COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.:	0563-01
Bill No.:	SB 139
Subject:	Appropriations; Economic Development; Economic Development Department; Taxation and Revenue - General; Tax Credits
Type:	Original
Date:	February 16, 2011

Bill Summary: This proposal subjects all state tax credits to appropriation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	$0	(Could exceed $84,562,042)	(Could exceed $84,464,449)
Total Estimated Net Effect on General Revenue Fund	**$0**	**(Could exceed $84,562,042)**	**(Could exceed $84,464,449)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Dedicated Tax Credit Funds	$0	Could exceed $82,707,469	Could exceed $82,707,469
Total Estimated Net Effect on Other State Funds	**$0**	**Could exceed $82,707,469**	**Could exceed $82,707,469**

Note: **The fiscal note 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.**

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	0 FTE	25 FTE	25 FTE
Total Estimated Net Effect on FTE	**0**	**25 FTE**	**25 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 2012	FY 2013	FY 2014
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Budget and Planning** (**BAP**) assume the proposed legislation should not result in additional costs or savings to BAP. This proposal changes the administration of every tax credit program beginning in FY 13. No tax credits shall be authorized for any program unless an appropriation is made to a newly created dedicated fund for each individual program. When a tax credit is redeemed, an equal amount of money shall be transferred from the specific dedicated fund to General Revenue. It is unclear as to how the individual funds receive their money; BAP assumes a General Revenue transfer into the dedicated fund.

Administering agencies shall provide a request for appropriations to the House Budget and Senate Appropriations chairs by Oct. 1 each year. Appropriations will be made in the bill for appropriations for public debt. In the case of credits that "stream" over several fiscal years, the requested amount shall cover the aggregate amount of credits over the entire term of fiscal years. This proposal, while creating budget certainty in future fiscal years, will create a substantial budget shortfall in FY13, since streaming credits must be funded several years in advance of their redemption.

If current levels of authorizations are held steady, cash transfers exceeding $523 million (total FY10 redemptions) from General Revenue to the dedicated funds will occur in FY13. BAP does not have an estimate of the additional amount of funds that would need to be transferred to cover streaming credits. However, the various administering agencies reported over $2.3 billion of credits that were authorized but as yet unissued with their budget submission to BAP.

This proposal will not directly impact General and Total State Revenues. However, if the amount of redemptions increase or decrease due to changes in appropriated funding, General and Total State Revenues may be impacted. This proposal may also impact economic activity associated with the various tax credit programs. BAP cannot estimate the induced impacts on General and Total State Revenues.

This proposal repeals the transportation development, loan guarantee fee, dry fire hydrant, and the qualified research expense tax credits. All of these programs have expired.

Officials at the **Department of Revenue** (**DOR**) assume that each of the tax credits they administer would be affected as follows:
1) There is hereby created in the state treasury a tax credit program fund which shall consist of money appropriated for each tax credit.
2) No tax credits shall be authorized under the provisions of this bill unless an appropriation is

ASSUMPTION (continued)

made to the designated tax credit program fund.

DOR notes additional changes that affect the tax credits they administer:

Section 135.015 - changes include on or after August 28, 2011 matters relating to claims under sections 135.010 to 135.030 shall be determined by sections 143.481 to 143.996 applicable to income tax. For all claims filed after August 28, 2011, such claims shall be filed on or before the first day of March of each tax year.

Section 135.020 - For all claims filed on or before August 28, 2011, a credit for property taxes shall be allowed for the amount provided in section 135.030. For all claims filed after August 28, 2011 but before March 1, 2012, the Director of Revenue will review applications for claims, and no later than April 1 of each year, submit to the budget and appropriation committees, a request for appropriation in an amount sufficient to provide all eligible applicants a refund for property taxes in the amount provided in section 135.030. If the amount appropriated is insufficient to provide refunds to all applicants, the director shall determine an apportionment percentage.

Section 135.090 - For all tax years beginning on or after January 1, 2008, a surviving spouse [shall] may, subject to the limitations provided under subsection 3 of this section, be allowed a credit against the tax otherwise due under chapter 143, RSMo. Credits will be awarded on a first-to-file, first-to-receive basis.

Section 135.327 - If by December 31st of any year, less than half of the appropriation has been issued for adoptions of special needs children who are not residents of the state of Missouri, the remaining amount shall be available for children that are residents.

Section 135.490 - Changes Subsection 1 to include the provision that a small business, "… [shall] may, subject to the limitations provided under subsection 5 of this section, be allowed a tax credit …" The applicant shall file their claim with the Department of Economic Development and credits will be awarded on a first-to-file, first-to-receive basis.

Section 135.562 - Changes Subsection 2 to include the provision that if a taxpayer's dwelling is accessible to the disabled, the taxpayer, "… [shall] may, subject to the limitations provided under subsection 10 of this section, be allowed to claim a tax credit …"

Section 135.647 - Changes Subsection 2 to include the provision that if a taxpayer donates cash

ASSUMPTION (continued)

or food to a local food pantry, it "… [shall] may, subject to the limitations provided under subsection 3 of this section, be allowed a credit …"

Section 143.119 - After August 28, 2011, in order to claim the credit provided under this section self-employed taxpayer shall file an application with the department of revenue no later than the first day of March. For all claims filed after August 28, 2011, the Director of Revenue will review all applications for claims provided under the provisions of this section and no later than the first day of April of each year, submit to the budget and appropriations committees, a request for appropriation in an amount sufficient to provide all eligible applicants a tax credit in the amount provided in this section. To the extent that an appropriation provided under this section is insufficient to provide credits to all eligible applicants in the amount provided under this section, the Director of Revenue will determine the apportionment percentage by dividing the amount appropriated for the fiscal year as provided under this section, by the total amount of all eligible claims for a credit as provided under this section. After determining the apportionment percentage, the director shall adjust the amount of credit for each eligible applicant by multiplying the amount of the credit provided under this section by the apportionment percentage.

Section 143.471 - After August 28, 2011, the Director of Revenue will determine the amount of appropriation necessary to provide all eligible S corporations the credit provided under this section and shall, no later than the first day of April of each year, submit to the budget and appropriations committees, a request for appropriation in an amount sufficient to provide all eligible S corporations a tax credit in the amount provided in this section. To the extent that an appropriation provided under this section is insufficient to provide credits to all eligible applicants in the amount provided under this section, the Director of Revenue will determine the apportionment percentage by dividing the amount appropriated for the fiscal year as provided under this section, by the total amount of all eligible claims for a credit as provided under this section. After determining the apportionment percentage, the director shall adjust the amount of credit for each eligible applicant by multiplying the amount of the credit provided under this section by the apportionment percentage.

Section 148.030 - After August 28, 2011, the Director of Revenue will determine the amount of appropriation necessary to provide eligible banking institutions the credit provided under this section and, no later than the first day of April of each year, submit to the budget and appropriations committees, a request for appropriation in an amount sufficient to provide all eligible banking institutions a tax credit in the amount provided in this section. To the extent that an appropriation provided under this section is insufficient to provide credits to all eligible applicants in the amount provided under this section, the Director of Revenue will determine the

ASSUMPTION (continued)

apportionment percentage by dividing the amount appropriated for the fiscal year as provided under this section, by the total amount of all eligible claims for a credit as provided under this section. After determining the apportionment percentage, the director shall adjust the amount of credit for each eligible applicant by multiplying the amount of the credit provided under this section by the apportionment percentage.

DOR assumes that section 135.821 adds the following new requirements to all tax credits:
No tax credit provided under any program by law will be authorized after June 30, 2012, for issuance to a recipient, unless sufficient credits have been appropriated for such program. No later than October 1, 2010, and the first day of October each year thereafter, each administering agency shall provide to the budget committee of the house of representatives and the appropriations committee of the senate a request for an appropriation for the tax credit programs administered by such agency. Appropriations made shall provide the amount of tax credits which may be authorized during the fiscal year immediately following the fiscal year in which such appropriation is made. Appropriations for tax credits made may exceed annual limitations on tax credit authorization provided by law. In the case of appropriations for tax credits for programs which may be issued over a period of fiscal years for a single project or projects, such appropriation shall be made for the total amount of tax credits to be issued in the aggregate For purposes of this section, "streaming credit issuance" shall mean any instance where an administering agency is allowed, by law, to issue tax credits over a period of years to a recipient for a single project or series of projects. Appropriations provided under this section shall only be made in the annual appropriation bill relating to public debt and shall specify:

The program under which such tax credits may be authorized

The fiscal year appropriation being made;

The administering agency for such program; and

Whether the amount appropriated is for streaming credit issuance and the amount so designated.

The provisions of this section shall not be construed to limit or in any way impair a recipient's ability to redeem tax credits or an administering agency's ability to issue tax credits authorized prior to July 1, 2012.

DOR assumes those changes would require DOR to make form changes to adjust any caps and delete the credits that are no longer available. Additional programming changes will need to be made to the mainframe; the individual electronic filing system, and there will be ongoing programming changes to MINITS to any of the tax credits impacted by this legislation, in any year, in which the amount authorized by section 135.821 changes from the previous year. There is currently no limit on what can be redeemed under Section 135.090, the public safety surviving spouse credit, DOR will need to make programming changes to the Missouri

ASSUMPTION (continued)

Individual Income Tax System (MINITS) to insure the credits issued don't exceed the cap provided by 135.821

Oversight assumes that the programming changes and form changes can be absorbed with existing resources.

Section 143.811 requires **DOR** to pay interest on any refund issued in excess of 90 days of the due date or date the claim was filed. The department assumes any tax credit claim that must be held because the tax credit is subject to appropriation, could have interest accrue on the overpayment. This may be a significant loss to General Revenue for the Property Tax Credit. For 2009 credit claims, more than $66 million in overpayments were issued after March 1. If these refunds were not issued until June 15 of the subsequent fiscal year, the approximate interest calculation on this total would be $854,115.

DOR-Personal Tax assume the need for one Revenue Processing Technician for every 2,400 correspondence answered and one Revenue Processing Technician to review and track allocations and redemptions of the tax credits. DOR expects an additional 20,000 pieces of correspondence related to the delayed issuance of the property tax credit. This will result in the need for nine Revenue Processing Technicians.

DOR-Collections and Tax Assistance assume with the addition of the provision of "first-to-file, first-to-receive basis" and apportionment of some credits covered in this legislation, the Department expects additional contacts from taxpayers. DOR expects an additional 240,000 calls related to the delay in issuance of the property tax credit. DOR will need one Tax Collection Technician I for every additional 15,000 contacts annually on the non- delinquent tax line which equates to at least 16 FTE.

Oversight has, for fiscal note purposes only, changed the starting salary for DOR’s FTE 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 2010 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

OA- ITSD (**DOR**) response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department’s tax systems, changes cannot be made without significant impact to the department’s resources and

ASSUMPTION (continued)

budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at $106,848, which is 4032 FTE hours.

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 at the **Department of Elementary and Secondary Education** assume tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students. Subjecting tax credits to appropriation could have a positive impact on the state's tax revenue.

Officials at the **Department of Social Services** (**DSS**) assume there would be no additional cost to administer this bill. As part of the annual budget process, DSS would have to request an appropriation for each tax credit the Department administers (Domestic Violence, Maternity Homes, Pregnancy Resource Centers, and Residential Treatment Agencies). This could be done with existing budget staff and within the normal procedures for developing the annual budget for DSS. Since the money necessary to redeem credits authorized in previous years, but not yet redeemed, would be retained in the appropriate fund, the Department assumes that the amount requested through the appropriations process would be the amount anticipated to be authorized in the upcoming fiscal year.

Officials at the **Department of Agriculture** assume they are not able to determine the impact of this bill because we do not know what our tax credit allocations would be in the subsequent years if this bill should pass. The effect on fee revenue to MASBDA could be from $0 to $286,135 per year.

Officials at the **Department of Economic Development**, **Department of Health and Senior Services**, **Department of Natural Resources** and the **Office of the State Treasurer** assume that there is no fiscal impact from this proposal.

ASSUMPTION (continued)

Oversight assumes that this bill affects tax credits beginning on July 1, 2012. Therefore Oversight is showing all costs as beginning in FY 2013.

Oversight states that this proposal establishes in the State Treasury the following funds:

Development Tax Credit Program Fund
Neighborhood Assistance Tax Credit Program Fund
Youth Opportunities Tax Credit Program Fund
Distressed Areas Land Assemblage Tax Credit Program Fund
Missouri Development Finance Board Infrastructure Development Contribution Tax Credit Program Fund
Missouri Development Finance Bond Guarantee Tax Credit Program Fund
BUILD Tax Credit Program Fund
Property Tax Credit Fund (homestead refund for the elderly and disabled)
Public Safety Officer Surviving Spouse Tax Credit Program Fund
Business Facility Tax Credit Fund
Wood Energy Tax Credit Program Fund
Special Needs Adoption & Children In Crisis Tax Credit Program Fund
Low-Income Housing Tax Credit Program Fund
Neighborhood Preservation Tax Credit Program Fund
Disabled Access Small Business Tax Credit Program Fund
Rebuilding Communities Tax Credit Program Fund
Domestic Violence Shelter Tax Credit Program Fund
Residential Dwelling Access Tax Credit Program Fund
Missouri Health Care Access Fund Tax Credit Program Fund
Maternity Home Tax Credit Program Fund
Pregnancy Resource Center Tax Credit Program Fund
Food Pantry Tax Credit Program Fund
Qualified Beef Tax Credit Program Fund
New Markets Tax Credit Program Fund
Wine & Grape Production Tax Credit Program Fund
Film Production Tax Credit Program Fund
Enhanced Enterprise Zone Tax Credit Program Fund
Residential Treatment Agency Tax Credit Program Fund
Self-Employed Health Insurance Tax Credit Fund
Bank Tax Credit for S Corporations Fund
Bank Franchise Tax Credit Fund
Examination Fee Tax Credit Fund
Family Development Account Tax Credit Program Fund

ASSUMPTION (continued)

Historic Preservation Tax Credit Program Fund
Agricultural Product Utilization Tax Credit Program Fund
New Generation Cooperative Tax Credit Program Fund
Family Farm Breeding Livestock Loan Tax Credit Program Fund
Missouri Life & Health Insurance Guarantee Association Assessment Tax Credit Program Fund
Missouri Health Insurance Pool Tax Credit Fund
Brownfield Redevelopment Tax Credit Program Fund
Small Business Incubator Tax Credit Program Fund
Quality Jobs Tax Credit Program Fund
Shared Care Tax Credit Program Fund

Oversight for the purpose of the fiscal note has shown all money going into the above listed funds as being received into the Dedicated Tax Credit Funds. Oversight assumes that since the proposal does not state the funding source for the Dedicated Tax Credit Funds that the money will come from general revenue.

Oversight is assuming that the amount of money initially transferred to the dedicated tax credit funds is the amount of tax credits issued by all departments in FY 2010. Oversight is showing the amount as Could Exceed the previously issued amount.

Oversight states that this proposal requires the Department of Revenue and the Office of the State Treasurer, as tax credits are redeemed, to transfer from the Dedicated Tax Credit Funds to general revenue an amount equal to the tax credit redeemed. Oversight for the purpose of the fiscal note, is showing the amount of redemptions in each fiscal year as equal the amount of the tax credits redeemed in FY 2010. Oversight is showing the amount as Could Exceed the issued amount as it is unclear how many will be redeemed in any one year.

Oversight assumes that new provisions regarding several tax credits that may need to be apportioned and several that may need to be issued on a first come first serve basis are implemented in this proposal. Since the distribution of tax credits will not affected the transfer from the Dedicated Tax Credit Fund to general revenue no impact for these provisions will be shown.

Oversight assumes that the new provision regarding the issuance of an annual report to the budget committees can be absorbed by the agencies with existing resources.

ASSUMPTION (continued)

Oversight assumes section 135.821.1, states "In the case of appropriations for authorizations of tax credits for programs under which such credits may be issued over a period of fiscal years for a single project or projects, such appropriation shall be made for the total amount of tax credits to be issued in the aggregate over the entire term of fiscal years, and the subsequent issuance of tax credits so authorized shall not be taken into account in subsequent fiscal years for purposes of determining compliance with statutory limitations on tax credit authorization. For purposes of this section, "streaming credit issuance" shall mean any instance where an administering agency is allowed, by law, to issue tax credits over a period of years to a recipient for a single project or series of projects." Oversight assumes at least six of the current tax credits fall into under the provisions of this proposal.

Oversight assumes that due to the timing of the appropriation for the streaming credit issuances that FY 2013 may see a significant increase in funding from General Revenue to the Dedicated Tax Credit Funds while future years may be decreased. Oversight has not shown that fluctuation in the fiscal note as it is unclear how is should be determined.

FISCAL IMPACT - State Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
Transfer In - General Revenue			
Redemption of tax credits and repayment of equal money to general revenue	$0	Could exceed $523,335,661	Could exceed $523,335,661
Cost - Dept of Revenue			
Personal Service	$0	($572,670)	($578,397)
Fringe Benefits	$0	($299,735)	($302,733)
Equipment and Expense	$0	($21,205)	($21,735)
Total Cost - DOR	$0	($893,610)	($902,865)
FTE Change - DOR	0 FTE	25 FTE	25 FTE
Cost - Dept of Revenue			
Computer programming	$0	($106,848)	$0
Cost - Dept of Revenue			
Payment of interest	$0	($854,115)	($854,115)
Transfer Out - to Dedicated TC funds			
Initial funding of the dedicated tax credit funds	$0	(Could exceed $606,043,130)	(Could exceed $606,043,130)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0**	**(Could exceed $84,562,042)**	**(Could exceed $84,464,449)**
Estimated Net FTE Effect on General Revenue	0 FTE	25 FTE	25 FTE

DEDICATED TAX CREDIT FUNDS

Transfer In - from general revenue the initial funding of these dedicated tax credit funds	$0	Could exceed $606,043,130	Could exceed $606,043,130
Transfer Out - to general revenue redemption of tax credits and payment of equal money to general revenue	$0	(Could exceed $523,335,661)	(Could exceed $523,335,661)
ESTIMATED NET EFFECT ON DEDICATED TAX CREDIT FUNDS	**$0**	**Could exceed $82,707,469**	**Could exceed $82,707,469**

Note: The fiscal note 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: That due to the timing of the appropriation for the streaming credit issuances that FY 2013 may see a significant increase in funding from General Revenue to the Dedicated Tax Credit Funds while future years may be decreased. This fluctuation is not shown.

FISCAL IMPACT - Local Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that are eligible for tax credits would be affected by a tax credit being subjected to appropriation.

FISCAL DESCRIPTION

This act modifies every state tax credit program in existence by limiting the amount of tax credits available for authorization in each fiscal year beginning FY 2013 based upon an appropriations made by the General Assembly in the appropriation bill for public debt.

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FISCAL DESCRIPTION (continued)

The act creates a procedure for the appropriation of tax credit authorizations after June 30, 2012. The act establishes separate funds to receive appropriations for each tax credit program in existence. Unless specifically appropriated, no tax credits may be authorized after June 30, 2012. The administering agency of each tax credit program, now or hereafter authorized by state law, must provide the House Budget Committee and the Senate Appropriations Committee with a request for tax credit appropriations. Where Missouri law allows the issuance of tax credits to a recipient over the course of several years, such tax credit authorization must be appropriated in the aggregate, and subsequent issuance of such tax credits will not be used in calculating any statutory limitation on the fiscal year authorization appropriation of tax credits. Fiscal year appropriations of tax credits must be made in the annual appropriations bill for public debt and specifically provide: the name of the tax credit program; the actual amount allocated for authorization; the administering agency for the program; and whether the amount is authorized for streaming tax credit issuance and the amount of streamed credits. Appropriated funds for tax credits which remain unauthorized at the end of the fiscal year, along with an interest earned on moneys within the funds, will be transferred to the general revenue fund on the last day of such fiscal year. As tax credits are redeemed, transfers from the various tax credit funds will be made to the general revenue fund to offset such redemptions.

The act repeals the transportation development tax credit, loan guarantee fee tax credit, dry fire hydrant tax credit, and the qualified research expense tax credit.

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

JH:LR:OD

SOURCES OF INFORMATION

Budget and Planning
Department of Agriculture
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Natural Resources
Department of Revenue
Department of Social Services
Office of the State Treasurer

Mickey Wilson

Mickey Wilson, CPA
Director
February 16, 2011

JH:LR:OD