COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0390-04
Bill No.: SCS for HCS for HB 135
Subject: Taxation and Revenue; Economic Development; Business and Commerce; Tax Credits; Appropriations; Political Subdivisions.
Type: Original
Date: April 22, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	($64,409 to Unknown)	($74,682 to Unknown)	($76,056 to Unknown)
Total Estimated Net Effect on General Revenue Fund**	**($64,409 to Unknown)**	**($74,682 to Unknown)**	**($76,056 to Unknown)**

****Includes Transfer Out of $0 to ($17,000,000) which is Subject to Appropriation**.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Supplemental Tax Increment Financing*	$0	$0	$0
Economic Development Advancement *	$0	$0	$0
Various State Funds	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Total Estimated Net Effect on Other State Funds	**$0 to (Unknown)**	**$0 to (Unknown)**	**$0 to (Unknown)**

*** Income and expenses in fund net to zero.**

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	**$0 or (Unknown)**	**$0 or (Unknown)**	**$0 or (Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Section 99.845 - Raises the annual caps of the State Tax Increment Financing program from $15 million to $32 million annually;

Oversight has learned that there are several projects under the state's Tax Increment Financing (TIF) program that will soon exceed the current cap of $15 million. Oversight will range the fiscal impact of this part of the proposal from $0 to a $17 million (difference between $32 million and $15 million) loss in revenue.

Section 99.960 - State Downtown Economic Stimulus program annual cap reduced from $150 million to $108 million;

Oversight assumes the reduction in the annual limit of disbursements from the State Supplemental Downtown Development fund from $150 million to $108 million will not have an immediate fiscal impact the state since no activity has passed through this program yet.

ASSUMPTION (continued)

Sections 100.710 - 100.850 - BUILD program changes;

In response to a previous version of this proposal, officials from the **Department of Insurance** assumed these changes would not fiscally impact their agency.

Officials from the **Department of Revenue (DOR)** do not anticipate any additional administrative impact from this part of the proposal. The changes expand the credit but not significantly enough to warrant any impact. Business Tax spoke with DED concerning this credit and DED indicated that it would be a positive impact on DED but didn't really think that it would have much impact overall.

In response to a previous version of this proposal, officials from the **Department of Economic Development (DED)** stated this clarifies the BUILD tax credit cap issue created by passage of multiple bills last session addressing the same statute. It also allows local development partners to be the beneficiary of the credits to offset public infrastructure costs necessary to cause the development to occur as long as the industry meets and maintains program compliance. Neither change will have fiscal impact on DED.

Oversight assumes the BUILD program has an annual cap, as expressed in 100.850.5 RSMo. of either $11,000,000, $15,000,000 or $11,950,000. Oversight assumes the changes made in the program by this proposal will not change the annual cap. Therefore, Oversight assumes the proposal may result in an increased utilization of the program, however the fiscal impact of the program has already been expressed in the fiscal note that accompanied the enabling legislation as well as in subsequent legislation that changed the annual limit of tax credits. Therefore, Oversight will assume no additional fiscal impact from the proposal.

Section 144.049 - Sales tax holiday;

Officials from the **Office of Administration - Budget and Planning** deferred to the Department of Revenue for fiscal impact of this section.

Officials from the **Department of Revenue (DOR)** assume the administrative impact of this section of the proposal is minimal since DOR is already set up to do this again. Printing and postage costs for approximately 40,000 letters each year are estimated to cost DOR $19,750 annually.

ASSUMPTION (continued)

Officials from **St. Louis County** state if their council approves opting out of future sales tax holidays as permitted in this substitute, there could be an annual savings of $700,000 based on the losses that the County incurred during the last sales tax holiday.

Officials from the **City of West Plains** state if their city couldn't opt out of the of the holiday, it could cause an unknown negative financial impact on the city.

Oversight assumes this proposal would permit cities and counties that opted out of August 2004 holiday to remain exempted from it, and would provide them the option of opting out, by ordinance, of sales tax holidays in August 2005 and in subsequent years.

In the absence of estimated state sales tax loss data, **Oversight** reverts back to BAP data provided for a similar previous fiscal note (FN #0345-12 from the 2003 regular session). In it, **Oversight** used BAP data to assume an annual sales tax loss of $2.5 million per year and $875,000 to cities and counties. Applying a 2% growth rate to such estimates results in a sales tax loss of $2.55 million in FY06, $2.6 million in FY07, and $2.65 million in FY08 to General Revenue and various state funds.

Oversight assumes this proposal mandates that any local government that passed an ordinance to "opt out" of the 2004 sales tax holiday would remain exempt from it in August 2005 (FY06), unless such an entity passed ordinance to participate. **Oversight** further assumes that all political subdivisions would be required by this proposal to participate in the 2006 sales tax holiday (FY07), unless such a political subdivision approves an ordinance to allow the sales tax holiday not to apply to their local sales tax.

For purposes of this fiscal note, **Oversight** assumes that local political subdivisions that participated in the 2004 sales tax holiday would experience a loss of sales tax revenue in FY06 for three days on the sales of items exempted by Section 144.049, RSMo. **Oversight** cannot determine the number of political subdivisions that will enact ordinances to "opt out" of subsequent sales tax holidays. Therefore, the number of localities and amount of sales tax revenue lost in those years as a result of this proposal cannot be determined.

Oversight acknowledges that local political subdivisions could see an increase in sales tax revenues from non-exempt items as a result of this proposal due to increased retail activity spurred on by the holiday. Such an increase in sales of non-exempt items could potentially offset the sales tax loss created by the exemption contained in this proposal. However, **Oversight** lacks sufficient conclusive data to make a credible estimate.

<u>ASSUMPTION</u> (continued)

Sections 620.1875 - 620.1890 - Missouri Quality Jobs Act;

Officials from the **Office of Secretary of State (SOS)** assume there would be costs due to additional publishing duties related to the Department of Economic Development's authority to promulgate rules, regulations, and forms. SOS estimates the division could require approximately 12 new pages of regulations in the Code of State Regulations at a cost of $27.00 per page, and 18 new pages in the Missouri Register at a cost of $23.00 per page. Costs due to this proposal are estimated to be $738, 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.

Officials from the **Office of the State Treasurer (STO)** state their office only ensures disbursements are made from a lawful appropriation and don't exceed the amount of the appropriation. The wording in the proposal states the STO "shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo." The STO assumes with this language in the proposal, they will require an FTE Analyst I (at $36,444 annually plus associated expenses) to monitor these disbursements.

Officials from the **Department of Revenue (DOR) – Division of Taxation** assume they will have internal costs associated with the implementation of this legislation; however, the division believes it can manage these costs at current appropriation levels unless there is a material change in the division's other responsibilities.

Officials from the **Office of Administration - Budget and Planning** defers to the Department of Economic Development for a fiscal impact.

Officials from the **Department of Economic Development** assume no administrative impact from the proposal.

ASSUMPTION (continued)

Oversight also assumes the reduction to the annual limitation of the Rebuilding Communities tax credit program from $10 million per year to $8 million per year would not have a fiscal impact to the state, since the issuances for the last four fiscal years have been $2,172,260 (FY 2002), $3,322,480 (FY 2003), $1,220,667 (FY 2004) and $2,465,594 (projected for FY 2005). Therefore, the new cap of $8 million is still higher than the historical issuances by DED

Section 620.1900 - Department of Economic Development may charge a fee for tax credit issuances;

Officials from the **Department of Economic Development (DED)** state if the 2.5% fee were applied to all tax credits, the fees collected would total approximately $6 million. This is based on the amount of tax credits issued in FY 2004 less programs excluded by the proposal and tax credits that have or will sunset. It is unknown if the maximum fee will be charged to all tax credit issuances.

According to the Report on Missouri Tax Credits Administered by the Department of Economic Development, February 2005, DED issued roughly $313 million of tax credits in FY 2004 and is estimated to issue roughly $344 million in FY 2005. Reducing this amount by the exempted programs, DED issued a net $285.5 million in FY 2004 and is estimating $311.4 million of issuances for FY 2005. Multiplying these amounts by the maximum 2 ½ percent allowed per Section 620.1900, DED could have charged fees of roughly $7.8 million ($311.4 million x 2.5%) in FY 2005. The proposal states that DED may charge a fee to recipients, and that this fee can be up to 2 ½ percent of the amount of tax credits issued. Therefore, **Oversight** will range the fiscal impact from Section 620.1900 from $0 (DED decides not to charge a fee) to $7.8 million. Oversight will assume ten months of impact in FY 2006 and also assume a growth rate of 12 percent for tax credit issuances (and potential corresponding fees) based on historical averages.

This proposal may reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE			
Costs - Department of Revenue			
Postage expense for sales tax holiday	($19,750)	($19,750)	($19,750)
Costs - State Treasurer's Office (STO)			
Personal Service (1 FTE)	($31,129)	($38,289)	($39,246)
Fringe Benefits	($13,280)	($16,334)	($16,742)
Equipment and Expense	($250)	($309)	($318)
Total Costs – STO	($44,659)	($54,932)	($56,306)
Loss – Sales Tax Revenues (144.049) - Sales Tax Holiday	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Loss - Tax credits in the Missouri Quality Jobs Act	$0 to ($12,000,000)	$0 to ($12,000,000)	$0 to ($12,000,000)
Loss - Withholding payments retained by employers for new jobs created under the Missouri Quality Jobs Act	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Transfer Out - Increase in tax increment financing from $15 million to $32 million (Section 99.845) to be transferred to the Missouri supplemental tax increment financing fund*	$0 to ($17,000,000)	$0 to ($17,000,000)	$0 to ($17,000,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($64,409 to Unknown)**	**($74,682 to Unknown)**	**($76,056 to Unknown)**

*** Subject to Appropriation**

FISCAL IMPACT - State Government (continued)	FY 2006 (10 Mo.)	FY 2007	FY 2008
MISSOURI SUPPLEMENTAL TAX INCREMENT FINANCING FUND			
Transfer In - from General Revenue fund from increased cap on annual TIF	$0 to $17,000,000	$0 to $17,000,000	$0 to $17,000,000
Loss - Increase payments to municipalities for TIF projects	$0 to ($17,000,000)	$0 to ($17,000,000)	$0 to ($17,000,000)
ESTIMATED NET EFFECT TO THE MISSOURI SUPPLEMENTAL TAX INCREMENT FINANCING FUND	**$0**	**$0**	**$0**
ECONOMIC DEVELOPMENT ADVANCEMENT FUND			
Income - fees from up to 2 ½ percentage of certain tax credits issued by DED	$0 to $6,500,000	$0 to $8,736,000	$0 to $9.784,320
Costs - disbursement from fund as specified in Section 620.1900	$0 to ($6,500,000)	$0 to ($8,736,000)	$0 to ($9.784,320)
ESTIMATED NET EFFECT TO THE ECONOMIC DEVELOPMENT ADVANCEMENT FUND	**$0**	**$0**	**$0**
VARIOUS STATE FUNDS			
Loss – Sales Tax Revenues (144.049) Sales Tax Holiday	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	**$0 TO (UNKNOWN)**	**$0 TO (UNKNOWN)**	**$0 TO (UNKNOWN)**

FISCAL IMPACT - Local Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
Loss – Cities and Counties (144.049)			
Sales Tax Revenues	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	**$0 or (Unknown)**	**$0 or (Unknown)**	**$0 or (Unknown)**

FISCAL IMPACT - Small Business

Small businesses that qualify for the various tax credit programs created or changed by this proposal could be impacted by this proposal. Also, small retailers could see an increase in sales during sales tax holiday periods as a result of this proposal.

DESCRIPTION

The substitute allows a development agency, corporation, limited liability company, or partnership formed on behalf of a development agency to qualify as an eligible industry for the purposes of the Business Use Incentives for Large-Scale Development (BUILD) Program. Included is the requirement that $950,000 of the $15 million in tax credits authorized annually for BUILD be reserved for an approved project in Kansas City. The act removes the previous expiration date of January 1, 2006 with regards to essential industry projects approved by the Department of Economic Development by December 31, 2005.

The act also establishes the Missouri quality jobs program. The program allows qualified companies to retain a portion of the withholding tax or wages paid to employees in newly created jobs. To qualify for the program, employers must offer basic health insurance and pay at least 50% of the premiums. The three types of qualifying programs are as follows:

- SMALL AND EXPANDING BUSINESS PROGRAM: These programs must create more than 20 new jobs if in a rural area and 40 new jobs if in a non-rural area in two years. The program is unavailable if creating 100 jobs or more. The employers must pay at least the county average wage.

DESCRIPTION (continued)

- TECHNOLOGY BUSINESS PROGRAM: These programs must create ten new jobs directly involved in the operations of a technology company as defined by the Department of Economic Development and appropriate NAICS (North American Industry Classification System) in two years.

- HIGH IMPACT PROJECTS PROGRAM: These programs must provide a minimum of 100 new jobs within two years.

For each of these programs, the employers may retain withholding tax for a set number of years based on what they are paying relative to the county average wage. The technology business program and high impact projects program may be eligible for tax credits. High impact projects may receive additional benefits if the local government provides benefits equal to their new local tax revenue.

Companies that have been found guilty of violating laws relating to labor, health and safety, or the environment in the last five years shall not qualify for this program.

The act establishes the "Quality Jobs Advisory Task Force" which consists of the chairpersons of the economic development of the Missouri senate and the Missouri house or his or her designee, the director of the Department of Economic Development or his or her designee, and two members appointed by the governor. If the Department of Economic Development wants to increase the maximum amount of tax credit given to a qualified high impact project company, they may increase the amount up to one million dollars if the increase is proposed by the department and approved by the task force.

The act empowers the Department of Economic Development to charge a fee to the recipient of certain tax credits of two and one-half percent of the tax credits issued. They may not charge a fee for credits issued for community service, crime prevention, education, job training, or physical revitalization. The fees are to be deposited in the Economic Development Advancement Fund which is established by this act.

The act caps the tax credits issued for the program at twelve million dollars and the maximum amount authorized for business relocation in a distressed community is reduced from ten million dollars to eight million dollars. The remaining balance of two million dollars in tax credits is transferred to the quality jobs program. The Missouri Downtown and Rural Economic Stimulus Act cap is reduced to one hundred eight million dollars.

DESCRIPTION (continued)

Additionally, the tax increment financing cap is raised from fifteen to thirty-two million dollars.

Finally, the act also extends the current state and local sales and use tax holiday for certain clothing, personal computers, and school supplies purchased for personal use during a three-day period each August. The act does not apply to retailers when less than 2% of their sales are for qualifying merchandise during the holiday.

For the 2005 sales tax holiday, the ability for local governments to opt out of the holiday is limited to those that opted out in 2004. After the 2005 sales tax holiday, any political subdivision may adopt an ordinance or order to opt out of the holiday.

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 Revenue
Department of Insurance
Office of Administration - Budget and Planning
Office of the Secretary of State
Office of the State Treasurer
St. Louis County
City of West Plains

Mickey Wilson

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