

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0200-03
Bill No.: SB 28
Subject: Tax Credits; Housing
Type: Original
Date: January 28, 2019

Bill Summary: This proposal places a cap on the Low-Income Housing Tax Credit.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	(FY 2023)
General Revenue	\$0	\$0 or \$7,000,000	\$0 or \$14,000,000	\$0 or \$21,000,000 to \$29,425,000
Total Estimated Net Effect on General Revenue	\$0	\$0 or \$7,000,000	\$0 or \$14,000,000	\$0 or \$21,000,000 to \$29,425,000

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.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	(FY 2023)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	(FY 2023)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	(FY 2023)
Total Estimated Net Effect on FTE	0	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 2020	FY 2021	FY 2022	(FY 2023)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Office of the **Office of Administration Division of Budget and Planning (B&P)** assume this proposal places a cap on issuances of the low-income housing tax credit. The new cap would be 50% of the amount of federal low-income housing tax credits allocated to the state. Based on historical authorized, issued, and redeemed patterns of this tax credit, total state revenue could increase by \$27,795 after the first year, \$340,742 the second year, and \$70,529,333 once fully implemented.

This proposal could impact the calculation under Article X, Section 18(e).

Office of the **Missouri Housing Development Commission (MHDC)** assume current state §135.352.2, authorizes state 9% low-income housing tax credit (9% MOLIHTC) in an amount equal to the federal 9% low-income housing tax credit (9% Federal LIHTC). The estimated, annualized 2019 9% Federal LIHTC available to Missouri is \$16,850,000. Current state statute §135.352.3, authorizes up to \$6,000,000 annualized state 4% low-income housing tax credit (4% MOLIHTC). The amount of annualized MOLIHTC available for Authorizations under current state statute is \$22,850,000 (\$16,850,000 + \$6,000,000). The MOLIHTC is a 10-year credit. The full 10-year stream is \$228,500,000.

This proposal provides that the aggregate amount of MOLIHTC issued in a calendar year shall not exceed fifty percent of the amount of federal low-income housing tax credits allocated to the state. It is important to note the relationship between MOLIHTC authorized and MOLIHTC issued.

The authorization of MOLIHTC by the MHDC Board of Commissioners triggers construction of the affordable housing development. Construction typically takes 24 months. MOLIHTC is not issued until the affordable housing development is constructed and ready for occupancy -- typically 24 months after the MOLIHTC is authorized. This proposal could potentially prohibit the issuance of MOLIHTC that have already been authorized, and based upon such authorization, construction has completed and the affordable housing development is ready for occupancy. Restrictions on the issuance of MOLIHTC previously authorized could present legal issues for the state. MHDC has included unknown in the estimated impact to reflect this possibility. The estimates below assume no such restriction.

Based on the estimated 2019 9% Federal LIHTC allocation, current state statute authorizes MOLIHTC in an annualized amount of \$22,850,000. This proposal restricts issuances to 50% of the federal allocation - $\$16,850,000 (50\%) = \$8,425,000$. The difference between the current

ASSUMPTION (continued)

cap and the cap proposed is \$14,425,000 (\$22,850,000 - \$8,425,000). MOLIHTC is a 10-year tax credit. The total 10-year stream available under the current statutory cap is \$228,500,000. The total 10-year stream available under the cap proposed is \$84,250,000. The total 10-year stream potential savings when comparing the cap proposed to the current statutory cap is \$144,250,000. The potential 10 year aggregate savings comparing the cap proposed to the current statutory cap is \$649,125,000.

Office of the **Department of Revenue (DOR)** assume this section has been updated by adding a new subsection (7) and pushing the old subsection (7) out to the newly created subsection (8). The new subsection (7) states that the aggregate amount of tax credits issued in a calendar year under §135.350 to §135.363 shall not exceed fifty percent of the amount of federal low-income housing tax credits allocated to the state under 26 U.S.C. Section 42

The Missouri Low Income Housing Tax Credit (MOLIHTC) is a ten-year state credit to qualifying owners and investors in affordable rental housing. The Low Income Housing Tax Credit generates equity investments from the private sector for the development of new or rehabilitated rental housing in order to lower the tenants rent payments to affordable levels for families that meet specific income requirements. A qualified development is one that rents at least twenty percent of its units to families earning fifty percent of the median family income or at least forty percent of its units to families earning sixty percent of median family income, adjusted for family size. The development must: meet a demonstrated need for affordable rental housing for qualified low-income Missourians.

The amount of the MOLIHTC allocated to a given housing development is directly related to the percentage of low income housing units made available to families meeting specific income requirements and the acquisition, construction or rehabilitation expenditures to create the development, less land and non-depreciable costs. The State of Missouri administers two types of MOLIHTC. The nine percent (9%) Low Income Housing Tax Credits and the four percent (4%) Low Income Housing Tax Credits. Developments compete annually for the 9% Low Income Housing Tax Credits, which allows a tax credit equal to 9% of the total eligible development costs. Developments awarded an allocation of tax-exempt bond-financing from Missouri Department of Economic Development may apply to receive the 4% Low Income Housing Tax credit, which allows a tax credit equal to 4 % of the total eligible development costs.

Currently, the 9% MOLIHTC is capped at 100% of the Federal Low Income Housing Tax Credit. No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax exempt bond issuances.

ASSUMPTION (continued)

The Missouri Low Income Housing Tax Credit is taken against the taxes and in the order specified in Section 32.115. Any amount of the Low Income Housing Tax Credit that may exceed the tax due may be carried back to be used on previous year's tax liabilities, limited at three years. In addition, the MOLIHTC may be carried forward to future tax liabilities, limited at five years.

Based on Tax Credit Analysis Form data published by the Missouri Department of Economic Development, the average amount of Low Income Housing Tax Credit(s) authorized each year equals \$122,540,498 (which would be issued throughout, roughly, ten years).

Per the Tax Credit Analysis Form, as mentioned above, the average amount of Low Income Housing Tax Credit(s) issued each year is \$13,850,000 (which includes issuances from ten years' worth of authorizations), when added together with each year's issuances, because, roughly, ten percent of the amount authorized is issued each year, the total amount of Low Income Housing Tax Credit(s) issued each year equals \$138,508,817 for FY15-FY17.

Per the same Tax Credit Analysis Form, the average amount of Low Income Housing Tax Credit(s) redeemed each year equals \$158,660,862 for FY15-FY17.

Information provided by the Department by Missouri Housing Development Commission leads the Department to believe that the Federal LIHTC housing credit ceiling is as shown below:

2018 (estimated) - \$167,437,470 (\$16,743,747 annual)
2017 - \$151,089,250 (\$15,108,925 annual)
2016 - \$145,454,750 (\$14,545,475 annual)

Using the values above, the Department has determined that the average Federal LIHTC equals \$154,660,490.

This leads the to the Department's conclusion that the maximum amount of Low Income Housing Tax Credit(s), on average, that may be issued to taxpayers by the state equals \$7.7 million (which would equal \$77,000,000 once fully implemented).

Assuming that \$138 million is issued each year (including issuances from amounts authorized from ten years ago, the distribution of credits would look similar to:

ASSUMPTION (continued)

\$13,800,000.00		
\$13,800,000.00	\$13,800,000.00	
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$138,000,000.00	\$13,800,000.00	\$13,800,000.00
	\$138,000,000.00	\$13,800,000.00
		\$138,000,000.00

Assuming that the amount(s) allowed to be issued each year is equal to fifty percent of the amount of Federal LIHTC(s), the Department assumes that only \$7.7 million can be issued from each authorization each year (which in totality will equal \$77 million). The distribution of such credits would look similar to:

\$13,800,000.00		
\$13,800,000.00	\$13,800,000.00	
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$13,800,000.00	\$13,800,000.00	\$13,800,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$131,900,000.00	\$7,700,000.00	\$7,700,000.00
	\$125,800,000.00	\$7,700,000.00
		\$119,700,000.00

ASSUMPTION (continued)

Once fully implemented, the distribution of credits could look similar to:

\$7,700,000.00		
\$7,700,000.00	\$7,700,000.00	
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$7,700,000.00	\$7,700,000.00	\$7,700,000.00
\$77,000,000.00	\$7,700,000.00	\$7,700,000.00
	\$77,000,000.00	\$7,700,000.00
		\$77,000,000.00

Due to the average amount of Low Income Housing Tax Credits redeemed each year, the Department assumes that each year's distribution of credits will be redeemed. The Department would like to note that the redemptions could be that of past year credits (outstanding) and does not mean that the newest issuances of Low Income Housing Tax Credits would be redeemed in full, but would eventually catch up with itself.

The Department estimates that the savings to the State of Missouri and Total State Revenue, specific to General Revenue, will occur sporadically throughout fifteen years.

Fiscal Year	Increase to TSR - GR
FY 2020	\$0.00
FY 2021	\$3.7 million
FY 2022	\$8.5 million
FY 2023	\$14.6 million
FY 2024	\$20.7 million
FY 2025	\$26.8 million
FY 2026	\$32.9 million
FY 2027	\$39.0 million
FY 2028	\$45.1 million

FY 2029	\$51.2 million
FY 2030	\$57.3 million
FY 2031	\$59.2 million
FY 2032	\$59.8 million
FY 2033	\$60.1 million
FY 2034	\$61.0 million

*The Department will continue to calculate these numbers to support how these tax credits are redeemed over the years.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** assume a potential unknown increase of premium tax revenues as a result of a cap on the Low-Income Housing tax credit. 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 notes according to the Tax Credit Analysis submitted by the Department of Economic Development and the Missouri Housing Development Commission regarding this program, the Missouri Low-Income Housing tax credit program had the following activity;

	FY 2016	FY 2017	FY 2018	FY 2019 (projected)	FY 2020 (projected)
Certificates Issued	105	325	285	238	238
Projects	24	36	36	32	32
Amount Authorized	\$167,123,390	\$166,302,030	\$0	\$0	\$0
Amount Issued	\$101,939,700	\$188,597,820	\$169,066,380	\$153,201,300	\$153,201,300
Amount Redeemed	\$170,028,538	\$165,661,698	\$169,138,875	\$168,276,370	\$168,276,370

Amount Outstanding - \$865,635,248 Amount Authorized but Unissued - \$276,989,810

Oversight notes that on December 19, 2017, the Missouri Housing Development Commission (MHDC) approved a Qualified Allocation Plan that does not allow for the MOLIHTC credits to be authorized. This Qualified Allocation Plan is effective for FY 2018 and continues until such time as another Qualified Allocation Plan is adopted. Oversight notes that the Missouri House of Representatives Budget Committee also voted to prohibit the authorization of MOLIHTC credits for FY 2019. No MOLIHTC credits were authorized for FY 2018 or FY 2019.

ASSUMPTION (continued)

Oversight notes a reduction in the issuance cap would take place immediately; however, due to the lag time between the authorization, issuance and redemptions of the credits, that reduction is not felt for several years. This credit requires that prospective taxpayers apply for the tax credit prior to construction at which time they are authorized tax credits. The projects generally have a two year build cycle before completion, inspection and renting to citizens before the issuance of the credits. Therefore, projects approved after July 1, 2018 would not generally result in tax credits issued until after the end of FY 2020, and would not be able to be redeemed until FY '21.

This proposal would limit the **issuance of tax credits previously authorized** to 50% of the federal allocation. Therefore this proposal would restrict those projects authorized prior to FY 2018 to only half what they were authorized. The federal cap at the time was approximately \$14 million annually. Therefore, since the proposal reduces the amount of tax credits to be issued (already built and annually meeting the stipulations) on existing projects instead of just authorized (new projects to be built), Oversight will assume a reduction by 50% of the previous annual limit of \$14 million of Low Income Housing Tax Credits. Since it is unclear if the reduction could occur on previously authorized credits, Oversight will assume a savings to the state of \$0 or \$7 million ($\$14 \text{ million} \times 50\%$) per year, compounding annually.

Additionally, should the Missouri House of Representatives Budget Committee allow future authorizations and should the MHDC adopted a new QAP approving the authorization of tax credits, then this proposal would implement the new state cap at 50% of the federal cap on future project authorizations. The current federal cap for 2019 is \$16,850,000. Assuming MHDC is able to approve projects and authorize credits in 2020, Oversight assumes the amount of credits that could be issued once the projects are complete (2 years later) would be reduced by \$8,425,000 ($\$16,850,000 \times 50\%$). Oversight assumes no tax credits will be authorized in the future.

Oversight currently does not have the data or resources available to produce independent revenue projections, therefore Oversight uses the same assumptions for revenue growth as the FY 2020 Consensus Revenue Estimate (CRE) for revenue growth in all future years. The CRE assumes an increase in net general revenue collections of \$192.6 million for FY 2020.

Oversight notes pursuant to §143.011 - §143.022 (SBs 509 & 496 2014) if the previous fiscal year's net general revenue collections exceed the highest net general revenue collections of the three previous fiscal years by at least \$150 million, then there will be a reduction in the individual income tax rate by one-tenth of a percent and a reduction for individual income tax filers of 5% of "business income." These reductions will reduce net General Revenue collections by an estimated \$160.0 million annually. Oversight notes the proposed legislation may impact

ASSUMPTION (continued)

future net revenue collections and could impact future triggering of the rate reductions required under §143.011 - §143.022.

<u>FISCAL IMPACT -</u>	FY 2020			
<u>State Government</u>	(10 Mo.)	FY 2021	FY 2022	(FY 2023)

**GENERAL
REVENUE**

<u>Revenue - DED</u>				
§135.352.7 50%				
reduction of state				<u>\$0 or</u>
low-income housing			<u>\$0 or</u>	<u>\$21,000,000 to</u>
tax credits issued	<u>\$0</u>	<u>\$0 or \$7,000,000</u>	<u>\$14,000,000</u>	<u>\$29,425,000</u>

**ESTIMATED NET
EFFECT ON
GENERAL
REVENUE**

				<u>\$0 or</u>
			<u>\$0 or</u>	<u>\$21,000,000 to</u>
	<u>\$0</u>	<u>\$0 or \$7,000,000</u>	<u>\$14,000,000</u>	<u>\$29,425,000</u>

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.

<u>FISCAL IMPACT -</u>	FY 2020			
<u>Local Government</u>	(10 Mo.)	FY 2021	FY 2022	(FY 2023)

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

This legislation could potentially impact small businesses that might have been awarded or bought Low Income Housing Tax Credits to reduce state tax liability, which could decrease the small businesses revenues. Any small business operating as a small brokerage firm that oversees the selling and purchasing of Low Income Housing Tax Credits could anticipate lesser revenues each year if less Low Income Housing Tax Credits are issued each year.

FISCAL DESCRIPTION

This act places an aggregate cap on the amount of state low-income housing tax credits that may be issued in a calendar year. Such cap shall be fifty percent of the amount of federal low-income housing tax credits allocated to the state.

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 Insurance, Financial Institutions and Professional Registration
Department of Revenue
Missouri Housing Development Commission
Office of Administration Division of Budget and Planning



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