COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3665-07
Bill No.: SCS for SB 1099
Subject: Taxation and Revenue; Tax Credits; Economic Development Department; Revenue Department.
Type: Original
Date: February 9, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	($62,761)	($69,193)	($70,963)
Total Estimated Net Effect on General Revenue Fund	**($62,761)**	**($69,193)**	**($70,963)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General**, **Coordinating Board of Higher Education** and the **Office of the State Auditor** each assume the proposal would not fiscally impact their respective agencies.

In response to a previous version of this proposal, officials from the **Department of Revenue** assumed the proposal would have no fiscal impact on their agency.

Officials from the **Office of Prosecution Services** assume any costs resulting from this proposal could be absorbed by existing resources.

Officials from the **Department of Economic Development (DED)** state they would ensure received reports from taxpayers comply with the reporting requirements as established in 135.805 RSMo. This would result in the receipt of 1,000 - 4,650 reports and would result in some delinquencies. DED would have one person responsible for insuring receipt of reports and coordinating the collections for late or non-filings. DED would absorb the costs of revision of tax credit applications to accommodate new information required for any application. DED assumes the need for some funding to cover mailing costs of sending delinquency notices. The

DED Client Management System (CMS) would have to be modified to include the additional

ASSUMPTION (continued)

information from applications. The CMS would also need to be programmed to track reporting and identify non-filers as well as issue required notifications to non-filers. DED would be able to accomplish this with the addition of an Executive II FTE (at $36,612 annually).

DED assumes total cost from complying with this proposal of roughly $80,000 per year.

Oversight assumes DED would not need additional floor space for the requested FTE.

Officials from the **Department of Insurance (INS)** state this legislation may require their agency to collect additional information from insurers taking tax credits. INS would be required to compile and report annually on tax credits administered by their agency. INS assumes additional workload could be accomplished with existing staff for reporting on their tax credits, but if additional workload is required to assist other agencies (DED, DOR, AG) who administer tax credits which are used by insurance companies, then additional resources may need to be requested.

In response to a previous version of this proposal, officials from the **Department of Agriculture** stated the additional costs of reporting and monitoring will be assessed against application fees collected.

In response to a previous version of this proposal, officials from the **Department of Social Services** assumed they would incur additional expenses under $100,000 as a result of the additional paperwork involved with the new reporting requirements for the Maternity tax credit program.

Oversight assumes the Department of Social Services will, like various other tax credit administering state agencies, be able to absorb the additional paperwork created by this proposal with existing resources.

Officials from the **Department of Public Safety (DPS)** states by establishing the Tax Credit Accountability Act, DPS must determine through the DOR and INS if a tax credit applicant owes the state taxes, and if so, shall offset the amount owed against the credit. If any credit remains, that amount may be issued to the applicant.

DPS assumes the need for one FTE Clerk Typist III (at $23,784 annually) in the verification of tax credit applications with DOR as well as prepare correspondence to individuals that do not qualify for tax credits. DPS assumes the cost of the FTE, plus fringe benefits and expense and equipment will cost roughly $38,000 per year.

ASSUMPTION (continued)

Oversight assumes the Department of Revenue and Department of Insurance will develop a process with the various tax credit administering agencies to verify whether potential tax credit recipients have taxes that are past due, similar to the provisions of HB 600 from 2003. Therefore, Oversight assumes DPS will not incur additional expense as a result of the proposal.

Officials from the **Department of Natural Resources (DNR)** state the Historic Preservation Tax Credit program is administered by DED with DNR/SHPO providing technical review of historic eligibility and review of proposed rehabilitation work to ensure compliance with the Secretary of the Interior's Standards. The added accountability requirements will be the responsibility of DED and should have no direct fiscal impact on DNR's review role in administration of the Historic Preservation Tax credits.

Officials from the **Office of Secretary of State (SOS)** assume there would be costs due to additional publishing duties related to various department's authority to promulgate rules, regulations, and forms. SOS estimates the divisions could require approximately 28 new pages of regulations in the Code of State Regulations at a cost of $27.00 per page, and 42 new pages in the Missouri Register at a cost of $23.00 per page. Costs due to this proposal are estimated to be $1,722, however, the actual fiscal impact would be dependent upon the actual rule-making authority and may be more or less. Financial impact in subsequent fiscal years would depend entirely on the number, length, and frequency of the rules filed, amended, rescinded, or withdrawn. SOS does not anticipate the need for additional staff as a result of this proposal, however, the enactment of more than one similar proposal may, in the aggregate, necessitate additional staff.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Oversight also assumes the provisions in the proposal regarding verifying with the Department of Revenue and the Department of Insurance for outstanding taxes prior to issuing tax credits, may result in a savings to the state. If an applicant has a past due balance for sales taxes, income taxes or insurance premium taxes, the state could potentially save money by verifying the balance due and netting it to the tax credit issuance.

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE			
Costs - Department of Economic Development (DED)			
Personal Service (1 FTE)	($31,273)	($38,465)	($39,427)
Fringe Benefits	($12,947)	($15,925)	($16,323)
Expense and Equipment	($13,558)	($8,674)	($8,931)
Programming expenses	($4,983)	($6,129)	($6,282)
Total Costs - DED	($62,761)	($69,193)	($70,963)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($62,761)**	**($69,193)**	**($70,963)**

FISCAL IMPACT - Local Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that apply for and receive Missouri tax credits will need to provide additional information at the application stage as well as annual reporting after the tax credit has been issued.

DESCRIPTION

This proposal makes various changes to the various Missouri tax credits. The proposal:

(1) Establishes a system of classifications for tax credits and minimum requirements for each

classification. The requirements are designed to verify compliance and instill confidence in the tax credit system, but avoid undue burdens on the individuals and businesses who apply for the credits.

DESCRIPTION (continued)

The proposal follows established classifications and application requirements where possible. The administering state agencies are enabled to implement rules to include additional requirements or explain the listed requirements. Any such rules are subject to the standard rules promulgation and approval requirements.

(2) Implements reporting requirements focused on gathering meaningful information in order to assist future legislatures in assessing the value of tax credit programs. The reporting requirements are varied to reflect the diverse landscape of the currently enacted tax credits.

The requirements reflect differences between economic development credits and social benefit credits that have benefits that are not revealed in the same empirical fashion. Reporting occurs over a period of three years for most credits. Annual reporting is fixed to a date certain (June 30) for all reports.

Reporting is the duty of the recipient of the credit, and not any subsequent purchaser, in the case of a transferred credit. An exception to this is made in the case of contribution based credits. These credits are obtained differently from other credits. Contribution based credits are given to the a contributor who donates money to a specific program. The state policy is the promotion of the program, and thus reporting is the duty of the recipient of the contribution and not the recipient of the credit. Additionally, the proposal requires that a taxpayer receiving a credit be made aware of the future reporting requirements prior to issuance.

(3) Implements a compliance system for reporting. Failure to meet the annual reporting requirements will result in graduated penalties. A six month grace period and at least one notice by certified mail to the last known address of the taxpayer is included. Penalties also accompany fraud in the application process. If fraud is found by a court of competent jurisdiction, a one hundred percent penalty will be incurred.

Penalties are assessed against a noncompliant taxpayer as of the end of the taxpayer's taxable year and due and owing as of the last date of filing of the taxpayer's return. Further collection procedures follow the existing collection procedures for income taxes.

(4) Requires that prior to approval of any tax credit application, an administering agency shall verify through the department of revenue and the department of insurance that the tax credit applicant does not owe any delinquent taxes, including penalties and interest. Such delinquency will not affect the approval of the application for such tax credits, except that the amount of credits issued are reduced by the applicant's tax delinquency.

DESCRIPTION (continued)

(5) Requires two months notice to the state whenever more than a million income tax credits are going to be redeemed. The notice must come prior to the assessment of tax liability (the date when income tax liability is actually fixed, due and owing) whenever a large sum of credits are going to be claimed against a taxpayer's income tax liability. The proposal provides that an early filing of tax liability will count as notice so long as it is at least two month prior to assessment date. (For individual filers, the assessment date is typically April 15, regardless of when the return is actually filed.)

(6) Provides that the minimum application requirements specified in (1) are made open records once the credits have been issued. In the case where state approval of a credit application comes prior to actual issuance, the application data become open records at the time such application is approved. However, information relating to the application for a special needs adoption tax credit and transfers of tax credits are excluded from the open record policy.

(7) Expands the existing audit statutes for state sponsored cost benefit analysis to require periodic examination of all credits. Current law only subjects credits administered by the Department of Economic Development to be analyzed. All audits are required to be provided to the governor, the legislature and, specifically, the Joint Committee on Tax Policy.

(8) Charges the Joint Committee on Tax Policy with an automatic review by the committee after each of the Auditor's tax credit program audits. After this period of review, the committee is given the option to make an official recommendation to the General Assembly as to the merit and suggested future treatment of each credit.

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
Office of the State Auditor
Department of Revenue
Department of Insurance
Coordinating Board of Higher Education
Department of Agriculture
Department of Public Safety
Department of Natural Resources
Department of Social Services
Office of the Secretary of State
Office of the Attorney General
Office of the Prosecution Services

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