believes it can absorb the cost of any needed staff with existing resources.

Officials at the **City of West Plains** assume a possible negative impact on the city.

Officials at the **City of Centralia** assume the impact is zero if the Board votes to be exempt from the sales tax holiday. Otherwise a loss of sales tax receipts less than \$2,000 per year.

Section 161.360 Grants for LEED certification

Officials at the **Department of Elementary and Secondary Education (DESE)** assume tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students. Section 161.360 requires DESE to provide grants to assist local public school districts to obtain LEED certification for new construction or substantial renovation of public school buildings beginning January 1, 2009. The cumulative total of grants awarded shall not exceed \$500,000 per fiscal year. DESE will need 1.0 FTE supervisor to administer this grant program.

Oversight has, for fiscal note purposes only, adjusted the salary and benefits of the Supervisor I to correspond with the range for starting salary posted by DESE for a similar position and has excluded travel costs, assuming the program could be administered with minimal travel.

Oversight assumes that since the grant program does not begin until January 1, 2009 then no more than half of the \$500,000 tax credit could be distributed in FY 2010. Additionally the Department of Elementary and Secondary Education would not need staff until FY 2010.

ASSUMPTION (continued)

Section 640.153 Energy Auditors

Officials at the **Department of Natural Resources** must certify qualified home energy auditors as required under subsection 8 of section 143.121, RSMo. The department assumes we would request a .5 Energy Specialist II to implement this portion of the proposal.

Oversight assumes the half an Energy Specialist II position can be absorbed with existing resources.

Section 640.157 Energy Center

Officials at the **Department of Natural Resources** assume they are to serve as a central point of coordination for activities relating to energy sustainability in the state. The department assumes we would request two (2) Energy Engineer II's and .5 Office Support Assistant to implement this portion of the proposal.

Oversight has, for fiscal note purposes only, changed the starting salary for the Energy Engineer II and the Office Support Assistant to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees over the last six months of FY 2002 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Oversight assumes that the Department of Revenue can absorb the costs of the computer changes, tax form changes and staff with existing resources. Should the volume of work exceed what present staff can handle then the Department can request appropriations through the appropriations process.

Officials at the **Department of Higher Education, Metropolitan Community College, Administrative Hearing Commission, Department of Economic Development, Linn State Technical College, St. Louis County, Budget and Planning** and the **Missouri Department of Transportation** assume that there is no fiscal impact from this proposal.

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 \$2,500. 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

ASSUMPTION (continued)

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.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
<u>Cost - Dept. of Natural Resources</u>			
Tax Credits	\$0	(\$0 to \$500,000)	(\$0 to \$1,000,000)
<u>Cost - Dept. of Natural Resources</u>			
Personal Services	(\$133,715)	(\$165,271)	(\$170,229)
Fringe Benefits	(\$59,129)	(\$73,083)	(\$75,275)
Expense and Equipment	<u>(\$52,225)</u>	<u>(\$24,048)</u>	<u>(\$24,770)</u>
<u>Total Costs - Dept of Natural Resources</u>	(\$245,069)	(\$262,402)	(\$270,274)
FTE Change - DNR	4 FTE	4 FTE	4 FTE
<u>Cost - Dept of Elem. & Sec. Education</u>			
Local School Grants	\$0	(\$0 to \$250,000)	(\$0 to \$500,000)
<u>Cost - Dept of Elem & Sec. Education</u>			
Personal Service	\$0	(\$40,637)	(\$41,856)
Fringe Benefits	\$0	(\$17,970)	(\$18,509)
Expense and Equipment	<u>\$0</u>	<u>(\$1,195)</u>	<u>(\$1,230)</u>
<u>Total Costs- DESE</u>	\$0	(\$59,802)	(\$61,595)
FTE Change - DESE	0 FTE	1 FTE	1 FTE
<u>Loss - General Revenue</u>			
Loss of tax revenue	(Unknown)	(Unknown)	(Unknown)
<u>Cost - Office of Administration</u>			
Personal Service	(\$59,616)	(\$73,686)	(\$75,896)
Fringe Benefits	(\$26,362)	(\$32,584)	(\$33,561)
Expense and Equipment	<u>(\$7,407)</u>	<u>(\$7,407)</u>	<u>(\$7,407)</u>
<u>Total Costs - Office of Administration</u>	(\$93,385)	(\$113,677)	(\$116,864)
FTE Change - OA	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u>(Unknown greater than \$338,454)</u>	<u>(Unknown greater than \$1,185,881)</u>	<u>(Unknown greater than \$1,948,733)</u>

Estimated Net FTE Effect on General Revenue	5 FTE	6 FTE	6 FTE
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**STATE FACILITY MAINTENANCE
& OPERATIONS FUND (SFMOF)**

<u>Cost- SFMOF</u>			
Personal Service	(\$59,616)	(\$73,686)	(\$75,896)
Fringe Benefits	(\$26,362)	(\$32,584)	(\$33,561)
Expense and Equipment	(\$7,407)	(\$7,407)	(\$7,407)
<u>Total Costs - SFMOF</u>	<u>(\$93,385)</u>	<u>(\$113,677)</u>	<u>(\$116,864)</u>
FTE Change - SFMOF	1 FTE	1 FTE	1 FTE

ESTIMATED NET EFFECT ON STATE FACILITY MAINTENANCE & OPERATIONS FUND	<u>(\$93,385)</u>	<u>(\$113,677)</u>	<u>(\$116,864)</u>
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**FACILITY MAINTENANCE
RESERVE FUND (FMRF)**

<u>Cost - FMRF</u>			
Cost of upgrades to state buildings	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>

ESTIMATED NET EFFECT ON FACILITY MAINTENANCE RESERVE FUND	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>
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CONSERVATION FUND

<u>Cost - LEED certification</u>	(Unknown)	(Unknown)	(Unknown)
<u>Loss - Sales Tax</u>	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON CONSERVATION FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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PARKS AND SOIL FUND

<u>Loss - Sales Tax</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON PARK AND SOIL FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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SCHOOL DISTRICT TRUST FUND

<u>Loss - Sales Tax</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
	<u>(10 Mo.)</u>		

LOCAL GOVERNMENT FUNDS

<u>Loss - Sales Tax</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENT FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

There could be an impact on businesses that sell energy efficient products.

FISCAL DESCRIPTION

Up to 10% of the funds appropriated each year for the Facilities Maintenance Reserve Fund shall be used for otherwise eligible projects that are also energy projects with a 2-year payback or less.

Any appliance purchased with any portion of state funding shall be an Energy Star appliance under the Energy Star program by the U.S. Department of Energy and the Environmental Protection Agency.

FISCAL DESCRIPTION (continued)

The Division of Facilities Management, Design, and Construction shall ensure that regular maintenance is conducted on lighting, heating, ventilation, and air conditioning systems in all state buildings.

Design documents submitted to the Office of Administration for new construction or substantial renovation of certain state buildings shall include a projection of the energy savings of the building as a result of meeting the state minimum energy efficiency standard.

The act requires that by January 1, 2009, the Department shall modify the minimum energy efficiency standard so that it is at least as stringent as the International Energy Conservation Code, 2006 version (2006 IECC) rather than the current standard of American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 90. The act modifies the date to July 1, 2009, by which all design for state buildings involving new construction or substantial renovation and any building considered for purchase or lease by a state agency shall comply with the minimum energy efficiency standard. The Commissioner of the Office of Administration may exempt any state building from meeting the minimum energy efficiency standard requirement for safety reasons or when the cost of compliance is expected to exceed the energy cost savings.

The act allows persons affiliated with a gas or electric utility to serve on the voluntary working group of persons with expertise in energy efficiency who advise the Department of Natural Resources.

Beginning July 1, 2016, at least 10% of the electricity used by state buildings must come from renewable energy sources and beginning July 1, 2026, at least 20% of the electricity used by state buildings must come from renewable energy sources.

The act gives counties of the third classification the same authority to adopt a building code as current law provides to counties of the first and second classifications.

The act adds "energy efficiency" code to the definition of a "technical code" for which certain counties, fire protection districts, and municipalities have the authority to adopt by reference. Any energy efficiency code adopted shall be at least as stringent as the 2006 IECC.

This act allows a tax credit for taxpayers who construct a green building or modify an existing structure into a green building. green building is defined as a building that is designed to achieve integrated systems design and construction so as to significantly reduce or eliminate the negative

FISCAL DESCRIPTION (continued)

impact of the built environment in a number of different ways including water conservation, energy efficiency, renewable energy, and indoor environmental quality and human health.

The tax credit consists of three components: the green whole building component; the green base building component; and the green tenant space component. An applicant may receive a tax credit for each eligible component satisfied by the applicant's project.

Prior to construction, a taxpayer may apply for a preliminary certification for a green building tax credit from the Department of Natural Resources. If the director of the Department of Natural Resources determines that the construction or renovation meets requirements of the tax credit program, the director may issue a final certification upon completion of construction.

The green building tax credit has a per taxpayer cap of \$50,000 per year and an aggregate cap of \$1 million per year. Green building tax credits are refundable and fully transferable. The Department of Natural Resources must promulgate rules one hundred and twenty days after the effective date of this act to determine the amount of green building tax credits available to any one taxpayer based upon the size of the building, the level of green rating achieved by the building (either through the Leadership in Energy and Environmental Design (LEED) or the Green Globes rating systems) and whether the project is located in an economic development area.

The act creates two income tax deductions. The first deduction is fifty percent of the cost of a home energy audit, conducted by an energy auditor certified by the Department of Natural Resources. The second deduction is one hundred percent of the purchase price paid for Energy Star labeled products, up to \$1,000 per taxpayer per year.

The act creates the "Show Me Green Sales Tax Holiday." For 2009 and every year thereafter, during the seven day period beginning on April 19th and ending April 25th, all sales of Energy Star certified appliances will be exempt from state and local sales tax.

The Department of Elementary and Secondary Education shall provide grants to public school districts after July 1, 2009 to assist schools obtain LEED certification for new building construction or substantial renovation projects. Preference for the grants shall be given to schools that are designed to function as community centers of learning. The total amount of grants that may be awarded per year shall not exceed \$500,000.

The Missouri Energy Task Force created by Executive Order 05-46 shall reconvene at least annually to review progress made toward meeting the recommendations made in its final report

FISCAL DESCRIPTION (continued)

as issued under the Executive Order. The Task Force shall issue its findings in an annual status report to the Governor and General Assembly.

The Department of Natural Resources shall certify entities who may conduct qualified home energy audits in compliance with the income tax deduction for home energy audits created by this act.

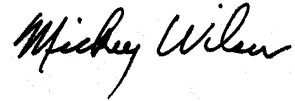
The Department of Natural Resources' Energy Center shall serve as a central coordinator for energy sustainability activities in the state and shall carry out the duties described in the act.

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

SOURCES OF INFORMATION

City of West Plains
City of Centralia
University of Missouri
Metropolitan Community College
Administrative Hearing Commission
Department of Conservation
Department of Economic Development
Moberly Area Community College
Lincoln University
Department of Higher Education
Budget and Planning
Linn State Technical College
Office of the Secretary of State
Department of Elementary and Secondary Education
St. Louis County
Office of Administration
Missouri Department of Transportation
Department of Natural Resources
Department of Revenue
Budget and Planning

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, prominent 'M' and 'W'.

Mickey Wilson, CPA
Director
March 5, 2008