COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3665-10
Bill No.: HCS for SS for SCS for SB 1099
Subject: Taxation and Revenue; Tax Credits; Economic Development Department; Revenue Department.
Type: Original
Date: April 9, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	($235,902)	($102,098)	($104,694)
Total Estimated Net Effect on General Revenue Fund	**($235,902)**	**($102,098)**	**($104,694)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds	**(Unknown)**	**(Unknown)**	**(Unknown)**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 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 State Auditor** assume the proposal would not fiscally impact their agency.

In response to a similar proposal from this year, officials from the **Department of Transportation** and the **Department of Labor and Industrial Relations** each assumed the proposal would not fiscally impact their respective agencies.

Officials from the **Coordinating Board of Higher Education (CBHE)** assume the proposal would not fiscally impact their agency. The CBHE states, regarding the discontinuance of the tax credits for the Higher Education Scholarship Program (Section 173.196) and the Advantage Missouri Program (Section 173.796), that there have been no tax credits issued or utilized for either of these programs.

Oversight will assume that since these two programs have not previously been utilized, that the discontinuance of the tax credits will not result in a positive fiscal impact to the state.

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.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** have revised their response to the Tax Credit Accountability Act to assume the following impact;

Applicants will be required to get a tax clearance from DOR and Insurance before a tax credit will be authorized. This will greatly increase the number of tax clearance requests. DOR will have to process a tax clearance on each tax credit applicant. This will be a manual process and will take 1 Tax Processing Tech to handle the process.

Reporting requirements are due June 30th of each year and penalties apply if the information is not submitted. Once the taxpayer has failed to report for six months, DOR is to add any penalty to the applicant's income tax liability. This will require programming changes in the MINITS and COINS systems. It is estimated that it will take 6 programmers 2 months or 2,076 hours of programming at a cost of $69,255 for the MINITS system and it will take 6 programmers 2 months or 2,076 hours of programming at a cost of $69,255 to modify the COINS system.

DOR states that form changes will be required, but will be absorbed through existing resources.

Customer Assistance anticipates calls and walk-ins to the Tax Assistance Centers. DOR assumes the number of calls or walk-ins will not be significant. However, if DOR is incorrect in this assumption, it will need one Tax Collection Tech, plus supportive equip, for every 15,000 calls a year to 751-7200 delinquent line due to penalties assessed on tax credits, and one Tax Processing Tech for 5,200 additional calls to the offices and one Tax Processing Tech for every 2,150 additional walk-ins. Any FTE's will be requested through the normal budget process.

DOR assumes that they will not be the sole tracker of the tax credits, except for the credits administered by DOR. DOR's only role in the tax credit tracking systems will be to provide redemption amounts for tax credits. If DOR is incorrect in this assumption, then the department may incur additional impact.

DOR states this proposal also removes the tax credit for donations made to the Missouri Higher Education Scholarship Donation Fund. DOR did not receive any budgeted FTE or expenses when this legislation was implemented, other than one-time programming expenses. Therefore, DOR assumes no administrative savings to their agency from this part of the substitute.

In summary, DOR assumes the proposal will require additional expenses of $171,912 in FY 2005, and roughly $40,000 per year thereafter.

ASSUMPTION (continued)

Officials from the **Department of Economic Development (DED)** state they would ensure receipt of annual reports from recipients of DED credits or projects benefitting from DED credits, as applicable. This would result in the receipt of 1,000 - 4,650 reports annually. DED expects a number of delinquencies as well. DED would have one person responsible for monitoring receipt of reports and sending "late notices" as well as preparing referrals for DOR or INS for imposition of penalties. DED would absorb costs of revision of tax credit applications to accommodate new information required for any application. DED would need 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 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, plus associated costs, mail costs, and CMS revision costs.

DED assumed total cost from complying with this proposal to be between $70,000 and $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. INS also states additional resources may also be required to implement a system in conjunction with DOR to track issued and redeemed tax credits. Insurance companies redeem numerous tax credits administered from other agencies and transferring this information into a DOR system may require additional staff and/or contract computer programming to allow the two systems to interchange the data. Costs are unknown at this time.

INS states they are not included in the Interagency Development Task Force, but if required to participate by conducting cost benefit analysis, uncollected revenue analysis, and assist in compiling reports, additional staff may be required.

In summary, INS assumes an unknown cost to the Insurance Dedicated Fund.

ASSUMPTION (continued)

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.

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.

In response to a previous version of this proposal, officials from the **Department of Natural Resources (DNR)** stated 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. DNR states they would anticipate minimal fiscal impact as a result of this proposal.

In response to a previous version of this proposal, officials from the **Office of Secretary of State (SOS)** assumed there would be costs due to additional publishing duties related to various department's authority to promulgate rules, regulations, and forms. SOS estimated 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

ASSUMPTION (continued)

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 Revenue (DOR)			
Personal Service (1 FTE)	($18,614)	($22,895)	($23,468)
Fringe Benefits	($7,706)	($9,479)	($9,716)
Expense and Equipment	($7,082)	($531)	($547)
Programming expenses	($138,510)	$0	$0
Total Costs - DOR	($171,912)	($32,905)	($33,731)
Costs - Department of Economic Development (DED)			
Personal Service (1 FTE)	($31,612)	($38,465)	($39,427)
Fringe Benefits	($13,087)	($15,925)	($16,323)
Expense and Equipment	($14,308)	($8,674)	($8,931)
Programming expenses	($4,983)	($6,129)	($6,282)
Total Costs - DED	($63,990)	($69,193)	($70,963)

ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($235,902)**	**($102,098)**	**($104,694)**
FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
INSURANCE DEDICATED FUND			
Costs - Department of Insurance			
Costs to administer various aspects of Tax Credit Accountability proposal	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO THE INSURANCE DEDICATED FUND	**(UNKNOWN)**	**(UNKNOWN)**	**(UNKNOWN)**

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 and enacts the Tax Credit Accountability Act of 2004. The proposal:

(1) 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. (Section 21.810);

(2) 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. (Sections 135.800 and 135.802);

(3) 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 act requires that a taxpayer receiving a credit be made aware of the future reporting requirements prior to issuance. (Section 135.805);

(4) 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. (Section 135.810);

(5) Requires that prior to approval of any tax credit application, an administering agency shall verify through the Departments of Revenue and 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. (Section 135.815);

DESCRIPTION (continued)

(6) Requires that all administering agencies implement a system of tracking issuance and redemption of credits. This system should be developed with the cooperation of the Department of Revenue. (Section 135.825);

(7) Eliminates the Missouri Higher Education Scholarship donation credit, beginning in 2005. (Sections 173.196) and the tax credit for the Advantage Missouri Program (173.796);

(8) Provides that application information submitted by a taxpayer seeking a tax credit be made subject to the Sunshine Law once the credits have been approved. 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. (Sections 610.255 and 620.014);

(9) Expands the options of the Department of Economic Development when the department engages in an agreement regarding discretionary tax credits. Current law enables such agreements. This act will allow the department to require that specific purposes and goals for the incentive be set forth in each such agreement. Current law also allows for recapture of such discretionary credits where a taxpayer breaches the agreement. This act will expand the recapture to include the additional purposes and goals mentioned above. (Section 620.017);

(10) 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. (Section 620.1300);

(11) Creates an Interagency Development Task Force to summarize and annually report all uncollected revenues and appropriated expenditures at the state and local level. The task force will be comprised of the fiscal officers of the state Departments of Agriculture, Economic Development, Labor and Industrial Relations, Revenue, Natural Resources, and Transportation and convened by the Commissioner of Administration or, if the Commissioner so chooses, the Director of the Division of Budget and Planning or the Office of Administration. (Section 620.1655);

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
Department of Labor and Industrial Relations
Department of Transportation

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