COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0461-02
Bill No.: Perfected SB 112
Subject: Economic Development; Economic Development Department; Tax Credits
Type: Original
Date: April 3, 2013

Bill Summary: This proposal reauthorizes the New Markets Tax Credit and modifies provisions relating to it.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	$0	$0 to ($15,000,000)	$0 to ($15,000,000)
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0 to ($15,000,000)**	**$0 to ($15,000,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
New Markets Performance Guarantee	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

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 loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration - Budget and Planning** (**BAP**) assume this proposal limits the existing authority for the New Markets Tax Credit Program to FY 2008-FY 2010. Since FY 2011, the New Markets Tax Credit program has required annual legislative authorization (via concurrent resolution) in order to allocate benefits under the program. This proposal removes the provision calling for annual authorization and enacts a sunset date for a modified version of the program, which is six years from the effective date of the act unless reauthorized. The modified version of New Markets Tax Credit Program caps program utilization at $25 million annually. This proposal could therefore lower General and Total State Revenues by that amount. This proposal may encourage other economic activity, but BAP does not have data to estimate induced revenues.

This proposal establishes the New Markets Performance Guarantee Fund to accept and hold refundable deposits paid by qualified community development entities (CDE). These deposits would be returned to the CDE if program requirements are met; however, this would be an increase to Total State Revenue.

Officials at the **Department of Economic Development** (**DED**) assume this proposal reauthorizes the New Markets Tax Credit program, which maintains the $25 million cap per fiscal year. New language provides for a small fee to be collected from the Community Development Entities to be used to cover the administration of the program. The fee is collected in the New Markets Performance Guarantee Fund and requires an appropriation. The program has a 6-year sunset unless reauthorized by the General Assembly and an automatic 12-year sunset. The proposal also includes an emergency clause under section B.

DED assumes an unknown negative impact over $100,000 offset by an unknown positive impact as a result of economic development generated by the program. BCS is not requesting any new FTE at this time; however, if it is determined an additional FTE is needed the FTE will be requested in the normal budget process.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** state an unknown reduction of premium tax revenues as a result of the re-authorization of the New Markets tax credit is possible. 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

ASSUMPTION (continued)

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.

Officials at the **Department of Revenue** and the **Office of State Treasurer** each assume there is no fiscal impact to their agency from this proposal.

Oversight assumes the agencies responded to this proposal which had an annual cap of $25 million. Senate Amendment 1; however, changed the annual cap to $15 million.

Oversight assumes this proposal could affect Total State Revenues. The proposal has an emergency clause, and therefore the earliest of the issuance of the credits could occur as follows:

Fiscal Year	Earliest possible Credit Allowance Date	Applicable Percentage Rate
2013 (with emergency clause)	Contribution Made - 1st credit year	0%
2014	2nd credit year	0%
2015	3rd credit year	11%
2016	4th credit year	11%

Oversight assumes the current New Markets Tax Credit is to sunset on September 4, 2013. This proposal creates a new tax credit, similar to the previous credit, that will have a utilization cap of $15 million. Since this proposal has an emergency clause, the first credits could be issued beginning in FY 2015 (see table above), and therefore Oversight will reflect a loss to state revenue for the credits that could be issued in FY 2015 and FY 2016. Oversight will reflect the loss of revenue to the State as $0 (no credits are issued yet) to the $15 million cap.

Oversight assumes removing the sunset clause on the current New Market Tax Credit program would have no impact.

ASSUMPTION (continued)

This proposal creates the New Markets Performance Guarantee Fund. **Oversight** is unsure how many qualified community development entities will apply of this tax credit in the future and have to pay the fee. Oversight will range the impact of this fund as $0 (no additional applicants) to Unknown. Oversight also assumes that all money received in the fund will be spent in accordance with this proposal.

Oversight assumes the changes in this proposal would have a positive impact on the state. However, Oversight considers this to be indirect impact of the proposal and will not reflect it in the fiscal note.

FISCAL IMPACT - State Government	FY 2014	FY 2015	FY 2016
GENERAL REVENUE			
Revenue Reduction - § 135.680 recreation of the New Markets tax credit	$0	$0 to ($15,000,000)	$0 to ($15,000,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0**	**$0 to ($15,000,000)**	**$0 to ($15,000,000)**

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 loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

NEW MARKETS PERFORMANCE GUARANTEE FUND			
Income - Qualified Community Development Entity fee	$0 or Unknown	$0 or Unknown	$0 or Unknown
Cost - Department of Economic Development - administration of the tax credit	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Cost - Refund of Qualified Community Development fee	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
ESTIMATED NET EFFECT ON NEW MARKETS PERFORMANCE GUARANTEE FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2014	FY 2015	FY 2016
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that receive this credit may be impacted by this proposal.

FISCAL DESCRIPTION

Missouri's New Markets program provides a tax credit that can be taken against state income tax, bank tax, insurance premium tax, other financial institutions tax, and express companies tax by investors in funds established by specialized financial institutions called Community Development Entities (CDEs) for projects in Missouri.

Current law prohibits the authorization of investments that would receive tax credits under the New Markets tax credit program after June 30, 2010. Beginning on the effective date of the act, this act allows the Department of Economic Development to again authorize new qualified investments that would qualify for the New Markets tax credit.

FISCAL DESCRIPTION (continued)

This act also modifies certain terms of the New Markets tax credit program for investments made after the effective date of the act. Currently, the credit totals 39% of the amount invested by the taxpayer in the CDE as adjusted by state statute, and is claimed over a seven year period (0% for the first 2 years, 7% for the 3rd year, and 8% for the next 4 years). Under this act, the tax credit amount will be equal to 58% of the unadjusted amount invested in the CDE and the credits will be claimed over a seven year period (0% for the first 2 years, 11 % for the 3rd and 4th year, and 12% for the next 3 years). Currently, these tax credits are not transferable. This act does not prohibit the transfer of these tax credits, except that the credits are not saleable on the open market.

Current law requires CDEs to invest 85% of the capital into Missouri Qualified Businesses. This act requires that 150% of the capital that the CDE raises be invested in Missouri Qualified Businesses.

The Department of Economic Development is required to give the CDE six months after notice of non-compliance with certain terms of the program before the department recaptures the tax credits.

The act creates the New Markets Performance Guarantee Fund and requires CDEs that seek to have their investments designated as eligible for New Markets tax credits to pay one-half percent of the investment amount as a deposit that will be refunded to the CDE if the CDE invests 85% of the purchase price of the investment in qualified low-income community investments in Missouri within twelve months of the investment.

The act also prohibits CDEs from making certain distributions to their equity holders or making cash payments on long-term debt securities until the investment meets certain requirements and the Department of Economic Development approves the request. If the department denies the request unreasonably, the burden of proof is on the department in any administrative or legal proceeding. Fees from the investment fund are prohibited from being paid to a CDE until after the seventh anniversary of the initial investment.

The act establishes a sunset of six years after the effective date for the version of the New Markets tax credit created by this act.

This act contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

JH:LR:OD

SOURCES OF INFORMATION

Department of Economic Development
Department of Insurance, Financial Institutions and Professional Registration
Department of Revenue
Office of Administration
Budget and Planning
Office of State Treasurer

Ross Strope
Acting Director
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