COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0200-11
Bill No.: Perfected SS for SCS for SB 28
Subject: Tax Credits; Housing
Type: Original
Date: February 18, 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	Unknown - beyond FY 2032
General Revenue	$0	$0	$0	$0 to $66,000,000
Total Estimated Net Effect on General Revenue	**$0**	**$0**	**$0**	**$0 to $66,000,000**

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	Unknown - beyond FY 2032
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Unknown - beyond FY 2032
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Unknown - beyond FY 2032
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	Unknown - beyond FY 2032
Local Government	**$0**	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration Division of Budget and Planning** (**B&P**) assume this proposal places a cap on authorizations of the low-income housing tax credit. The new cap for projects financed through tax-exempt bond issuances would be $4 million (from $6 million currently) and tax credits not financed through tax-exempt bonds would be capped at 72.5% of the amount of federal low-income housing tax credits allocated to the state.

Based on Tax Credit Analysis Form data published by the Missouri Department of Economic Development, the average authorizations for FY 2015-FY 2017 is $163,387,330. The estimated annualized 2019 Federal LIHTC available to Missouri is $168,500,000. 72.5% of the $168,500,000 is $122,162,500. Adding the two caps would result in a total of $126,162,500.

Based on the historical authorized patterns of this tax credit, the proposal could increase Total State Revenue and General Revenue by approximately $16,417 after the first year and $37,224,830 once fully implemented.

However, since the cap is tied to a Federal allocation amount that varies each year, there could be an unknown positive or negative impact to Total State Revenue in the future.

This proposal may impact Total State Revenue and the calculation under Article X, Section 18(e).

Officials at the **Missouri Housing Development Commission** (**MHDC**) assume the current total (4% and 9% combined) state statutory cap on Missouri low-income housing tax credits (MOLIHTC) is $228,500,000. Current state statute §135.352.2, caps the state 9% low-income housing tax credit (9% MOLIHTC) at an amount equal to the federal 9% low-income housing tax credit (9% Federal LIHTC) allocation. The estimated, annualized 9% Federal LIHTC allocation for 2019 is $16,850,000. Current state statute §135.352.3, caps the annualized amount of state 4% low-income housing tax credit (4% MOLIHTC) at $6,000,000. The current total annualized statutory MOLIHTC cap is $22,850,000 ($16,850,000 + $6,000,000). The MOLIHTC is a 10-year credit: $22,850,000 (10) = $228,500,000.

This proposal provides that the amount of 9% MOLIHTC Authorized in a calendar year shall not exceed 72.5% of the federal housing credits allocated to the state. Further, this proposal provides that the amount of 4% MOLIHTC Authorized in a calendar year shall not exceed $4,000,000.

ASSUMPTION (continued)

The estimated annualized 9% federal allocation for 2019 is \$16,850,000. 72.5% of \$16,850,000 is \$12,216,250. This proposal reduces the annualized cap on the 4% MOLIHTC from \$6,000,000 to \$4,000,000. The total annualized cap (4% and 9% combined) proposed \$16,216,250 (\$12,216,250 + \$4,000,000). The MOLIHTC is a 10-year credit: \$16,216,250 x10 = \$162,162,500.

The difference between the current statutory cap and the cap proposed is \$66,337,500 (\$228,500,000 - \$162,162,500). The potential 10-year cumulative impact comparing the cap proposed to the current statutory cap is \$341,591,250.

Officials of the **Department of Revenue** (**DOR**) assume the Missouri Low Income Housing Tax Credit 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 Missouri Low Income Housing Tax Credit 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 Low Income Housing Tax Credits. 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% Missouri Low Income Housing Tax Credit 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)

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 Missouri Low Income Housing Tax Credit 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 (average for FY 2015 – FY 2018) 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 (average for FY 2015 – FY 2018) equals $138,508,817. 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 FY 2015-FY 2018.

Information provided by Missouri Housing Development Commission leads the Department to believe that the Federal LIHTC housing credit ceiling has been 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 each year to taxpayers by the state equals $112.2 million.

Assuming that the amount(s) allowed to be authorized each year is equal to seventy two and one half percent of the amount of the Federal LIHTC(s), the department assumes that only $112.2 million can be authorized each year (which includes ten years' worth of issuances). In addition, the proposed legislation exempts subsection 3 of Section 135.352 from the limitations proposed under subsection 2 of Section 135.352, which increases the amount that can be authorized each year to $116.1 million ($154,660,490 x 72.5% + $4,000,000).

ASSUMPTION (continued)

Fiscal Year	**Increase to Total State Revenue & General Revenue**
FY 2020	$0
FY 2021	$2,695,931
FY 2022	$4,883,045
FY 2023	$7,070,159
FY 2024	$9,257,273
FY 2025	$11,444,385
FY 2026	$13,631,498
FY 2027	$15,818,619
FY 2028	$18,005,733
FY 2029	$20,192,848
FY 2030	$22,379,962
FY 2031	$22,379,962
FY 2032	$22,379,962
FY 2033	$22,379,962
FY 2034	$22,379,962

*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

ASSUMPTION (continued)

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 this proposal would allow for the change in the tax credit cap starting July 1, 2019; however, this proposal would not be effective until August 28, 2019. Therefore the first reduced cap credits could be authorized September 1, 2019.

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 was 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. In order for this proposal to be effective the Missouri Housing Development Commission would need to adopt a new Qualified Allocation Plan making this proposal's changes.

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 72.5% of the federal cap on future project authorizations. The current federal cap for 2019 is $16,850,000 and therefore the new state cap is $12,216,250 ($16,850,000 x 72.5%). Assuming MHDC is able to approve projects and authorize credits in 2019, Oversight assumes the amount of credits that could be issued once the projects are completed and filled (2 years later) would create a saving of $4,633,750 ($16,850,000 x 27.5%) over the current cap.

ASSUMPTION (continued)

Oversight notes if/when the MHDC is allowed to authorize projects utilizing low income housing tax credits, this proposal could reduce the amount of credits that would have otherwise been authorized and later issued. Therefore, Oversight will reflect the potential savings to the state of:

1. $2 million per year for reducing the tax-exempt bond issuances from $6m to $4m; and
2. $4.6 million per year for limiting the state to 72.5% of the federal LIHTC issuances.

This $6.6 million in savings per year would compound, since approved projects are issued credits for ten years if all requirements are met. Therefore, IF the MHDC is allowed to approve projects in FY 2020, assuming a two year lag before credits would be issued (allow for project construction and filling with tenants) the first year of savings (lower amount of tax credits issued) would be in FY 2023. If additional projects are authorized each year, by the tenth year, the projects approved in 2020 through the projects approved in 2030 would each be issued fewer credits than current limits. Therefore, Oversight will reflect a potential savings to the state of $66.0 million ($6.6 million per year x 10 years of projects able to receive credits) in (at the earliest) FY 2032.

Oversight when calculating this fiscal note assumed that all credits issued in a year will be redeemed in that same fiscal year, including the 1/10th of low income housing credits that are issued over the 10 year period.

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

FISCAL IMPACT - State Government	FY 2020 (10 Mo.)	FY 2021	FY 2022	Unknown - beyond FY 2032
GENERAL REVENUE				
Savings - DED §135.350(10) 72.5% cap on MOLIHTC issued	$0	$0	$0	$0 to $66,000,000
ESTIMATED NET EFFECT TO GENERAL REVENUE	**$0**	**$0**	**$0**	**$0 to $66,000,000**

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.

FISCAL IMPACT - Local Government	FY 2020 (10 Mo.)	FY 2021	FY 2022	Unknown - beyond FY 2032
	$0	**$0**	**$0**	**$0**

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 seventy-two and one-half 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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