COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6119-03
Bill No.: SJR 57
Subject: Tax Credits; Taxation and Revenue - Income
Type: Original
Date: May 6, 2014

Bill Summary: This proposal limits the amount of tax credits that may be issued in a fiscal year to $200 million and reduces the rate of tax on income.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	$0 or (More than $7,100,00)	$0 or Less than $33,151,920	$0 or Less than $33,149,769
Total Estimated Net Effect on General Revenue Fund	**$0 or (More than $7,100,00)**	**$0 or Less than $33,151,920**	**$0 or Less than $33,149,769**

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 increase 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 17 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
MO Agricultural & Small Business Development Fund	$0	$0 or (Up to $98,972)	$0 or (Up to $98,972)
Total Estimated Net Effect on Other State Funds	**$0**	**$0 or (Up to $98,972)**	**$0 or (Up to $98,972)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	0 FTE	5 FTE	5 FTE
Total Estimated Net Effect on FTE	**0 FTE**	**5 FTE**	**5 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 2015	FY 2016	FY 2017
Local Government*	**$0**	**$0**	**$0**

* Transfer In and costs net to zero.

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the Secretary of State** (**SOS**) assume each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be $7.1 million based on the cost of the 2012 Presidential Preference Primary. This figure was determined through analyzing and totaling expense reports from the 2012 Presidential Preference Primary received from local election authorities.

The SOS is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, we reserve the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Oversight has reflected in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2015. This reflects the decision made by the Joint Committee on Legislative Research, that the cost of the elections should be shown in the fiscal note. The next scheduled general election

ASSUMPTION (continued)

is in November 2014 (FY 2015). It is assumed the subject within this proposal could be on that ballot; however, it could also be part of a special election called for by the Governor. Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2015.

Officials at the **University of Missouri's Economic and Policy Analysis Research Center** (**EPARC**) assume if approved by Missouri voters this constitutional amendment will, beginning July 1, 2015, prohibit the state of Missouri from issuing, authorizing, or approving a cumulative amount of tax credits in excess of $200 million per fiscal year. It will require the Department of Revenue to determine the amount of tax credits redeemed in fiscal year 2014 in excess of $200 million. It will require the Department of Revenue to reduce tax rates equally across all tax brackets in a manner that will reduce individual income tax collections by the same amount of tax credits redeemed in fiscal year 2014 in excess of $200 million.

Unfortunately, EPARC is unable to predict the amount of tax credits that will be redeemed in fiscal year 2014 in excess of $200 million. Therefore, EPARC is unable to estimate the individual income tax rate reduction.

Officials at the **Office of Administration's Division of Budget and Planning** (**BAP**) assume this proposal provides that the "state" shall not issue, authorize or approve a cumulative amount of tax credits that exceeds $200 million in any fiscal year. Also, the rate of tax of each individual tax bracket shall be reduced so that individual income taxes are reduced by the amount that tax credit redemptions exceed $200 million in FY 2014.

BAP notes that tax credit redemptions totaled $512.9 million in FY 2013. BAP estimates based on Tax Year 2011 data that each tax rate would need to be reduced by 0.36% to achieve the reduction described. (i.e., the 1.5% rate would be reduced to 1.14%, and the 6% rate would be reduced to 5.64%, the other rates reduced similarly. This would reduce General and Total State Revenues by $333 million.)

ASSUMPTION (continued)

BAP notes that the Department of Revenue (DOR) has reported the following amounts related to tax credit activity over the last three fiscal years:

Fiscal Year	Authorized ($M)	Issued ($M)	Redeemed ($M)
2011	339.0	421.4	545.2
2012	528.4	416.9	629.3
2013	551.9	358.6	512.9

Figures do not include Enterprise Zone Modifications.
Figures do include retained withholdings under various programs.
"Authorized" and "Issued" columns do not include DOR credits redeemed directly on the tax form.
The largest of these is the Senior Property Credit, which has average redemptions over $115 million.

Officials at the **Department of Revenue** (**DOR**) assume this proposal would require computer programming changes to various tax systems. The IT portion is estimated at $13,759 for 504 FTE hours.

The legislation limits all tax credits to $200 million effective with fiscal year 2016. Beginning with tax year 2016, the legislation reduces individual income tax by the amount that tax credit redemptions exceeded $200 million in fiscal year 2014.

In fiscal year 2013, tax credits in the amount of $512.9 million were redeemed by the Department. Assuming similar redemption amounts in fiscal year 2014, a rate reduction for all individual income tax rates, rounded to the nearest one-hundredth on a percent of 0.36 percent, would be required to reduced collections by at least $312.9 million.

ASSUMPTION (continued)

Not over $1,000.00 . .	1.14% of the Missouri taxable income
Over $1,000 but not over $2,000	$11 plus 1.64% of excess over $1,000
Over $2,000 but not over $3,000	$27 plus 2.14% of excess over $2,000
Over $3,000 but not over $4,000	$48 plus 2.64% of excess over $3,000
Over $4,000 but not over $5,000	$74 plus 3.14% of excess over $4,000
Over $5,000 but not over $6,000	$105 plus 3.64% of excess over $5,000
Over $6,000 but not over $7,000	$141 plus 4.14% of excess over $6,000
Over $7,000 but not over $8,000	$182 plus 4.64% of excess over $7,000
Over $8,000 but not over $9,000	$228 plus 5.14% of excess over $8,000
Over $9,000 .	$279 plus 5.64% of excess over $9,000

The Department calculated a reduction to individual income tax collections of $338,235,780.68 at the above stated rates.

DOR's Personal Tax Division would require programming and form changes, as well as one Revenue Processing Technician I for every 2,400 pieces of correspondence and one Revenue Processing Technician I for every 19,000 errors. DOR's Corporate Tax Division assume if certain credits are no longer funded, sunset dates will need to be added to various tax credits in the system and form changes will be necessary. Depending on the timing of the decision, this could result in additional notices and phone calls if taxpayers anticipating credits are denied.

The Collections & Tax Assistance Division would see additional customer contacts concerning the apportionment of all tax credits including the Property Tax Credit, the delay in refunds from the apportionment process, notice of adjustments, billings, and change to income tax rates. Collections & Tax Assistance requires two Tax Collection Technicians I for contacts on the delinquent and non-delinquent tax lines and one Revenue Processing Technician I for contacts to the field offices. Each technician requires CARES equipment and license.

Officials at the **Missouri Development Finance Board** (**MDFB**) assume likely reduction in authorizations under the Infrastructure Development Tax Credit Program; however, too many variables to determine actual impact. The BUILD tax credits are a stream of credits issued over a 15 year period and are bound by a legal contract so long as the businesses maintains job numbers. If there is not enough capacity within the $200 million cumulative cap, the State and MDFB may be subject to lawsuit due to failure to perform under the contract.

ASSUMPTION (continued)

Officials at the **Missouri Housing Development Commission** (**MHDC**) assume the prohibition on issuing tax credits for projects authorized in prior years, may well present legal issues for which the fiscal impact cannot be known. For MHDC, this proposal impacts the Low Income Housing tax credit and the Affordable Housing tax credit programs. The Low Income Housing tax credit program includes both federal and state tax credits, the language in this proposal does not distinguish between the two when prohibiting the authorization, issuance and awarding of future credits in excess of $200 million per fiscal year. This ambiguity poses an issue for both future authorizations and issuances and may well present legal issues for which the fiscal impact cannot be known.

Officials at the **Department of Economic Development** (**DED**) assume the impact is unknown. Due to the numerous questions presented as a result of this proposed amendment DED is unable to determine the estimated fiscal impact; however, for reasons stated below DED assumes an unknown negative impact. DED defers to DOR on the fiscal impact of Section 26.2(2) "reduction rate".

Officials at the **Department of Agriculture** assume the fiscal impact is unknown as it is not clear who will determine or how the $200,000,000 cumulative amount will be determined or prorated between the existing tax credits. For example will all credits be reduced by some percentage or will some credits be reduced by some disproportionate amount?

However, for the estimated fiscal impact the following assumptions and methodology was used based on FY13 numbers.

Redeemed- all tax credits = $512,911,236
Redeemed in excess of $200,000,000 = $312,911,236
$312,911,236/$512,911,236 = 61%

If tax credit issuance fees are reduced 61% then the loss to MASBDA would be $98,972.

Officials at the **Department of Social Services** (**DSS**) assume this proposal potentially changes the allocation cap for donations to qualified agencies for tax credit programs administered by DSS (Domestic Violence, Maternity Home, Pregnancy Resource Center, Residential Treatment, and Developmental Disability Care Provider) effective July 1, 2015. Since all tax credits allowed with this legislation shall be subject to the same procedures and requirements for taxpayers claiming tax credits, the processes for DSS should remain unchanged.

ASSUMPTION (continued)

Officials at the **Department of Natural Resources** assume the State Historic Preservation Office is responsible for reviewing and approving rehabilitation work for the state historic preservation tax credit program. Any changes in the tax credit structure may have an impact on the number or rehabilitation projects the State Historic Preservation Office reviews and approves. Additionally, with reduced number of projects, the fee assessed per tax credit that in part funds the State Historic Preservation Office staff salaries and expenses will also be reduced (Economic Development Advancement Fund 0783).

The department would not anticipate a significant direct fiscal impact as a result of the changes made to the structure of the State Historic Preservation Tax Credit. However we are unable to predict the reduction in fees and associated appropriation authority changes to the Department of Natural Resources, Missouri State Parks, State Historic Preservation Office from the Economic Development Advancement Fund (0783). Current appropriation authority from the fund is $110,155.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state this proposal may result in an unknown increase to premium tax revenue due to the limit to the amount of tax credits issued each year. 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 throughout 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.

Oversight assumes that if this proposal is adopted by the voters then no more than $200 million in tax credits can be issued annually. The following chart reflects the current tax credit programs administered by all state agencies. The chart reflects the current annual or program cap of each tax credit as well as the annual average tax credit issuances by program.

Agency	Statute Section	Program Name	Annual or Program(P) Cap	Issue Average
AGR	348.430	Agriculture Product Util	$6,000,000 shared	$1,552,894
AGR	348.432	New Generation Coop	$6,000,000 shared	$3,176,927
AGR	348.500	Family Farm Breeding	$300,000	$61,137
AGR	135.679	Qualified Beef	$3,000,000	$295,616
DED	135.700	Wine and Grape	none	$105,845
DED	620.2000	MO Works	$106,000,000	
DED	32.100	Development (MOWorks)	part of MOWorks	$3,176,432
DED	135.535	Rebuilding Communities MOW	part of MOWorks	$1,706,277
DED	135.950	Enhanced Enterprise Zone	part of MOWorks	$5,665,033
DED	620.1875	Quality Jobs	part of MOWorks	$26,885,020
DED	135.110	Business Facility	none	$5,196,663
DED	135.200	Enterprise Zone	none	$4,030,670
MDFB	100.700	BUILD	$25,000,000	$8,918,017
DED	135.750	Film Production	$4,500,000	$1,822,925
DED	137.1018	Rolling Stock	none	never issued
DED	67.3000	Amateur Sporting Event	$3,000,000	not issued yet
DED	67.3005	Amateur Sporting Contributor	$10,000,000	not issued yet
DED	32.100	Neighborhood Assistance	$16,000,000	$9,699,804
DED	208.750	Family Development Account	$300,000	$14,000
DED	320.093	Dry Fire Hydrant	$500,000	$13,559

DED	135.545	Transportation Development	already expired	$0
DED	620.1100	Youth Opportunities	$6,000,000	$4,773,893
DOS	135.550	Domestic Violence	$2,000,000	$1,041,296
DOR	135.010	Senior Property Tax	none	$116,724,260
DOR	135.325	Special Needs Adoption	$2,000,000	$1,691,970
DOR	135.341	Champion for Children	$1,000,000	$566,648
DOS	135.600	Maternity Home	$2,000,000	$1,313,853
DOR	135.090	Surviving Spouse	none	$32,024
DOS	135.1150	Residential Treatment	none	$427,123
DOS	135.630	Pregnancy Resource	$2,000,000	$1,614,343
DOR	135.647	Food Pantry	$1,250,000	$640,720
DOR	135.575	MO Healthcare	never implemented	$0
DOR	135.562	Residential Dwelling-Ind	$100,000	$15,250
DOH	660.053	Shared Care	none	$134,300
DOR	137.106	Homestead Preservation	none	$0
DOS	135.1180	Developmental Disability	none	$7,819
DED	135.400	Capital Tax	already expired	$0
DED	135.500	CAPCO	already expired	$0
DED	348.300	Seed Capital	already expired	$0
DED	620.635	New Enterprise Creation	already expired	$0
DED	620.1039	Qualified Research Tax	already expired	$0
DED	620.495	Small Business Incubator	$500,000	$174,452
DED	135.766	Guarantee Fee	already expired	$0
DNR	135.313	Charcoal Producer	none	$0

DED	135.300	Wood Energy	none	$3,253,294
DED	135.710	Alternative Fuel	expired	$0
DOR	148.064	Bank Franchise	none	$2,770,124
DOR	143.471	Bank S Corp	none	$3,306,140
DIFP	148.400	MO Exam Fee	none	$6,846,993
DIFP	376.975	Health Insurance High Risk	none	$12,589,350
DIFP	376.745	Life & Health Ins Guar	none	$10,123,894
DIFP	375.774	Property & Casualty	none	$1,402,380
DOR	143.119	Self-Employed Health	none	$1,666,484
DED	135.475	Neighborhood Preservation	$16,000,000	$3,425,626
MHDC	135.350	Low-Income Housing	$6,000,000	$157,438,827
MHDC	32.105	Affordable Housing	$11,000,000	$6,109,858
DED	253.545	Historic Preservation	$140,000,000	$104,031,444
DED	447.700	Brownfield (Remediation)	none	$14,416,062
DED		Brownfield (Demolition)	none	$0
DED		Brownfield (Jobs/Investment)	none	$1,547,503
DED	135.400	Community Development Corp	already expired	$0
MDFB	100.286	Infrastructure	$15,000,000	$18,770,520
MDFB	100.297	Bond Guarantee	$48,812,870 (P)	$0
DOR	135.490	Disabled Access-Small bus	none	$19,080
DED	135.680	New Markets	$0 remaining (P)	$0
DED	99.1205	Distressed Area Land Assemblage	$10,000,000 remaining (P)	$10,439,739

DED	178.892	Community College New Jobs	$39,998,111 remaining (P)	$4,848,841
DED	620.1400	Skills Development Account	already expired	$0
DED	620.1560	Mature Worker	already expired	$0
DED	178.760	Job Retention	$39,998,111 remaining (P)	$7,109,546
		TOTAL		**$571,594,475**

Oversight assumes the language in this part of the proposal would reduce the existing caps on these programs to a shared total of $200 million dollars per year beginning on July 1, 2015 (FY 2016) if adopted by the voters. Thus, the impact of these provisions would reduce tax credits issued from $571,594,475 to $200,000,000 per year. The difference between the average issuances and the new combined limit is $371,594,475 ($571,594,475 - $200,000,000).

For fiscal note purposes, **Oversight** will reflect a potential savings to the General Revenue Fund of "Less than $371,594,475" because of timing differences. For example, many credits have carry forward and/or carry back provisions which will skew estimates of when the credit will actually be redeemed (and impact the General Revenue Fund). Also, some projects within the above programs (i.e. Low-Income Housing) have a significant amount of lag time between the authorization of the credits, the subsequent issuance and finally the redemption. Therefore, the full impact of this $200 million limit could take several years. Therefore, Oversight will range the fiscal impact as $0 (proposal not adopted by voters) or "Less than $371,594,475" starting in Fiscal Year 2016.

Oversight assumes this proposal stipulates that should tax credit redemptions be greater than $200 million annually, then the Department of Revenue must reduce the individual income tax rates by an equal amount. Oversight, will reflect the reduction of revenue from this proposal as the estimate provided by the Department of Revenue.

Oversight assumes that in a few years there may be a reduction in the number of FTE necessary to handle the issuance of the reduced amount of tax credits. Oversight assumes this reduction may not occur until outside the fiscal note period and will not reflect it in the fiscal note.

FISCAL IMPACT - State Government	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE			
Transfer Out - Secretary of State - reimbursement of local election authority election costs if a special election is called by the Governor	$0 or (More than $7,100,000)	$0	$0
Additional Revenue - reduction of the amount of tax credits that can be issued annually	$0	$0 or Less than $371,594,475	$0 or Less than $371,594,475
Revenue Reduction - reduction of the income tax brackets	$0	$0 or ($338,235,781)	$0 or ($338,235,781)
Cost - Department of Revenue			
Personal Service	$0	$0 or ($133,239)	$0 or ($134,572)
Fringe Benefits	$0	$0 or ($67,959)	$0 or ($68,638)
Equipment and Expenses	$0	$0 or ($5,576)	$0 or ($5,715)
Total Cost - DOR	$0	$0 or ($206,774)	$0 or ($208,925)
FTE Change - DOR	0 FTE	5 FTE	5 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0 or (More than $7,100,000)**	**$0 or Less than $33,151,920**	**$0 or Less than $33,149,769**
Estimated Net FTE Change on General Revenue	0 FTE	5 FTE	5 FTE

FISCAL IMPACT - State Government (continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
MISSOURI AGRICULTURAL AND SMALL BUSINESS DEVELOPMENT FUNDS			
Revenue Reduction - Department of Agriculture - potential loss of tax credit fees	$0	$0 or (Up to $98,972)	$0 or (Up to $98,972)
ESTIMATED NET EFFECT ON MISSOURI AGRICULTURAL AND SMALL BUSINESS DEVELOPMENT FUNDS	**$0**	**$0 or (Up to $98,972)**	**$0 or (Up to $98,972)**

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 increase in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2015 (10 Mo.)	FY 2016	FY 2017
LOCAL ELECTION AUTHORITIES FUNDS			
Transfer In - Local Election Authorities - reimbursement of election costs by the State for a special election	$0 or More than $7,100,000	$0	$0
Costs - Local Election Authorities - cost of a special election	$0 or (More than $7,100,000)	$0	$0
ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITIES FUNDS	**$0**	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that receive these tax credits will be impacted.

FISCAL DESCRIPTION

This constitutional amendment, if approved by the voters, will limit the amount of tax credits that may be issued or authorized after July 1, 2015, to $200 million per fiscal year. The Department of Revenue is required to determine the amount of tax credits redeemed in excess of $200 million dollars for fiscal year 2014. The Department is then required to determine what amount of reduction in the rate of tax on individual income in fiscal year 2014 would have resulted in the same amount. The rate of tax on individual income will be reduced to such rate for all tax years beginning on or after January 1, 2016.

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

Department of Agriculture
Department of Economic Development
Department of Natural Resources
Department of Revenue
Department of Social Services
Department of Insurance, Financial Institutions and Professional Registration
Missouri Development Finance Board
Missouri Housing Development Commission
Office of Administration
Division of Budget and Planning
Office of the Secretary of State
University of Missouri's Economic and Policy Analysis Research Center

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