HCS SS SCS SB 8 -- TAX CREDITS

SPONSOR: Mayer (Tilley)

COMMITTEE ACTION: Voted "do pass" by the Committee on Economic Development by a vote of 21 to 4.

This substitute changes the laws regarding certain tax credits.

EXPIRATION OF CERTAIN TAX CREDITS

The substitute adds sunset language to the following tax credits as specified but allows any credit that is authorized prior to the expiration date to be issued and redeemed:

(1) Development Tax Credit Program. No credit can be authorized for this program under Sections 32.100 - 32.125 on or after the effective date of the substitute (Section 32.115);

(2) Income Tax Credit for Surviving Spouses of Public Safety Officers. The substitute extends the provisions regarding the credit from August 28, 2013, to August 28, 2015 (Section 135.090);

(3) Special Needs Adoption and Children in Crisis Tax Credits. Expenses incurred as the result of an international adoption are not eligible for a tax credit under the Special Needs Adoption Tax Credit Program. The substitute extends the provisions regarding the Children in Crisis Tax Credit from August 28, 2012, to August 28, 2015 (Sections 135.326 and 135.327);

(4) Rebuilding Communities and Neighborhood Preservation Act. No credit can be authorized under this program on or after the effective date of the substitute (Section 135.484);

(5) Residential Dwelling Access Tax Credit. The substitute extends the provisions regarding this credit from December 31, 2013, to August 28, 2015 (Section 135.562);

(6) Tax Credit for Contributions to Pregnancy Resource Centers. The substitute extends the provisions regarding the tax credit from August 28, 2012, to August 28, 2015 (Section 135.630);

(7) Tax Credit for Donated Food. The substitute extends the provisions regarding the income tax credit for a donation to a food pantry from August 28, 2011, to August 28, 2015 (Section 135.647);

(8) Tax Credit for Grape and Wine Producers. Beginning January 1, 2012, no more than $200,000 in tax credits can be

authorized annually (Section 135.700);

(9) Residential Treatment Agency Tax Credit Act. The substitute extends the provisions regarding the credit from August 28, 2012, to August 28, 2015. The annual amount of tax credits for which an agency is authorized is increased from up to 40% to up to 100% of the payments received from the Department of Social Services in the preceding 12 months (Section 135.1150);

(10) Family Development Account Program Tax Credit. The substitute reduces the credit from 50% to 35% of a contribution that exceeds $1,000 for all taxable years beginning on or after January 1, 2012. The credit is transferable (Section 208.770);

(11) Historic Structures Rehabilitation Tax Credit. For each fiscal year beginning on or after July 1, 2011, the substitute limits to $80 million the total amount of credits that the Department of Economic Development can approve. For all applications for credits approved on or after July 1, 2011, no more than $125,000 may be issued for eligible costs and expenses incurred in the rehabilitation of certain eligible owner-occupied residential property. For each fiscal year beginning on or after July 1, 2011, the substitute limits to $10 million the total amount of credits for projects receiving less than $275,000 that the department can approve. For all credits authorized on or after July 1, 2011, the substitute reduces from three years to one year the time period that the credit can be carried back and from 10 years to five years the time period that the credit can be carried forward. A taxpayer who receives a low-income housing tax credit for a project not financed through tax-exempt bond issuance cannot be eligible for a historic preservation tax credit for the same project. An application for final approval and issuance of a tax credit must include a cost and expense certification by an independent licensed certified public accountant with any accrued developer fees stated separately. The department will have 120 days from receipt of the application for final approval to determine whether the completed project meets required standards and to issue tax credit certificates equal to 75% of the eligible costs and expenses verified to that date. If a taxpayer receives tax credits that include an amount attributable to accrued developer fees, he or she must submit within six years of completion of the rehabilitation an additional cost and expense certification verifying the total amount of developer fees actually accrued and paid. If the amount of the tax credits issued and attributable to developer fees exceeds the amount of developer fees actually accrued and paid, the taxpayer is liable to repay 25% of the excess. A taxpayer or his or her authorized representative may appeal any official decision on a preliminary or final approval to an independent third-party appeals officer designated by the

department (Sections 253.545 - 253.559); and

(12) Remediation Tax Credit. For each fiscal year beginning on or after July 1, 2011, but ending on or before June 30, 2015, no more than $40 million in Brownfield Redevelopment Program remediation tax credits can be authorized. For each fiscal year beginning on or after July 1, 2015, the total amount of tax credits is limited to $35 million. The substitute prohibits the authorization of more than $10 million in Brownfield tax credits each fiscal year beginning on or after July 1, 2011, and ending on or before June 30, 2015, for projects that receive a Distressed Areas Land Assemblage Tax Credit. The total amount of credits is limited to $5 million for each fiscal year beginning on or after July 1, 2015, and no credit can be authorized on or after August 28, 2018. Projects eligible to receive a remediation tax credit will not be eligible to also receive a tax credit for a new or expanded business facility under Sections 135.100 - 135.150 or an enterprise zone under Sections 135.200 - 135.257 after the effective date of the substitute (Section 447.708).

MUNICIPAL TECHNOLOGY BUSINESS FACILITY PROJECTS (Section 67.2050)

The governing body of any county, city, incorporated town, or village is allowed to engage in projects involving a technology business facility used for wired telecommunications; data processing, hosting, and related services; or Internet publishing and broadcasting and web search portals. The governing body is authorized to:

(1) Carry out technology business facility projects for economic development;

(2) Accept grants from the federal and state governments for the project's purposes and enter into an agreement which may be required by the grantor if the agreement is not contrary to Missouri laws;

(3) Receive gifts and donations from private sources to be used for the project's purposes; and

(4) Enter into loan agreements and to sell, lease, or mortgage to individuals, partnerships, or corporations any one or more of the components of a technology business facility project.

Transactions involving the lease or rental of any project component are exempt from state and local sales taxes, and leasehold interests will not be subject to property taxes.

If an individual or corporation transfers property for a project free of charge to the governing body, it will retain the right to have the governing body transfer the donated property back at no cost. The authorization to engage in projects involving a technology business facility does not authorize a political subdivision to provide telecommunications services or telecommunications facilities to the extent that they are prohibited from doing so under Section 392.410.

INCOME TAX CREDIT FOR COSTS TO ATTRACT SPORTING EVENTS (Sections 67.3000 and 67.3005)

The substitute authorizes an income tax credit for the eligible costs of bringing a sporting event to Missouri. In order to receive the tax credit, the Department of Economic Development must certify the applicant's sporting event support contract between the applicant and a site selection organization. These organizations are specified in the substitute and include, but are not limited to, the National Collegiate Athletic Association, the United States Olympic Committee, and the United States Golf Association.

The applicant must submit documentation of the eligible costs within 30 days of the conclusion of the sporting event. Within seven days of the conclusion of the sporting event, the department, in consultation with the Director of the Department of Revenue, must determine the total number of tickets sold at face value for the sporting event. Within 60 days of receiving the documentation from the applicant of the eligible costs, the department must issue a refundable tax credit equal to 100% of the eligible costs or an amount equal to $5 for every admission ticket sold to the sporting event, whichever is less. The tax credit may be transferred, sold, or assigned. No more than $3 million of these tax credits can be issued by the department in any fiscal year.

The department can only certify a support contract for a sporting event in which the location is selected after the effective date of the substitute. The department cannot certify a contract after August 28, 2017, but can certify a contract before that date for a sporting event that will be held after that date.

The substitute authorizes a tax credit equal to 50% of any eligible donation to a certified sponsor or local organizing committee. The credit is not refundable but can be carried forward up to four years or sold. No more than $10 million of these tax credits can be issued by the department in any fiscal year.

DISTRESSED AREAS LAND ASSEMBLAGE TAX CREDIT (Section 99.1205)

The substitute revises the definition of "eligible project area" to include a redevelopment area as defined under the Real Property Tax Increment Allocation Redevelopment Act that contains at least 300 acres in 80 or more parcels, includes or previously included in excess of 10 million square feet of commercial building space, and is located within a low income community as defined in 26 U.S.C. Section 45D as of January 1, 2011. The definition of "acquisition costs" is revised to include engineering costs, attorney fees, and architectural and planning costs.

The provision is removed which restricts an applicant from receiving a tax credit for acquisition and interest costs of an eligible parcel for only up to five years. The substitute allows a tax credit for 100% of the reasonable demolition costs. Currently, the credit is 50% of those costs. An applicant is allowed to file for the tax credit quarterly. Currently, the applicant can only file annually.

The annual program cap is increased from $20 million to $30 million, but the aggregate program cap remains at $95 million. A process is established for allocating the annual $30 million in tax credits depending upon the number of eligible applicants. However, if there are more than two applicants, no single applicant can receive more than 50% of the available tax credits. The substitute extends the provisions regarding the credit from August 28, 2013, to August 28, 2016.

LOW-INCOME HOUSING TAX CREDITS (Sections 135.350 and 135.352)

For each fiscal year beginning on or after July 1, 2011, the substitute limits the total amount of low-income housing tax credits that can be authorized for projects not financed through tax-exempt bond issuance to $110 million, authorizes the tax credit to be carried forward for five years, and reduces from three years to two years the time period that a low-income housing tax credit can be carried back.

Beginning July 1, 2011, the substitute limits the total amount of low-income housing tax credits that can be authorized annually for projects financed through tax-exempt bond issuance to $20 million.

A taxpayer receiving a Historic Structures Rehabilitation Tax Credit under Sections 253.545 - 253.559 cannot receive a tax credit under this program for the same project if it is not financed through tax-exempt bond issuance.

TAX CREDIT FOR RELOCATING A BUSINESS TO A DISTRESSED COMMUNITY (Section 135.535)

The substitute repeals provisions authorizing the use of up to $100,000 of any remaining credits under the cap for relocating a business to a distressed community to be used for the Residential Dwelling Access Tax Credit in Section 135.562.

TAX CREDIT ACCOUNTABILITY ACT OF 2004 (Section 135.825)

The Committee on Legislative Research must conduct a review of any tax credit program by September 1 of the calendar year prior to the year in which the tax credit sunsets.

DEVELOPMENTAL DISABILITY CARE PROVIDER TAX CREDIT PROGRAM (Section 135.1180)

The Developmental Disability Care Provider Tax Credit Program is established which, for all taxable years beginning on or after January 1, 2011, authorizes a credit of 50% of the amount of a taxpayer's contribution to a qualified developmental disability care provider if the provider submits an application for the credit to the Department of Social Services on behalf of the taxpayer, provides the taxpayer's name and identification number and the date and amount of the donation, and pays the department an amount equal to the value of the credit. The credit is not refundable but can be carried forward for up to four years and is transferable.

MISSOURI EXPORT ACT (Sections 135.1500 - 135.1521)

The substitute establishes the Missouri Export Act to encourage foreign trade through the Lambert-St. Louis International Airport by offering a tax credit for freight forwarders.

For all taxable years beginning on or after January 1, 2011, a tax credit is authorized for a freight forwarder against income taxes with the exception of withholding taxes; corporate franchise taxes; and financial institution taxes. The substitute specifies the requirements for freight forwarders to receive benefits and how the benefits will be calculated. No credit can be authorized after August 28, 2019.

The amount of tax credits is capped per fiscal year as specified in the substitute. Tax credits that are authorized but not issued due to the annual caps can be carried forward to the next year. Tax credits that are authorized before the provisions of the substitute expire will continue to be issued until all authorized credits have been issued. An authorized tax credit that exceeds an applicant's tax liability for a year may be carried forward for six years, transferred, sold, or assigned.

DATA STORAGE CENTERS (Section 144.810)

The substitute authorizes an exemption for 100% of the state and local sales and use tax for up to 15 years on items related to a new data storage center and for up to 10 years on items related to an expanding data storage center. The exemption for a new center includes all electrical energy, gas, water, and other utilities including telecommunications and Internet services; all machinery, equipment, and computers; and all retail sales of tangible personal property and materials for the purpose of constructing, repairing, or remodeling a new data storage center. To be eligible, a new facility must invest at least $37 million within 36 consecutive months. The exemption for an expanding center includes all electrical energy, gas, water, and other utilities including telecommunications and Internet services which, on an annual basis, exceed the amount used in the existing or the replaced facility prior to the expansion; all machinery, equipment, and computers if the cost, on an annual basis, exceeds the average of the previous three years' expenditures used in the existing or the replaced facility prior to the expansion; and all retail sales of tangible personal property and materials for the purposes of constructing, repairing, or remodeling an expanding data storage center. To be eligible, an expanding facility must invest at least $5 million within 12 consecutive months. The Department of Economic Development and the Department of Revenue must cooperate in conducting random audits to make certain that the intent of these provisions are followed. No person receiving an exemption will be eligible for benefits under any business recruitment tax credit as defined in Section 135.800.

MISSOURI HOUSING DEVELOPMENT COMMISSION (Sections 215.020, 215.030, 215.033, and 215.034)

The substitute creates the Missouri Housing Development Commission Operating Budget Fund, authorizes the commission to transfer moneys from any fund it administers to the new fund, and requires the operating budget of the commission to be subject to annual appropriations by the General Assembly.

MO JOBS TRAINING PROGRAM (Sections 620.800 - 620.809)

The MO Jobs Training Program is established to assist qualified companies with the training of employees in new jobs and the retraining or upgrading of the skills of full-time employees in retained jobs. The program will be funded through appropriations from the MO Jobs Development Fund which was formerly the Missouri Job Development Fund; the MO Jobs Community College New Jobs Training Fund which was formerly the Missouri Community College Job Training Program Fund; and the MO Jobs Community College Job Retention Training Fund which was formerly the Missouri Community College Job Retention Training Program Fund. The substitute specifies the requirements for a qualified company to receive benefits under the program, how the benefits will be calculated, and the penalties for failure to meet any requirements under the program.

The provisions regarding the Missouri Job Training Joint Legislative Oversight Committee are repealed and the MO Jobs Training Joint Legislative Oversight Committee is established consisting of three members of the House of Representatives appointed by the Speaker and three members of the Senate appointed by the President Pro Tem. An annual report must be submitted by October 1 to the Governor, Speaker of the House of Representatives, and President Pro Tem of the Senate regarding all assistance provided to industries during the preceding fiscal year.

These provisions will expire July 1, 2018, unless reauthorized by the General Assembly.

MISSOURI QUALITY JOBS PROGRAM (Sections 620.1878 - 620.1890)

The substitute authorizes economic incentives for job retention projects under the Missouri Quality Jobs Program for a qualified company that meets certain requirements if the Department of Economic Development determines that there is a significant probability that the qualified company would relocate to another state in the absence of the benefits. The economic incentives can be in the form of retaining taxes otherwise withheld from full-time jobs or a tax credit. Prior to the award of any benefits, the department director must notify the President Pro Tem of the Senate and the Speaker of the House of Representatives of the amount of the award and other specified information unless the disclosure is otherwise protected by law.

In order to receive withholding tax retention benefits, the qualified company must retain at least 125 full-time employees for a period of 10 years from approval of the notice of intent, make a new capital investment at the project facility within three years from approval of the notice of intent in an amount equal to 50% of the total withholding tax retention benefits, and enter into a written agreement with the department containing detailed performance requirements and repayment penalties in the event of nonperformance. If a qualified company meets these requirements, it may be authorized to retain up to 100% of the withholding taxes from full-time jobs for a period of 10 years if the average wage of the retained jobs equals or exceeds 90% of the county average wage. The aggregate amount of retained withholding taxes authorized is limited to $6 million for each fiscal year beginning on or after July 1, 2011. The substitute specifies the factors that the department must consider in awarding withholding tax retention benefits.

Beginning January 1, 2012, but ending on December 31, 2013, in lieu of the withholding tax retention benefits, the department may authorize a qualified company a one-time tax credit in an amount up to 7% of new payroll from the new jobs created over a five-year period or up to 9% if the qualified company is in a targeted industry as identified by the department by rule following a specified process. The qualified company must also enter into a written agreement with the department covering the applicable project period which contains detailed performance requirements; the time period during which the tax credits will be issued; repayment penalties, including recapture of the tax credits, in the event of nonperformance; and other specified information. The total credits authorized cannot exceed $10 million annually.

REPEAL OF CERTAIN TAX CREDITS

The provisions regarding the following tax credits are repealed:

(1) The credit for a person, firm, or corporation who engages in the business of producing charcoal or charcoal products in the state which has expired (Section 135.313);

(2) The credit for a donation of more than $100 to the Missouri Health Care Access Fund (Section 135.575); and

(3) The credit for a self-employed taxpayer who is ineligible for the federal income tax health insurance deduction under Section 162 of the federal Internal Revenue Code (Section 143.119).

The provisions of the substitute regarding the income tax credit for attracting sporting events will expire six years from the effective date, and the provisions regarding the Developmental Disability Care Provider Tax Credit Program will expire four years from the effective date.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Effect on General Revenue Fund of an income of Unknown greater than $69,011,524 to a cost of Unknown greater than $14,470,213 in FY 2012, an income of Unknown greater than $69,011,524 to a cost of Unknown greater than $25,138,784 in FY 2013, and an income of Unknown greater than $69,011,524 to a cost of Unknown greater than $21,312,882 in FY 2014. Estimated Cost on Other State Funds of Unknown in FY 2012, Unknown in FY 2013, and Unknown greater than $300,000 in FY 2014.

PROPONENTS: Supporters say that the bill’s economic incentives are necessary to foster economic development, create new jobs, and retain jobs by encouraging companies to stay in Missouri. The bill will also help to create an international marketplace in Missouri and a demand for our products internationally.

Testifying for the bill were Senator Mayer, Missouri Chamber of Commerce and Industry; Tony Clayton, Clayton Agri-Marketing, Incorporated; Francis Slay, Mayor of St. Louis City; Eric Green, Sigma Aldrich; Missouri Pork Association; University of Missouri; J. P. Dunn, Missouri Soybean Association; Tammy Henderson, Hunt-Midwest; St. Louis Regional Chamber and Growth Association; Associated Industries of Missouri; Taypayers Research Institute of Missouri; Greater Kansas City Chamber of Commerce; Metropolitan Community College; Bob Langenkamp, Assistant City Manager of Kansas City; Missouri AFL-CIO; Monsanto; Missouri Budget Project; Erica Leonard, Office of the St. Louis County Executive; Campaign Life Missouri; and David Kerr, Director of the Department of Economic Development.

OPPONENTS: Those who oppose the bill say that there is already enough empty warehouse space in the St. Louis metropolitan area and the Aerotropolis tax credit portion of the bill is unnecessary and wasteful. It is not the role of government to create jobs. The legislature should just let the free market system work on its own and not interfere. The bill does not treat people equally, but rather treats them differently based upon geographic location and the industry they serve.

Testifying against the bill were Missouri Association of Realtors; Robert Wood; Missouri Right To Life; Paul Hamby, Campaign for Liberty; Ron Calzone, Missouri First, Incorporated; David Linton; Bruce Hillis; Debbie Sheals; Elizabeth Rosin, Rosin Preservation; and Alliance for Investment, Jobs and Preservation.