COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4495-16
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 2058
Subject: Economic Development; Tax Credits; Taxation and Revenue
Type: Original
Date: June 2, 2008

Bill Summary: This proposal provides for tax incentives for business development.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	($66,068 to $30,066,068)	($68,889 to $30,068,889)	($70,956 to $30,070,956)
Total Estimated Net Effect on General Revenue Fund*	**($66,068 to $30,066,068)**	**($68,889 to $30,068,889)**	**($70,956 to $30,070,956)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Entrepreneurial Development and Intellectual Property Right Protection	$0	$0	$0
Blind Pension	$0	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds*	**$0**	**(UNKNOWN)**	**(UNKNOWN)**

*** The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	**2 FTE**	**2 FTE**	**2 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*	**$0**	**(Unknown)**	**(Unknown)**

*** The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development (DED)** stated the bill increases the caps on annual issuance of tax credits under the Enhanced Enterprise Zone (EEZ) from $14 million to $24 million and Missouri Quality Jobs (MQJ) Acts from $40 to $60 million plus extends the program to August 30, 2013. The bill makes a change to the Neighborhood Assistance Tax (NAP) credit program by permanently re-allocating credits. These program changes would require an FTE plus E&E to administer this increased activity.

The Economic Development Council - Department of Economic Development will be required to conduct administration of the loan and grant programs as well as collection of the fee. DED will also provide support to the 7 member council and pay costs associated with the council. DED assumes the need for at least one additional FTE for this program.

DED assumes a total cost of the two FTE of roughly $190,000 per year.

Oversight has, for fiscal note purposes only, changed the starting salary for DED's Economic Development Incentive Specialist II 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 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight also assumes DED will not incur additional floor space expense for their additional FTEs.

Officials from the **Department of Revenue (DOR)** state the proposal would not fiscally impact their agency.

In response to previous legislation from this year, DOR also assumed the language added in Section 144.057 would not have a fiscal impact to the state as these munitions are already determined to be sales tax exempt based upon a letter ruling.

Officials from the **Office of Administration - Budget and Planning (BAP)** stated the proposal modifies various tax credit programs. These changes may induce economic activity which may indirectly generate additional general and total state revenues. BAP defers to the Department of Economic Development for an estimate of any such revenues.

The proposal excludes sales to or by public utilities and telecom providers from local sales tax. BAP defers to the Department of Revenue for an estimate of any such revenues.

ASSUMPTION (continued)

This proposal modifies the Enhanced Enterprise Zone Tax Benefit Program by prohibiting taxpayers from simultaneously receiving a tax credit under this program and the Quality Jobs Program.

This proposal increases the annual cap on the Enhanced Enterprise Zone Program from $14 million to $24 million. This will reduce general and total state revenues by $10 million annually.

This proposal exempts from property tax property within an ultimate airport boundary. BAP defers to the State Tax Commission for an estimate of any such revenues.

This proposal exempts from state and local sales and use taxes all personal property included on the United States munitions list that is sold to or purchased by a foreign government for a governmental purpose. This may reduce general and total state revenues. BAP defers to the Department of Revenue for an estimate of reduced revenues.

This proposal creates the Entrepreneurial Development Council which shall impose a registration fee to cover program costs for entrepreneurs of the state. The Entrepreneurial Development and Intellectual Property Right Protection Fund will also be established to accept monies for use by the council. BAP defers to the Department of Economic Development for any estimate of such revenues.

This proposal modifies the Quality Jobs Program by increasing the cap from $40 million to $60 million on the annual amount of tax credits issued. This will reduce general and total state revenues by $20 million annually.

Officials from the **Department of Natural Resources (DNR)** state changes made in section 447.708 could result in changes in the number or locations of entities utilizing the tax credits, which could change the number of people enrolling in the Brownfield Voluntary Cleanup Program. DNR is unable to determine the number of sites that may enroll based on the changes in the tax credits. Oversight activities of these sites would be addressed with existing resources. DNR would not anticipate a direct fiscal impact from these provisions.

Section 144.057 would authorize a state and local sales and use tax exemption on all tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.

DNR's Parks and Soils Tax Fund is derived from one-tenth of one percent sales and use tax pursuant to Section 47(a) of the Missouri Constitution. Therefore, any additional sales and use

ASSUMPTION (continued)

tax exemption would be an unknown loss to the Parks and Sales Tax Fund.

In response to a previous version of this proposal, officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. 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 through out 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 tax credits each year.

Officials from the **Office of the Secretary of State (SOS)** assume 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 Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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.

Regarding changing the sunset date of tax credits for job retention projects authorized under the Missouri Quality Jobs Act from 2007 to 2013, **Oversight** assumes there would be no net fiscal impact as the credit would be issued under one program or another and with other changes in the bill.

Oversight assumes that without the changes to Section 32.105, the Development Tax Credit program's annual limit would return from $6 million a year to $4 million a year. However, also without this proposal, the Neighborhood Assistance Program would revert from its cap of $16 million in FY 2007, to $18 million in FY 2009. Therefore, based upon the reallocation of the $32 million of tax credits within Section 32.105, Oversight will reflect a potential loss of $2 million annually from the DTC, and an offsetting $2 million savings from the NAP.

Oversight assumes the proposal removes the Brownfield 'Demolition' tax credit and incorporates it into the Brownfield 'Remediation' tax credit. According to DED's Tax Credit Analysis page, the issuances for the demolition tax credit in the past three years has been $0 in

ASSUMPTION (continued)

FY 2005, $37,500 in FY 2006 and $0 again in FY 2007. Therefore, Oversight will not assume any savings will be realized from the removal of this program. Oversight will utilize DED's estimate of no impact for the changes to the Brownfield Remediation since the program is discretionary. Oversight already reflected a $0 to Unknown cost for this program since there is no annual limit and that analysis is still appropriate. Oversight assumes the changes made in this substitute may increase the utilization of the program, but that is at the discretion of the Department of Economic Development.

According to the **Department of Revenue**, the addition of Section 144.057 (sales tax exemption on munitions) would have no fiscal impact on the state. DOR stated this exemption is already in place with a letter ruling, and this section simply adds the language to statutes. Therefore, **Oversight** will not assume a loss of revenue from this section.

Oversight compared the total tax credit issuances relative to the total tax credit redemptions for the previous three years in order to determine a relationship between the two. Oversight discovered that the annual redemptions ranged from 79 percent to 118 percent of the annual issuances. Depending on the program, the redeemed credits may have been issued several years prior and carried forward to the years studied; however, Oversight will utilize an estimated redemption total of 98.5 percent of tax credits issued.

Oversight will range the fiscal impact of the programs from $0 (no additional tax credits will be issued) to the change in annual limits. Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore, have not reflected them in the fiscal note.

The **City of St. Louis** did not respond to our request for fiscal impact.

Possessor interest in property in or on ultimate airport boundary - Section 137.115;

In response to a similar proposal from this year (HCS for HB 1836), officials from the **State Tax Commission** (TAX) assumed this proposal would have no fiscal impact on their organization. TAX officials stated that the proposal would nullify the assessment of this type of property, and could have a fiscal impact to local governments. TAX officials were not able to provide an estimate of the number or current assessed valuation of eligible properties.

Oversight assumes that this part of the proposal could apply to certain leased real property which is on or adjacent to a commercial airport and owned by a political subdivision. The proposal would specify a method for determining the assessed valuation for tax purposes of such properties. Oversight assumes the assessed valuation of such properties would be reduced if this

ASSUMPTION (continued)

proposal was implemented. The proposal would become effective after 2008 taxes are determined and would become effective for 2009 taxes in FY 2010. Accordingly, Oversight concludes that the fiscal impact to local governments and the Blind Pension Fund for years after FY 2009 is unknown.

Section 348.436 - Agriculture Product Utilization & New Generation Coop. tax credits.

Officials from the **Department of Agriculture (AGR)** assume this part of the proposal will not fiscally impact their agency.

The programs have a sunset of December 31, 2010. This proposal extends the sunset to December 31, 2016. **Oversight** assumes the state would have realized a savings from no credits issued on or after January 1, 2011; however this extension of the sunset would move that savings to 2017. Credits issued in calendar 2011 may be redeemed in FY 2012, which is beyond the scope of this fiscal note.

Section 620.050 - Entrepreneurial Development Council:

Oversight assumes DED will impose a registration fee for members of this new council to cover the costs of the anticipated additional FTE plus meeting expenses. Oversight assumes the new council's cost will be paid out of the General Revenue Fund and will be reimbursed from the new Entrepreneurial Development and Intellectual Property Right Protection fund.

This proposal could reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2009 (10 Mo)	FY 2010	FY 2011
GENERAL REVENUE FUND			
Savings - Neighborhood Assistance Program, cap reallocated from $18 million to $16 million annually (32.105)	$0 to $2,000,000	$0 to $2,000,000	$0 to $2,000,000
Loss - Development Tax Credit program, cap reallocated from $4 million to $6 million (32.105)	$0 to ($2,000,000)	$0 to ($2,000,000)	$0 to ($2,000,000)
Loss - increase in tax credits under Enhanced Enterprise Zone program from $14 million to $24 million annually (135.967)	$0 to ($10,000,000)	$0 to ($10,000,000)	$0 to ($10,000,000)
Loss - change cap of Quality Jobs Program from $40 million to $60 million annually (Section 620.1881)	$0 to ($20,000,000)	$0 to ($20,000,000)	$0 to ($20,000,000)
Costs - Department of Economic Development (EEZ & MQJ)			
Personal Service (1 FTE)	($31,075)	($38,409)	($39,561)
Fringe Benefits	($13,741)	($16,984)	($17,494)
Expense and Equipment	($20,001)	($13,496)	($13,901)
ITSD Hours	($1,251)	$0	$0
Total Costs - DED	($66,068)	($68,889)	($70,956)
FTE Change - DED	1 FTE	1 FTE	1 FTE
Costs - DED - Entrepreneurial Development Council			
Personal Service (1 FTE)	($31,075)	($38,409)	($39,561)
Fringe Benefits	($13,741)	($16,984)	($17,494)
Expense and Equipment (& meetings)	($43,010)	($38,913)	($40,082)
ITSD Hours	($1,251)	$0	$0
Total Costs - DED	($89,077)	($94,306)	($97,137)
FTE Change - DED	1 FTE	1 FTE	1 FTE

FISCAL IMPACT - State Government (continued)	FY 2009 (10 Mo)	FY 2010	FY 2011
Transfer In - from the Entrepreneurial Development and Intellectual Property Right Protection Fund	$89,077	$94,306	$97,137
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($66,068 to $30,066,068)**	**($68,889 to $30,068,889)**	**($70,956 to $30,070,956)**
Estimated Net FTE Change for General Revenue Fund	2 FTE	2 FTE	2 FTE

Note: This does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

ENTREPRENEURIAL DEVELOPMENT AND INTELLECTUAL PROPERTY RIGHT PROTECTION FUND			
Income - Economic Development Council shall impose fee to cover cost of the program	$89,077	$94,306	$97,137
Transfer Out - to General Revenue to reimburse fund for DED costs	($89,077)	($94,306)	($97,137)
ESTIMATED NET EFFECT TO ENTREPRENEURIAL DEVELOPMENT AND INTELLECTUAL PROPERTY RIGHT PROTECTION FUND	**$0**	**$0**	**$0**

BLIND PENSION FUND			
Revenue reduction - property taxes (from Section 137.115)	$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO THE BLIND PENSION FUND	**$0**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - Local Government	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL GOVERNMENTS			
Revenue reduction - property taxes (from Section 137.115)	$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	**$0**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - Small Business

Small businesses that qualify for the various programs changed or enacted by this proposal may be positively fiscally impacted as a result of this proposal.

FISCAL DESCRIPTION

The bill:

(1) Increases the annual cap on the amount of tax credits the Department of Economic Development may authorize for the Enhanced Enterprise Zone Program from $14 million to $24 million;

(2) Increases the fiscal year cap for economic development tax credits that are approved as part of the Neighborhood Assistance Program from $4 million to $6 million;

(3) Specifies that all demolition activities are part of remediation and allows remediation tax credits to include up to 100% of demolition costs that are not directly part of the remediation but

FISCAL DESCRIPTION (continued)

which are necessary to accomplish the planned use of the facility. Demolition may occur on adjacent property that independently qualifies as abandoned or underutilized and is located in a municipality with fewer than 20,000 residents. Currently, some demolition activities associated with brownfield redevelopment are separate from remediation activities;

(4) Prohibits the authorization of new tax credits for Missouri wood energy producers after June 30, 2013;

(5) Extends the expiration date on the New Generation Cooperative Incentive Tax Credit Program from December 31, 2010, to December 31, 2016;

(6) Requires every state agency charged with administering a tax credit program to make public the name of each tax credit recipient and the amount of tax credits issued to each recipient; and

(7) Requires any tax credit program applicant who purposely and directly employs unauthorized aliens to forfeit any tax credits issued but not redeemed and to repay all tax credits that have been redeemed during the time the unauthorized alien was employed by the applicant.

QUALITY JOBS PROGRAM

The bill:

(1) Increases the annual cap on the Quality Jobs Tax Credit Program from $40 million to $60 million;

(2) Allows tax credits to be issued for job retention projects until August 30, 2013. Tax credits for this project type were only authorized through August 30, 2007;

(3) Allows a project facility to include separate buildings within the same county. Currently, they must be located within one mile of each other; and

(4) Allows a company that leases or owns facilities that produce electricity derived from qualified renewable energy sources, or which produce fuel for the generation of electricity from qualified renewable energy sources, to participate in the program as a technology business project if it meets the other requirements of the program. Qualified renewable energy sources include open-looped biomass, close-looped biomass, solar, wind, geothermal, and hydropower but not ethanol distillation or production or biodiesel production.

FISCAL DESCRIPTION (continued)

COMMUNITY IMPROVEMENT DISTRICTS

The bill:

(1) Allows community improvement districts (CID) to exist in special business districts within the City of St. Louis. Currently, any CID in St. Louis that is also in a special business district cannot levy a CID sales tax unless special assessments imposed on real property or businesses within the special business district are repealed; and

(2) Excludes sales by public utilities and providers of communications, cable, or video services from the CID sales tax.

TAX INCREMENT FINANCING

The bill:

(1) Specifies the terms served by members of tax increment financing (TIF) commissions in the counties of St. Louis, St. Charles, and Jefferson; and

(2) Specifies the requirements for public hearings related to TIF projects in the counties of St. Louis, St. Charles, and Jefferson.

TAX POLICY AND TAXATION

The bill:

(1) Authorizes the department to issue letter rulings regarding the New Markets Tax Credit Program. The letter rulings are binding in a court of law and must be issued within 60 days of a request. The department can refuse to issue the letter ruling for good cause, but must explain the reason for refusal. Letter rulings are closed to the public; however, information can be released as long as anything which would identify the applicant or is otherwise protected is redacted;

(2) Establishes in statute an exemption from state and local sales and use tax on all tangible personal property included on the United States munitions list that is sold to or purchased by a foreign government for a governmental purpose. Currently, this exemption is granted by the Department of Revenue through a letter ruling;

(3) Specifies that the true value in money for assessment purposes of any possessory interest in real property located on or within the ultimate airport boundary shown by a federal airport layout

FISCAL DESCRIPTION (continued)

plan of the Kansas City International Airport will be the true value in money of the possessory interest in the real property less the total costs paid toward any new construction or improvements completed on the property after January 1, 2008, if included in the possessory interest, unless paid by the political subdivision, regardless of the year the costs were incurred;

(4) Prohibits earnings limitations from being imposed on any purchaser that is not an urban redevelopment corporation or life insurance company operating as an urban redevelopment corporation as a condition of receiving partial tax relief provided in Section 353.110, RSMo;
(5) Allows information regarding state tax credits claimed by a member of the General Assembly or any statewide elected public official to be disclosed to the public; and

(6) Requires members of the General Assembly and statewide elected public officials to disclose on financial interest statements whether they, their spouses, or dependent children claimed any state tax credits on their most recent state income tax return.

ENTREPRENEURIAL DEVELOPMENT COUNCIL

The bill establishes the Entrepreneurial Development Council within the Department of Economic Development consisting of seven members from Missouri businesses and licensed attorneys specializing in intellectual property law. All members will be appointed by the Governor with the advice and consent of the Senate. The department will establish the terms of membership, which will be permanent and apply to all subsequent members.

The council will provide benefits to entrepreneurs who register with it. The council shall impose a registration fee, as provided by department rule, for Missouri entrepreneurs who wish to avail themselves of the council's benefits.

The Entrepreneurial Development and Intellectual Property Right Protection Fund is created to accept state and federal appropriations, grants, bequests, gifts, fees, and awards to be used by the council.

The council will evaluate allegations of intellectual property rights infringement and may, based on need, award grants or financial assistance to subsidize legal expenses incurred in instituting the legal action necessary to remedy the alleged infringement. The council may allocate money from the fund, as provided by department rule, for low-interest loans and grants to registered entrepreneurs to provide financial aid for product development, manufacturing, and advertising of new products.

FISCAL DESCRIPTION (continued)

The bill repeals Section 135.348, the Sponsorship and Mentoring Program, and Section 260.285, the Recycling Flexible Cellulose Casing Tax Credit.

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 - Budget and Planning
Department of Insurance, Financial Institutions and Professional Registration
Department of Natural Resources
State Tax Commission
Office of the Secretary of State
Department of Social Services
Department of Agriculture
Office of the State Treasurer

Mickey Wilson, CPA
Director
June 2, 2008