

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0888-01
Bill No.: SB 226
Subject: Tax Credits
Type: Original
Date: January 17, 2017

Bill Summary: This proposal removes the transferability of certain tax credits.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration's Division of Budget and Planning (B&P)** assume this proposal would remove the transferability of certain tax credits. This proposal would increase General and Total State Revenue to the extent that tax credit redemptions decrease, since some taxpayers may not be able to fully utilize their tax credits due to insufficient tax liabilities. This proposal could result in an unknown direct increase to General and Total State Revenues and could impact the calculation under Article X, Section 18(e).

However, the restrictions placed on incentives may also impact the state's ability to recruit and retain businesses, redevelop properties, and solicit contributions. Changes to these programs may also impact related economic activity. B&P is unable to estimate any induced revenue impacts.

Officials at the **Department of Economic Development's Division of Business and Community Service** assume this proposal would impact all projects currently receiving benefits and all future projects. There would likely be a significant decrease in authorizations, issuances and redemptions over time, as the transferability of tax credits is used for some programs as leverage to finance projects. Transferability is also helpful for new companies who may not have the tax liability necessary to utilize the credits. Overall, fewer credits would be used. Offsetting that savings is the loss in economic and fiscal impact seen in many investments that the state makes.

Many of the programs included in the proposed legislation have already sunset and DED is not issuing new tax credits, so there will be no impact to those programs. Those include:

- §32.115 - Development Tax Credit portion of Neighborhood Assistance Act
- §135.403 - Investments in Missouri Small Business Tax Credit
- §135.766 - Small Business Guaranty Fees Tax Credit
- §348.302 & §348.306 - Innovation Centers
- §620.650 - Missouri New Enterprise Creation Act
- §620.1039 - Qualified Research Expenses

DED notes the following credits were replaced by the Missouri Works Program:

- §135.535 - Rebuilding Communities Tax Credit
- §135.967 & §135.968 - Enhanced Enterprise Zone
- §620.1881 - MO Quality Jobs Act

ASSUMPTION (continued)

DED notes that §135.700 the Grape and Wine Producers Tax Credit was not transferable or sellable already. Additionally, §99.1205 the Distressed Areas land Assemblage Tax Credit are no longer allowed to be authorized after August 2013.

The impact to the State of this proposal, is unknown as it is impossible to calculate what percentage of credits are issued that are intended to be sold or transferred.

Officials at the **Missouri Development Finance Board (MDFB)** assume this proposal would prevent the following tax credits from being transferred, sold, or assigned.

§100.286 - MDFB Infrastructure - This legislation would impact all projects currently receiving benefits and all future projects. There would likely be a significant decrease in authorizations, issuances and redemptions over time, as the transferability of tax credits is used for some programs as leverage to finance projects. Transferability is also helpful for new companies who may not have the tax liability necessary to utilize the credits. Overall, fewer credits would be used. Offsetting that savings is the loss in economic and fiscal impact seen in many investments that the state makes.

The MDFB tax credit for contribution program has the ability to issue \$10 million in tax credits per calendar year with an additional \$15 million in above-the-cap contributions per calendar year. While it is difficult to estimate the exact impact this legislation would have on this program we have estimated that over the past five years, 68 percent of the annual contributions issued have been transferred and 55 percent of the above-the-cap contributions issued have been transferred. That would be about a \$15,050,000 per calendar year loss in projects awarded should the transferability of tax credits be removed.

MDFB currently has Tax Credit Enhanced Bonds, per §100.297, tied to three outstanding bonds on garage projects. Any change to the tax credit laws, including transferability, would trigger an immediate event of default under the Bond Indentures agreement. The implication of this is \$22.7 million in the year of default.

§100.850 -Missouri Business Use Incentives for Large-Scale Development Act - BUILD - The BUILD program does not allow for credits to be currently transferred.

Oversight notes that MDFB is not part of the state budget and therefore, these changes would not have a direct impact on state funds.

ASSUMPTION (continued)

Officials at the **Department of Economic Development's Division of Energy (DE)** assume it is not known if there would be an impact on the number of applications received or the amounts of redeemed Wood Energy Tax Credits as a result of removal of the ability to assign the tax credits to third parties (§135.309). Additionally, as defined in §135.311, the DE reviews and approves Wood Energy Tax Credit applications with the Department of Revenue determining and granting the final approved amount to the applicant.

Officials at the **Department of Natural Resources** assume this proposal would repeal the transferability of tax credits which could affect the use and benefits of the Historic Preservation Tax Credit (HPTC). The transferability of the credits entices developers to take greater interest in historic rehabilitation projects, especially large scale, commercial projects which are generally very expensive. These completed projects serve as catalysts for further investment and development/preservation in neighborhoods, some which may be considered distressed or blighted areas prior to the HPTC projects. By repealing the current incentives, neglected historic properties in need of rehabilitation are less likely to attract financiers due to the costs and specialized labor associated with these projects.

The department's State Historic Preservation Office (SHPO) is responsible for reviewing and approving rehabilitation work for the state and federal historic preservation tax credit programs. Any changes in the tax credit structure may have an impact on the number of rehabilitation projects the SHPO reviews and approves. Additionally, with the potential of a reduced number of projects, the fee assessed per tax credit that in part funds the SHPO staff salaries and expenses could 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 HPTC. However, we cannot predict the number of projects that could be applied for given the proposed legislation to eliminate the ability to assign, sell or transfer the HPTC. DED tracts the financial side of the historic tax credit program and SHPO assists with the rehab design review and would be better able to quantify the potential economic impacts of limiting tax credits.

Officials at the **Department of Revenue** assume there is no fiscal impact from this proposal.

Oversight assumes the changes to existing programs in this proposal may have a negative impact on the state. However, Oversight considers this to be an indirect impact of the proposals and will not reflect them in the fiscal note.

ASSUMPTION (continued)

Oversight notes that the obligation to the State occurred when the tax credits were issued. Regardless of whether a credit was transferred the obligation still exists. Therefore, this proposal would not have an immediate or direct fiscal impact on the State.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that sell their tax credits would be negatively impacted by the not allowing of the credits to be sold.

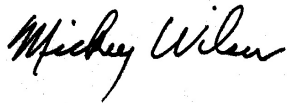
FISCAL DESCRIPTION

This act prohibits the transfer, sale, or assignment of the following tax credits: Affordable Housing Assistance; Brownfield Jobs/Investment; Brownfield Remediation; Brownfield Demolition; Community Development Bank; Development; Distressed Area Land Assemblage; Enhanced Enterprise Zones; Enhanced Enterprise Zones - Mega Projects; Guarantee Fee; Historic Preservation; Infrastructure Contribution; Business Use Incentives for Large-Scale Development (BUILD); Low Income Housing; Missouri Works; Quality Jobs; Neighborhood Assistance; Neighborhood Preservation; New Enterprise Creation; New/Expanded Business Facility; Rebuilding Distressed Communities; Research Expense; Retained Jobs; Seed Capital; Winery and Grape Growers; Wood Energy Producers.

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
 Division of Energy
 Division of Business and Community Service
Department of Natural Resources
Department of Revenue
Missouri Development Finance Board
Office of Administration
 Division of Budget and Planning



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January 17, 2017

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