COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0837-11
Bill No.: Truly Agreed To and Finally Passed SS#2 for SCS for HCS for HB 191
Subject: Business and Commerce; Economic Development; Tax Credits; Taxation and Revenue
Type: Original
Date: June 12, 2009

Bill Summary: This proposal creates various tax incentives for job development.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	($1,519,240) to ($35,319,240)	($10,172,568) to ($51,344,860)	($11,687,265) to ($62,859,557)
Total Estimated Net Effect on General Revenue Fund* **	**($1,519,240) to ($35,319,240)**	**($10,172,568) to ($51,344,860)**	**($11,687,265) to ($62,859,557)**

* **The net fiscal impact to the General Revenue Fund does not reflect the potential unknown loss from the expansion of the Business Facility program (135.155)**

** **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.**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Missouri Job Development Fund	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	8	8	8
Total Estimated Net Effect on FTE	**8**	**8**	**8**

☐ 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 2010	FY 2011	FY 2012
Local Government	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 27 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation**, **Department of Agriculture**, **Department of Labor and Industrial Relations**, **Office of the State Courts Administrator**, **Missouri House of Representatives**, **Department of Social Services**, **Department of Natural Resources**, **Department of Elementary and Secondary Education**, **Office of the State Treasurer**, **Office of Administration - Administrative Hearing Commission & ITSD**, **Office of the Governor** and the **Department of Health and Senior Services** each assume the proposal will not fiscally impact their respective agencies.

Officials from the **Missouri Senate** assume the proposal either has no fiscal impact or a minimal impact that could be absorbed by the present appropriation.

Officials from the **Office of Administration - Budget and Planning (BAP)** state the proposal should not result in additional costs or savings to their agency. The proposal;

- 32.105 - Expands the eligibility of the NAP program by increasing the eligible income amounts for certain owner-occupied rental units. This may lead to increased participation in the program, but the cap on the program is not changed. BAP defers to DED for any estimated impacts.
- 37.850 -- Statutorily requires that the state maintain the Missouri Accountability Portal established under executive order 07-24.
- 99.865 -- Reporting requirements for municipalities engaged in TIF projects.
- 99.1205 - Raises the annual cap on the Distressed Areas Land Assemblage Tax Credit to $20M. This may reduce general and total state revenues by up to $20M, since the program has no current redemptions, but may induce other economic activity. The total program cap remains $95M.
- 100.286 - This section caps the MDFB Infrastructure Tax Credit at $10M, but provides for $25M with the approval of the Directors of Administration, Economic Development, and Revenue.
- 100.760-770 - These sections remove the BUILD competing state requirement.
- 100.850: This section raises the cap on the BUILD program from $15M to $25M annually. This could reduce general and total state revenues by $10M annually, but may induce other economic activity.
- 105.145 - Fines for TDDs that do not file timely reports. This may increase general and total state revenues.

ASSUMPTION (continued)

- 108.1000-1020 - provides for the issuance of Build America bonds. The bonds and interest on them shall be tax exempt. This may reduce general and total state revenues, but the program should induce economic activity. DED may have an estimate of related revenue impacts.
- 135.155 - Extends the Business Facility credit until 2020 for headquarters projects.
- 135.352-363 - This section allows only $6M for the tax exempt bond issuance portion of the LIHP.
- 135.680 - This section increases the cap on the New Markets Tax Credit Program from $15M to $25M. This could reduce general and total state revenues by $10M. This program may stimulate other economic activity, but BAP does not have data to estimate the induced revenues.
- 135.766 - This section ends the Guarantee Fee Program 9/27/2009.
- 135.800 - This section modifies certain tax credit categories, creates another category called "Financial and Insurance Tax Credits", and categorizes existing credits.
- 135.802 - This section adds the number of estimated jobs to the project's application requirements.
- 135.805 - Requires certain tax credit recipients to report on job creation, and requires DED to make reported jobs available on the Missouri Accountability Portal website.
- 208.770 - This section lowers the cap on the Family Development Account program from $4M to $300k annually. Because redemptions have never approached this amount, this will have no impact on general and total state revenues.
- 238.207-235 -- Makes changes to the guidelines for creation of transportation development districts. Charges the DOR with the collection and administration of related sales taxes. BAP defers to DOR for administrative cost estimates.
- 253.545-559 - This section caps the Historic Preservation Tax Credit Program at $140M annually. This cap does not apply to projects needing less than $275,000 or that have commenced certain projects by 1/1/10. BAP notes that $140M was redeemed in FY08. These provisions will have little impact on general and total state revenues.
- 338.337- Licensing requirements for out-of-state pharmaceutical firms.
- 447.708 - allows for quicker release of Brownfield Credits when portions of projects are completed.
- 610.021-620.014 - Records closure exemptions expanded to include proprietary information for pending projects or certain intellectual property.
- 620.017 - This section adds the requirement that any company that participates in a DED-administered program shall report to DED the number of jobs created annually.
- 620.472 - This section expands the new or expanding industry training program by adding pre-employment and other training activities.

ASSUMPTION (continued)

- 620.1878-1881 -This section includes a 15-mile radius for project facilities; provides that certain companies that file bankruptcy protection may still be qualified companies; and expands eligible companies to include certain research activities. Further, the sections makes changes to notices of intent, payroll requirements for projects in adjacent counties, and removes per-company caps. The bill raises the cap on this program from $60M to $80M. DED reports that currently there are no projects that have been unable to receive funding due to the annual limit on the program. Also, DED reports that the benefit of the jobs created under the program will offset any additional costs.
- Section 1 - Big Government Get Off My Back Act - Prohibits new increases to user fees, unless to administer a federal mandate. Provides a procedure for the development of rules to prevent new regulations from impacting businesses with less than 25 employees for the next four years.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. The department has no means to arrive at a reasonable estimate of loss in premium tax revenue as a result of 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 by tax credits each year.

Officials from the **Office of the Secretary of State (SOS)** state that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office 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.

ASSUMPTION (continued)

Officials from the **Office of the State Auditor (SAO)** state Section 99.865.8, which creates a searchable database, will result in the following costs: hardware $5,000 and replaced every 3 years, software $5,600 with annual maintenance of $1,200, additional MOREnet web space at $1,100 per year. In addition to these costs, there would also be personnel costs for the time involved in creating and maintaining this database. The personnel costs associated with this requirement are unknown as it is difficult to predict these costs without knowing the volume of data and the number of reports that are to be included in the database.

105.145.8: The fiscal impact of this section on the SAO is unknown. The amount this fine would generate is unknown. Further, the legislation does not specify who is to collect this fine, where it is to be deposited, and the purpose for which it is to be utilized. Unknown costs are possible if the responsibility for levying and collecting the fines is placed with the SAO. In addition, there is no penalty provision to address how to handle a TDD that does not pay a fine.

Oversight will assume the SAO will be able to implement the changes to section 99.865.8 with existing personnel. Therefore, Oversight will only reflect SAO's estimate for software and hardware costs. Oversight will also assume all Transportation Development Districts will submit their reports timely; therefore, no additional fine revenue will be collected from the addition of Section 105.145.8.

Officials from the **Department of Revenue (DOR)** state Section 238.235 (DOR to collect Transportation Development District sales tax revenue) would require one Revenue Processing Technician I for every additional 24,000 contacts annually to the registration area. Also, DOR assumed the need for one Revenue Processing Technician I to coordinate implementation of new Transportation Development Districts (TDD), update rate charts, register businesses in TDDs, resolve issues surrounding collection of TDD sales tax with TDD officials.

DOR states due to the Statewide Information Technology Consolidation, their response to a proposal will now also reflect the cost estimates prepared by OA-IT for impact to the various systems. As a result, the impact shown may not be the same as previous fiscal notes submitted. In addition, if the legislation is Truly Agreed to and Finally Passed the OA-IT costs shown will be requested through appropriations by OA-IT.

Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources, however; if priorities shift, additional FTE/overtime would be needed to implement. The estimated cost is $36,646.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for DOR's Revenue Processing Technicians 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 has also removed the cost of additional floor space in the Truman Building from the DOR estimate.

Section 147.010 - Corporate Franchise Tax changes;

Officials from the **Office of Administration - Budget and Planning (BAP)** this part of the proposal would change the threshold amount from $1 million to $10 million of assets required to pay the corporate franchise tax rate. In FY08, the cumulative amount of franchise tax collected from taxpayers with asset bases below $10 million was $14,552,636. Thus, general and total state revenues may be reduced by this amount annually.

In response to a similar proposal from this year (Perfected HB 86), officials from the **University of Missouri, Economic and Policy Analysis Research Center (EPARC)** assumed this proposal would maintain the annual franchise tax rate, yet change the threshold that must be met by the corporation's outstanding shares and surplus. For all taxable years beginning on or after January 1, 2000, but ending before December 31, 2009, the tax rate would be 1/30th of one percent and the threshold would be $1 million. For taxable years beginning on or after January 1, 2010, the tax rate would be 1/30th of one percent but the threshold would increase to $10 million.

EPARC developed an estimate of the fiscal impact of this proposal using the latest available corporate tax data from 2006. EPARC estimated the total franchise tax due for 2009 based on existing provisions at $79,230,613.05. EPARC estimated the total franchise tax due for 2010 with the increased threshold at $72,050,269.22. Thus, EPARC estimated that net franchise tax revenue would decrease by $7,180,343.83.

Oversight will indicate a range of fiscal impact using the BAP and EPARC estimates of revenue reductions. Oversight notes that the proposal would first impact tax returns for 2010 filed in FY 2011, and assumes that any savings to be realized by the Department of Revenue from processing a reduced number of corporate franchise tax returns would not be significant.

Officials from the **Department of Economic Development - Missouri Housing Development Commission (DED -MHDC)** state three provisions of this bill would affect their agency (32.105, 135.352, & 135.802-135.805), however only the provision in 135.352 would have a

ASSUMPTION (continued)

fiscal impact. That section caps the amount of 4% Low Income Housing Tax Credit authorizations which are currently not capped. The potential positive GR impact would continue as long as the cap remains in place. Currently, the 4% LIHTC market is underperforming and this type of deal is no longer as feasible as it was previously. If 4% LIHTC projects become more feasible in the future due to changes in the market, it is reasonable to expect that the cap would have a greater fiscal impact in future years.

There would be an unknown positive fiscal impact to General Revenue from capping the 4% credits. The 4% projects are currently not capped and the amount of credits used each year fluctuates based on market conditions and the availability of tax-exempt bonding authority. The amount of new annual authorizations of 4% LIHTC over the past four years have been $15.2 million in FY06, $7.5 million in FY07, $4.3 million in FY08 and $1.2 million in FY09. To the extent that the amount of new authorizations would otherwise have been more than the $6 million cap in this bill, there would be a positive GR impact. However, because of continuing market turmoil, it is impossible to estimate the amount of credits that would have been otherwise authorized. Therefore, it is impossible to estimate any potential General Revenue impact.

Based upon DED - MHDC's response of tax credits issued in the past two fiscal years (FY 2009 - $1.2 million & FY 2008 - $4.3 million) Oversight will assume no direct fiscal impact from this part of the proposal.

Officials from the **Department of Economic Development - Division of Workforce Development (DED -DWD)** state no new FTE are needed as existing staff will be able to absorb the additional workload. Programmatic costs will increase due to the increased need and demand to fund pre-employment initiative projects as defined through this legislation. At an estimated cost of $100,000 per project, DED - DWD projects yearly cost to be $4 million.

In response to a similar proposal from this year (HB 190), DED stated as economic incentive projects commit, this estimate is anticipated to increase to $2.5 million in FY 2011 and $4 million by FY 2012.

Oversight will utilize DED's estimate of increased program usage resulting from the changes made in the proposal. Oversight will show the increased appropriation from the General Revenue Fund and the increased program expenses as a zero net effect to the Missouri Job Development Fund (0600).

Officials from the **Department of Economic Development - Missouri Development Finance Board (DED -MDFB)** state currently the total Tax Credit for Contributions awarded (issued) in

ASSUMPTION (continued)

any calendar year beginning after January 1, 1994, shall not be the greater of ten million dollars or five percent of the average growth in general revenue receipts in the preceding three fiscal years. This limit may be exceeded only upon joint agreement by the commissioner of administration, the director of the department of economic development, and the director of the department of revenue.

After the legislation becomes effective, MDFB will be able to authorize or approve no more than $10 million in tax credits annually. MDFB may be able to approval an additional $15 million (a total of $25 million), given that any credits above the $10 million cap would require 3 signatures from each of the following: commissioner of the office of administration, director of the department of economic development, and the director of the department of revenue.

The MDFB also states the legislation raises the allowance for the aggregate amount of tax credits authorized under BUILD from $15 million to $25 million. BUILD tax credit annual issuances are a cumulative of all the amortization streams of all active projects. Based upon current active projects, the $15 million cap is close to exhaustion in future periods. The increase in cap will allow MDFB and DED to authorize additional projects. The total impact of the increase in cap will not impact the state immediately. Instead, the increase in tax credit issuances will be a gradual increase determined by the pace at which new projects are approved.

All fiscal note estimates are prepared based upon the assumption that the Board will issue $10 million in Tax Credit for Contributions annually.

As for impacts of increases to BUILD caps. It is anticipated that the effect of such legislative increases would result in the ability of MDFB and DED to approve additional amortizations of BUILD. BUILD credits are authorized cumulatively and are allocated and issued based upon amortization schedules. It is anticipated that during Fiscal Year 2010 that the Board would authorize up to the existing $15 million cap, in FY 2011 and FY 2012 it is estimated that the Board would authorize amortizations that would increase the issuances from $15 to $17 in 2011 and to $19 in 2012, thus the impact to the State over the existing program guidelines has a fiscal cost of $2 million in FY2011 and FY2012.

We anticipated costs of $2.0 million, $3.75 million and $3.75 million due to the impact to the Build America and Recovery America Bonds in years, 2010, 2011 and 2012 respectively.

ASSUMPTION (continued)

According to the Tax Credit Analysis sheets provided by the Department of Economic Development, the amount of tax credits issued and redeemed under this program in the previous five fiscal years has been;

Year	Amount Issued	Amount Redeemed
FY 2008	$31,004,874	$19,877,329
FY 2007	$27,069,317	$24,706,809
FY 2006	$ 6,124,141	$21,858,725
FY 2005	$28,964,274	$25,953,799
FY 2004	$39,401,435	$10,020,578

This proposal limits the amount of tax credits that can be issued under Section 100.286 (Infrastructure) to $25 million. Therefore, **Oversight** will range the potential savings of this part of the proposal from $0 (tax credits over $25 million would not have been issued regardless of this change) to $6 million (FY 2008 issuance over $25 million - rounded).

Officials from the **Department of Economic Development - Business and Community Services (DED)** responded to the following sections:

Section 99.1205 - This section is the Distressed Areas Land Assemblage Tax Credit Act. The aggregate tax credit cap of $95 million is not changed but the annual amount goes from $10m to $20m a year. This would result in accelerated payments for the tax credit. Even though the aggregate amount doesn't change, there could be an increased cost to the state since DED could process that amount in half of the time because of the increase to the annual amount from $10m to $20m. However, there would be an offset of unknown positive economic benefits as a result of this increase so the exact amount of the positive impact to Missouri cannot be determined.
Sections 100.760, 100.770 and 100.850 - These sections change the BUILD program by removing language that deals with competition of projects with other states. It also increases the cap on the program by $10 million (from $15 million to $25 million) for 15 years, which would result in a total fiscal impact of $150m. The increase in the cap for the BUILD program would result in the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing the tax credit applications to make sure they meet the criteria of the program, drafting and sending the tax credit awards and ensuring compliance with the program. The related costs for this FTE include one-time expenditures for systems furniture, a side chair, file cabinet, calculator and telephone and recurring costs for office supplies, computer, professional development and travel. In addition, the increase in the cap of $150 million total for the BUILD Program would be a negative impact to total state revenue. However, there would be an offset of unknown positive economic benefits

ASSUMPTION (continued)

as a result of this increase so the exact amount of the positive impact to Missouri cannot be determined.

Section 105.145 - This section requires preparation of financial reports to be submitted to the state auditor. New language requires that transportation development districts must also submit these reports to the state auditor and if they don't do it in a timely manner, they will be subject to a fine not to exceed five hundred dollars per day. The Department of Economic Development does not anticipate any fiscal impact as a result of Section 105.145.

Section 108.1010 - This section requires that the Department of Economic Development be responsible for allocating recovery zone bonds, which would result in the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing the applications to make sure they meet the criteria of the program, drafting and sending the awards to the recipients and ensuring compliance with the program. The related costs for this FTE include one-time expenditures for systems furniture, a side chair, file cabinet, calculator and telephone and recurring costs for office supplies, computer, professional development and travel.

Section 135.155 - This section reinstates the New and Expanded Business Facility Tax Credit program for headquarters through 1/1/20. Because there is no cap on this tax credit, the Department of Economic Development is unable to determine an exact fiscal impact. However, in the past 5 years, this credit has resulted in an average redeemed amount of $5.5 million per year.

Section 135.680 - This section increases the cap on the New Markets Tax Credit by $10million (from $15 million to $25 million) for 7 years, which would result in a total fiscal impact of $70 million. The increase in the annual cap for the New Markets Tax Credit would result in the need for one additional FTE. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing the tax credit applications to make sure they meet the criteria of the program, drafting and sending the tax credit awards and ensuring compliance with the program. The related costs for this FTE include one-time expenditures for systems furniture, a side chair, file cabinet, calculator and telephone and recurring costs for office supplies, computer, professional development and travel. The increase in the cap of $70 million would be a negative impact to total state revenue. However, there would be an offset of unknown positive economic benefits as a result of this increase so the exact amount of the impact to Missouri cannot be determined.

ASSUMPTION (continued)

Section 135.766 - This section eliminates the Guarantee Fee Tax Credit program by disallowing any tax credit from being authorized 30 days from the effective date of the legislation. The Department of Economic Development anticipates a savings as a result of the elimination of this tax credit program.

Section 135.800 - This section adds several tax credit programs under the Tax Credit Accountability Act. These programs are: Enhanced EZ, Quality Jobs, New Markets and Distressed Land Assemblage. The Department of Economic Development anticipates no fiscal impact as a result of Section 135.800.

Section 147.010 - This section makes changes to the annual franchise tax and is handled by the Department of Revenue. Although the Department of Economic Development is not responsible for this tax, the changes would impact DED's ability to attract businesses to Missouri and that would result in positive impact for the state.

Section 208.770 - This section lowers the cap from $4m to $300,000 for the Family Development Account Program. The Department of Economic Development anticipates a savings as a result of the cap for this program being reduced to $300,000.

Sections 238.207-238.235 - These sections change petition requirements to include budget expenditures and changes tax collection and oversight to the Director of the Department of Revenue. The Department of Economic Development anticipates no fiscal impact as a result of Sections 238.207-238.235.

Section 253.545 - This section caps the Historic Tax Credit at $140,000,000. The Department of Economic Development anticipates no fiscal impact since the amount of credits to be issued and the projects exempted from the cap approximate the prior level of credits issued.

Section 253.559 - This section creates the lottery for allocation of Historic tax credits that fall under the program cap. The creation of the lottery results in the need for an additional FTE. This FTE would be an Economic Development Incentive Specialist III and would be responsible for reviewing preliminary applications (the review is now more extensive), reviewing final applications to determine where the project falls within the new guidelines, tracking the cap for those projects that fall within the cap and tracking projects and estimates for those who don't participate in the lottery.

Section 338.347 - This section makes changes to out of state pharmacy and state wholesale drug licensing requirements. The Department of Economic Development anticipates no fiscal impact

ASSUMPTION (continued)

as a result of Section 338.347.

Section 447.708 - This section adds language to the Brownfield remediation program. It expands the eligible expenses and allows DED to pro-rate the 25% holdback in the event the Department of Natural Resources will write a letter of completion addressing this. The Department of Economic Development anticipates that the payments for the Brownfield remediation program would be accelerated as a result of this section. While the cap would be the same, that amount would be paid out sooner.

Section 610.021 - This section adds a new section that defines when a governmental body is authorized to close meetings, records and votes. The Department of Economic Development anticipates no fiscal impact as a result of Section 610.021.

Section 620.014 - This section adds language to the definition of 'closed record'. The Department of Economic Development anticipates no fiscal impact as a result of Section 620.014.

Section 620.017 - This section requires a summary of jobs created to be reported annually by projects receiving financial assistance from DED. The Department of Economic Development anticipates no fiscal impact as a result of Section 620.017.

Section 620.1878 - This section makes several changes to the definitions used in sections 620.1875 to 620.1890 including additional language for companies that have filed or publicly announced its intention to file for bankruptcy protection.

Section 620.1881 - This section increases the cap on Missouri Quality Jobs from $60 million to $80 million; these benefits are paid out over five years so the total impact could be $100 million. The increase in the cap for the Missouri Quality Jobs Program would result in the need for two additional FTE in Business and Community Services (BCS). These FTE would be Economic Development Incentive Specialist IIIs and would be responsible for reviewing the tax credit applications to make sure they meet the criteria of the program, drafting and sending the tax credit awards and ensuring compliance with the program. The related costs for these FTE include one-time expenditures for systems furniture, side chairs, file cabinets, calculators and telephones and recurring costs for office supplies, computers, professional development and travel. In addition, the increase in the cap of $100 million total for the Missouri Quality Jobs Program would be a negative impact to total state revenue. However, there would be an offset of unknown positive economic benefits as a result of this increase so the exact amount of the impact cannot be determined.

ASSUMPTION (continued)

Oversight will reflect a potential increase in the annual amount of tax credits that can be issued under the Distressed Areas Land Assemblage Tax Credit program (Section 99.1205) of $0 to $10 million (annual cap increases from $10 million to $20 million).

Oversight assumes the changes to the BUILD program (Sections 100.760 - 100.850) could increase its utilization and therefore increase the amount of tax credits issued. Over the previous four fiscal years, the amount of tax credits issued under this program has averaged $7.3 million. Therefore, an average of $7.7 million of BUILD tax credits has remained beneath the $15 million annual cap. Now the cap has been increased to $25 million per year; therefore, Oversight will reflect a potential increase in tax credits of $0 to $10 million.

The amount of issuance and redemptions for the BUILD program for the previous four years has been;

Fiscal Year	Issuances	Redemptions
FY 2008	$7,489,456	$4,975,510
FY 2007	$7,032,080	$6,859,745
FY 2006	$6,247,701	$5,402,416
FY 2005	$8,419,707	$3,770,557

Oversight assumes the changes to the Business Facility program (Section 135.155) could also increase its utilization and therefore increase the amount of tax credits issued. Over the previous three fiscal years, the amount of tax credits issued under this program has averaged $5.4 million. This program has no annual cap, therefore, the changes in the proposal could increase the utilization of the program by an unknown amount.

The amount of issuance and redemptions for the Business Facility program for the previous three years has been;

Fiscal Year	Issuances	Redemptions
FY 2008	$4,293,773	$2,815,251
FY 2007	$3,361,941	$6,066,136
FY 2006	$8,682,799	$5,892,727

Oversight will range the fiscal impact of the changes to the Qualified Equity Investment program (Section 135.680) from $0 (no additional tax credits are issued above the current $15 million per year cap) to a negative $10 million (change in cap). The changes in this proposal would be effective in August 2009. Therefore, Oversight assumes the Department of Economic Development would be allowed to authorize additional qualified equity investments starting in

ASSUMPTION (continued)

FY 2010; however, under this program, taxpayers are not allowed tax credits for their investments in the first two years (seven percent in year three). Therefore, Oversight assumes additional credits may be issued and utilized in the third year after the effective date of this proposal, or FY 2012. 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 amount of tax credits issued under the Loan Guarantee Fee program (Section 135.766) has been $195,791 in FY 2008, $143,064 in FY 2007 and $171,281 in FY 2006. Since this program is terminated by the legislation, **Oversight** will reflect a potential savings of up to $200,000 annually.

Oversight will use the estimates of BAP and DED regarding the changes to the Historic Preservation tax credit program (Sections 253.545 -253.559). Both assumed the changes will have little fiscal impact to the General Revenue fund.

In response to a similar proposal from this year (HB 190) regarding changes made to the Missouri Job Development Fund (Section 620.472), officials from the **Department of Economic Development (DED)** stated as economic incentive projects commit, this estimate is anticipated to increase to $2.5 million in FY 2011 and $4 million by FY 2012.

Oversight assumes the various changes to the Quality Jobs Act could increase the utilization of the program. The annual limit is changed from $60 million to $80 million. Therefore, Oversight will reflect a potential increase in tax credits from this program up to $20 million.

Oversight compared the total tax credit issuances relative to the total tax credit redemptions for the previous four years in order to determine a relationship between the two. Oversight discovered that the annual redemptions ranged from 81 percent to 86 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.

Oversight assumes there would be many positive fiscal benefits to the state resulting from this proposal; however, Oversight considers these to be indirect fiscal impacts and have not reflected them on the fiscal note.

This proposal may decrease Total State Revenues.

FISCAL IMPACT - State Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
Costs - State Auditor's Office			
Hardware and Software costs to implement Section 99.865.8	($11,700)	($2,300)	($2,300)
Costs - Department of Revenue			
Personal Service (2 FTE)	($38,934)	($48,122)	($49,566)
Fringe Benefits	($18,934)	($23,402)	($24,104)
Expense and Equipment	($11,584)	($1,036)	($1,068)
Total Costs - DOR	($69,452)	($72,560)	($74,738)
FTE Change - DOR	2 FTE	2 FTE	2 FTE
Costs - DED			
Personal Service (6 FTE)	($250,620)	($265,514)	($273,479)
Fringe Benefits	($121,877)	($129,119)	($132,993)
Expense and Equipment	($65,591)	($22,731)	($23,411)
Total Costs - DED	($438,088)	($417,364)	($429,883)
FTE Change - DED	6 FTE	6 FTE	6 FTE
Loss - DED			
Distressed Areas Land Assemblage Tax Credit increases from $10 million to $20 million annually (Section 99.1205)	$0 to ($10,000,000)	$0 to ($10,000,000)	$0 to ($10,000,000)
Savings - potential reduction in tax credits issued by the Missouri Development Finance Board - now limited to $25 million (100.286)	$0 to $6,000,000	$0 to $6,000,000	$0 to $6,000,000
Loss - DED			
Increase BUILD from $15 million to $25 million annually (Section 100.850)	$0 to ($10,000,000)	$0 to ($10,000,000)	$0 to ($10,000,000)
Loss - DED			
Expand the Business Facility (Section 135.155)	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)

FISCAL IMPACT - State Government (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
Loss - DED			
Increase in the Qualified Equity Investment tax credit program from $15 million to $25 million annually (Section 135.680)	$0	$0	$0 to ($10,000,000)
Savings - DED			
Guarantee Fee tax credit program - removed after 30 days after bill becomes law (Section 135.766)	$0 to $200,000	$0 to $200,000	$0 to $200,000
Loss - Department of Revenue			
Increase in threshold amount for the corporate franchise tax (Section 147.010)	$0	($7,180,344 to $14,552,636)	($7,180,344 to $14,552,636)
Transfer Out - to the Missouri Job Development Fund for increase in job training services from expanded guidelines (Section 620.472)	($1,000,000)	($2,500,000)	($4,000,000)
Loss - DED			
Increase in the Quality Jobs tax credit from $60 million to $80 million (Section 620.1881)	$0 to ($20,000,000)	$0 to ($20,000,000)	$0 to ($20,000,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($1,519,240) TO ($35,319,240)**	**($10,172,568) TO ($51,344,860)**	**($11,687,265) TO ($62,859,557)**
Estimated Net FTE Change for General Revenue Fund	8 FTE	8 FTE	8 FTE

Note 1: **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.**

Note 2: **The net fiscal impact to the General Revenue Fund does not reflect the potential unknown the potential unknown loss from the expansion of the Business Facility program (135.155)**

MISSOURI JOB DEVELOPMENT FUND			
Transfer In - from General Revenue (620.472)	$1,000,000	$2,500,000	$4,000,000
Expense - Department of Economic Development - expanded industry training programs (620.472)	($1,000,000)	($2,500,000)	($4,000,000)
ESTIMATED NET EFFECT TO THE MISSOURI JOB DEVELOPMENT FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that qualify for any of the numerous programs within this proposal could be fiscally impacted.

RS:LR:OD (12/02)

FISCAL DESCRIPTION

This bill changes the laws regarding taxation.

NEIGHBORHOOD ASSISTANCE ACT (Section 32.105, RSMo)

Currently, a person or family is considered eligible to qualify for assistance from the Missouri Housing Development Commission under the Neighborhood Assistance Act for an affordable housing unit if the household's combined, adjusted gross income is equal to or less than the specified percentages of the median family income for the geographic area in which the residential unit is located or the median family income for the state, whichever is greater. This applies to rental units and owner-occupied units. The bill increases the income threshold for an owner-occupier of an affordable housing unit so that it is double the threshold required for a rental unit.

TAX INCREMENT FINANCING REPORTING (Section 99.865)

The bill:

(1) Requires the Director of the Department of Economic Development to submit its annual tax increment financing (TIF) report to the State Auditor;

(2) Prohibits municipalities which fail to comply with state TIF reporting requirements from implementing any new TIF project for at least five years; and

(3) Requires the State Auditor to post information provided in the annual reports of municipalities to the his or her web site in a searchable database available to the public.

MISSOURI DEVELOPMENT FINANCE BOARD TAX CREDITS (Section 100.286)

Currently, taxpayers who contribute to Missouri Development Finance Board funds receive a tax credit equal to 50% of the contribution. The board cannot issue more than $10 million in tax credits in any calendar year or 5% of the average growth in the general revenue receipts in the preceding three fiscal years, whichever is less. This limitation may be exceeded if agreed to by the Commissioner of the Office of Administration and the directors of the departments of Economic Development and Revenue.

The bill specifies that in Fiscal Year 2010, the total amount of tax credits which the board may authorize or approve cannot exceed $10 million. This limitation can be exceeded if agreed

FISCAL DESCRIPTION (continued)

upon by the commissioner and the department directors, in which case no more than $25 million in tax credits can be authorized or approved.

BUSINESS USE INCENTIVES FOR LARGE-SCALE DEVELOPMENT (Sections 100.850, 100.760, and 100.770)

Currently, in order to approve an application for tax credits for Business Use Incentives For Large-Scale Development (BUILD), the Missouri Development Finance Board must find that there is at least one other state that the applicant verifies is being considered for the BUILD project and that there is a significant disparity in the project's costs based on the incentives offered by the competing state. The bill removes these requirements.

The bill also increases the total amount of tax credits that can be authorized annually for the BUILD program from $15 million to $25 million.

TRANSPORTATION DEVELOPMENT DISTRICTS (Sections 105.145, 238.207, 238.212, and 238.235)

The bill:

(1) Requires the boards of directors of transportation development districts to submit an annual report of financial transactions to the State Auditor as required of political subdivisions under Section 105.145. Failure to submit a timely copy of the annual financial statement will result in a fine of up to $500 per day;

(2) Requires petitions to create a district to include details of the budgeted expenditures, including estimated expenditures for real physical improvements, estimated land acquisition expenses, estimated expenses for professional services, and estimated interest charges;

(3) Requires the circuit court to order a public hearing on the creation and funding of a proposed district if the petition to create a district was filed by the owners of all real property within the proposed district; and

(4) Requires the Director of the Department of Revenue to perform all functions incidental to the administration, collection, enforcement, and operation of district sales taxes.

FISCAL DESCRIPTION (continued)

BUILD AMERICA AND RECOVERY ZONE BONDS (Sections 108.1000, 108.1010, and 108.1020)

The bill:

(1) Allows the Missouri Development Finance Board to issue Build America bonds and recovery zone bonds to pay for the cost of financing qualifying projects and authorizes any development agency, board, commission, or body corporate and politic that is authorized to issue bonds to designate Build America bonds and recovery zone bonds;

(2) Authorizes the Department of Economic Development to allocate recovery zone bonds to counties and large cities in accordance with the federal Internal Revenue Code. Counties and large cities can waive any allocation at any time by giving written notice to the department. Waived allocations may be reallocated by the department to any eligible development agency in the state; and

(3) Specifies that the bonds and any interest they earn are tax exempt.

TAX CREDIT REPORTING REQUIREMENTS (Sections 135.802 and 135.805)

The bill:

(1) Requires the number of estimated jobs created as a result of tax credits to be reported by all recipients, if applicable, as part of the Tax Credit Accounting Act of 2004;

(2) Requires all tax credit recipients to report annually for three years following the issuance of the tax credits the actual number of jobs created as a result of the tax credits. This provision does not apply to recipients of domestic and social, environmental, or financial and insurance tax credits; and

(3) Requires the Department of Economic Development to publish the information in the reports on its web site and on the Missouri Accountability Portal.

HISTORIC PRESERVATION TAX CREDITS (Sections 253.550 and 253.559)

Between January 1, 2010, and June 30, 2010, the bill prohibits the Department of Economic Development from approving applications for Historic Preservation Tax Credits which exceed

FISCAL DESCRIPTION (continued)

$75 million in total. For fiscal years beginning on or after July 1, 2010, the department cannot approve applications for tax credits which exceed $140 million in total. Both of these amounts can increased by the amount of tax credits which are rescinded in a given year. These limitations will not apply to:

(1) Applications approved for projects which will receive less than $275,000 in tax credits;

(2) Applications which have received approval from the department prior to January 1, 2010; and

(3) Any taxpayer applying for tax credits who has filed an application with the department stating that he or she has incurred costs and expenses for an eligible property which exceed 5% of the total costs or $1 million, whichever is less, and received an approved Part I from the Secretary of the United States Department of the Interior or a taxpayer who has received certification from the state historic preservation officer that the rehabilitation plan meets certain standards and that the expenses associated with the rehabilitation will exceed 50% of the total basis in the property.

No more than $250,000 in tax credits may be issued for eligible costs and expenses incurred rehabilitating an eligible residential property. An eligible residential property is a non-income producing single-family, owner-occupied residential property that is either a certified historic structure or a structure in a certified historic district.

The bill:

(1) Requires all tax credit applications, including those for additional tax credits in excess of the amount approved, to be prioritized for review and approval based on the postmark. Applications with the same postmark will go through a lottery process to determine the order in which they will be reviewed;

(2) Specifies the requirements that a preliminary application must meet in order to be approved;

(3) Specifies that, if the department allocates all of its tax credits, applications awaiting review will be kept on file and reviewed in order when the department receives its next allocation of tax credits;

(4) Requires all projects that receive tax credit authorization to begin rehabilitation within two years of the date noted on the letter received by the applicant notifying him or her of his or

FISCAL DESCRIPTION (continued)

her approved status. Commencement of rehabilitation means that as of the date on which physical work has begun, the applicant has incurred at least 10% of the estimated total costs of the rehabilitation. If a taxpayer fails to do this, the tax credit approval will be rescinded and the amount of those tax credits will be included in the total amount of tax credits available for approval;

(5) Requires an applicant with tax credit authorization to seek final approval prior to claiming the tax credits. The bill specifies the requirements of final approval; and

(6) Allows a taxpayer to apply for additional tax credits in the event that the amount of eligible rehabilitation costs and expenses incurred exceed the amount approved in the taxpayer's application.

QUALITY JOBS PROGRAMS (Sections 620.1878 and 620.1881)

The bill:

(1) Revises the definition of "project facility" as it relates to the Quality Jobs Program so that it may include separate buildings located within 15 miles of each other. Currently, the buildings must be within one mile of each other;

(2) Allows a company which has filed or announced its intention to file for bankruptcy on or after January 1, 2009, to be a qualifying company for the program. Currently, any company which has filed for bankruptcy or has publicly announced its intention to file for bankruptcy protection is prohibited from being deemed a qualifying company for the purposes of the program. A qualifying company can be eligible if it:

(a) Certifies to the Department of Economic Development that it plans to reorganize and not to liquidate; and

(b) Produces proof after its bankruptcy petition has been filed that it is not delinquent in filing any tax returns or making any payments due to the state including, but not limited to, all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization;

(3) Specifies that any taxpayer who receives benefits from the program and files for bankruptcy under Chapter 7 of the U. S. Bankruptcy Code must notify the Department of Economic Development, forfeit the benefits, and repay the state an amount equal to any state tax credits

FISCAL DESCRIPTION (continued)

already redeemed and any withholding taxes already retained;

(4) Revises the definition of "technology business project" as it relates to the program to include certain clinical molecular diagnostic laboratories;

(5) Specifies how the department must apply the definition of "project facility" when a business that has already received an approved notice of intent later files another notice of intent;

(6) Eliminates the per-company annual cap on technology business projects within the program. Currently, the per-company cap is $500,000;

(7) Eliminates the per-company annual cap on high impact projects within the program. Currently, the per-company cap is $750,000 or $1 million under certain conditions; and

(8) Increase the annual cap on the program from $60 million to $80 million.

MISCELLANEOUS PROVISIONS

The bill:

(1) Codifies Executive Order 07-24 into statute, which requires the Commissioner of the Office of Administration to maintain the Missouri Accountability Portal. The portal consists of an easy to search database of financial transactions related to the purchase of goods and services and the distribution of state funds for state programs. The portal must be updated at the start of each business day and maintained as the primary source of information about Missouri's government (Section 37.850);

(2) Increases the amount of land assemblage tax credits which can be issued annually from $10 million to $20 million (Section 99.1205);

(3) Allows business headquarters to receive tax credits for new or expanding businesses. Expansions at headquarter facilities will be considered separate business facilities and entitled to the credits if at least 25 new employees and $1 million of new investment are attributed to the expansion. Buildings on multiple non-contiguous properties will be considered one facility if they are in the same county or municipality. No headquarters will receive the credits for facilities commencing or expanding operations after January 1, 2020 (Section 135.155);

FISCAL DESCRIPTION (continued)

(4) Limits the total amount of tax credits that may be authorized for low-income housing to taxpayers owning an interest in a qualified Missouri project to $6 million for projects financed through tax-exempt bonds (Section 135.352);

(5) Increases the tax credit cap for Qualified Equity Investments under the New Markets Tax Credit Program from $15 million to $25 million per year and extends the program through Fiscal Year 2012. Currently, no qualified equity investments can be made under the program beyond Fiscal Year 2010 (Section 135.680);

(6) Prohibits a tax credit for guaranty fees from being authorized more than 30 days after the effective date of the bill (Section 135.766);

(7) Increases, beginning January 1, 2010, the outstanding shares and surplus threshold amount used to calculate a corporation's annual franchise tax from $1 million to $10 million (Section 174.010);

(8) Reduces, beginning July 1, 2010, the amount of tax credits that can be authorized per fiscal year for the Family Development Account Program from $4 million to $300,000 (Section 208.770);

(9) Specifies that, under certain conditions, an out-of-state wholesale drug distributor that is a drug manufacturer which produces and distributes from a facility inspected and approved by the federal Food and Drug Administration will not be required to be licensed but must register its business name and address with the Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration and pay a $10 filing fee. This applies to wholesale drug distributors located in a foreign country if they are authorized and in good standing to operate as drug manufacturers within that jurisdiction (Section 338.337);

(10) Allows a portion of the tax credits which remain for brownfield projects to be released when a Letter of Completion is issued by the Department of Natural Resources for a portion of a specific project (Section 447.708);

(11) Allows records relating to intellectual property, sales projections, or business plans that are submitted by an individual, corporation, or other business entity to a public institution of higher education to remain closed (Section 610.021);

(12) Allows records pertaining to a business prospect with which the Department of Economic Development; the Missouri Economic Development, Export, and Infrastructure Board; or a

FISCAL DESCRIPTION (continued)

Regional Planning Commission is currently negotiating to remain closed (Section 620.014);

(13) Requires contracts that the Department of Economic Development enters into with another party for any financial assistance to include a summary of the jobs created and to report annually as required by Section 135.805. The annual report must be published on the Missouri Accountability Portal (Section 620.017);

(14) Allows the Department of Economic Development to include pre-employment training in its new or expanding industry training. The bill specifies what services may be provided including development of training plans, the provision of training through qualified training staff, fees for training professionals, and transportation expenses if the training can be more effectively provided outside the community where the jobs will be located (Section 620.472); and

(15) Establishes the Big Government Get Off My Back Act which prohibits user fees imposed by the state from increasing for four years from the effective date of the bill unless the fee increase is to implement a federal program administered by the state or is a result of an act of the General Assembly. For four years, beginning on the effective date of the bill, any state agency proposing a rule must certify that it does not have an adverse impact on small businesses with fewer than 25 employees; certify that it is necessary to protect the life, health, or safety of the public; or exempt any small business with fewer than 25 employees from coverage. Rules established as a result of a federal mandate or to implement a federal program administered by the state or an act of the General Assembly are excluded from these provisions (Section 1).

The bill contains an emergency clause for the provisions regarding the Missouri Development Finance Board tax credits, the Business Use Incentives for Large-Scale Development, the Qualified Equity Investment, the Historic Preservation tax credits, and the Quality Jobs Program.

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
Department of Insurance, Financial Institutions and Professional Registration
Office of the State Auditor
Missouri House of Representatives
Missouri Senate
Department of Natural Resources
Department of Social Services
Office of the Secretary of State
Department of Health and Senior Services
Department of Agriculture
Department of Labor and Industrial Relations
Department of Elementary and Secondary Education
Office of the State Treasurer
Department of Transportation
Office of the State Courts Administrator
Office of the Governor
University of Missouri

Mickey Wilson
Mickey Wilson, CPA
Director
June 12, 2009