

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0053-09
Bill No.: SCS for HCS for HB Nos. 116 and 316
Subject: Taxation and Revenue - General, Revenue Dept.
Type: Original
Date: April 18, 2011

Bill Summary: Would create a tax amnesty program for delinquent taxes and provide additional procedures for collecting state debts. Would modify the sales tax exemption for nonprescription drugs for disabled persons, and would make changes to tax credit program limits and procedures.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue *	More than \$100,000	More than \$100,000 to Unknown	More than \$100,000 to Unknown
Total Estimated Net Effect on General Revenue Fund *	More than \$100,000	More than \$100,000 to Unknown	More than \$100,000 to Unknown

*** Note: The Department of Revenue has estimated that the amnesty program would result in the collection of approximately \$74 million in FY 2012 of which approximately \$50 million is currently identified and the balance of approximately \$24 million would be considered additional revenue.**

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 increase 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 32 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Conservation Commission	Unknown	Unknown	Unknown
Parks, and Soil and Water	Unknown	Unknown	Unknown
School District Trust	Unknown	Unknown	Unknown
Various state funds	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	1	1	1
Total Estimated Net Effect on FTE	1	1	1

- 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 2012	FY 2013	FY 2014
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Although they did not respond to our request for information, officials from the **Office of the Secretary of State (SOS)** provided a response to a previous version of the proposal.

SOS officials assumed that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for the fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

SOS officials also assume this proposal would discourage in-state or out-of state broker-dealers and investment advisors from applying for a Missouri license, and would result in a loss of revenue from application fees.

In addition, SOS officials assume this proposal would require one additional FTE at approximately \$50,000 per year including benefits, an additional \$30,000 for temporary help to implement the registration process, and \$50,000 in technology updates.

ASSUMPTION (continued)

Oversight assumes that any reduction in license fees and related revenues would be minimal, and offset by increased revenues from taxes and fees collected.

Oversight will include an estimate of less than \$100,000 in FY 2012 for the SOS IT upgrades. Oversight assumes that the additional work could be accomplished with existing staff. If unanticipated additional costs are incurred or if multiple proposals are implemented which increase the SOS workload, resources could be requested through the budget process.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume this proposal would not result in additional costs or savings to their organization.

Sales Tax Exemption for Nonprescription Drugs

BAP officials noted that under current law, individuals with disabilities are exempt from paying sales taxes on nonprescription drugs. This proposal would restrict the exemption to nonprescription drugs dispensed to disabled persons by prescription.

Oversight assumes that some but not all disabled persons who purchase nonprescription drugs under the current sales and use tax exemption would be able to obtain a prescription, and will indicate an unknown increase in sales tax collections for the state General Revenue Fund, for the other state funds which receive sales tax revenues, and for local governments.

Tax Amnesty and Department of Revenue Collections

BAP officials stated that the proposal would create an amnesty from all accrued penalties and interest on unpaid taxes, if taxes are appropriately filed during a period from August 1, 2011, to October 30, 2011. This proposal appears to be similar to the amnesty program in FY 2003. BAP estimates that \$75 million in revenues was received under that program, including \$50 million already identified from Department of Revenue (DOR) investigations completed or in process. BAP estimates \$25 million of these revenues were "new" revenues from previously unidentified sources. Of those figures, approximately 70% would pertain to General Revenue.

ASSUMPTION (continued)

The proposal would increase general and total state revenue by improving tax collection procedures on delinquent taxes and/or debt owed to the state. It would also allow the DOR to retain 1% of the amount of any local sales or use tax collected to cover their costs. This proposal would also give the DOR authority to collect debt on behalf of other state agencies. All taxes in this proposal are existing, thus there would be no 18e impact.

BAP officials deferred to DOR for estimates of the costs and increased revenue collections resulting from operational efficiencies.

Tax Credit Programs

BAP officials stated that this proposal would remove the transfer charges that were included in previous proposals.

This proposal would remove the per taxpayer limits on social contribution credits. The limits on tax credits for social contributions would be reduced, tax credits that are not currently transferable would be made so, and the definition of taxpayer would be standardized across programs.

This proposal would provide sunsets of 2014 or 2015 for various programs which currently do not have a sunset. To the extent these proposals are not extended, General and Total State Revenues would increase but associated economic activity could be lost.

This proposal would prohibit the approval of applications for the Land Assemblage Credit after 8/28/11. Through FY 2010, \$20 million of the available \$95 million had been issued, and \$6.7 million had been redeemed.

The definition of "special needs child" for Special Needs Adoption Credit purposes would be modified to exclude international adoptions. The proposal would provide a sunset of 8/28/15. Contribution limits under the Children in Crisis credits would be changed as described above.

This proposal would limit new authorizations for the LIHTC program to \$16 million annually over a five-year period. BAP notes this amount is roughly consistent with authorizations the last several years, but the MHDC projected new authorizations of \$19.2 million annually for FY 2011 and 2012 and that amount could grow higher as the overall economy recovers or the need for housing grows.

ASSUMPTION (continued)

This proposal would reduce the period for the tax credits from 10 years to 5 years. Projects may be able to generate the same amount of equity, but this change would reduce some risk associated with the time value of money. If so, that would reduce the aggregate amount of credits needed to finance a project. However, because of the length of time between project authorization and credit redemption, any savings won't likely be realized until after FY 2014. Taxpayers would be able to earn the full amount of tax credits from the time the first unit is rented, but credits in later years may be reduced. BAP defers to the MHDC for a more detailed discussion.

This proposal would prohibit the issuance of credits for projects financed with the tax-exempt bond option after 6/30/11. BAP defers to the MHDC for a discussion of any related impacts.

This proposal would prohibit the concurrent use of Historic Preservation credits with Low Income Housing credits. BAP cannot estimate any potential savings from this provision.

This proposal provides a sunset on the LIHTC program of 8/28/15.

Other economic activity may be reduced as a result of this proposal. BAP cannot estimate the loss of any revenues associated with these changes.

This proposal would remove provisions making renters eligible for the Senior Property Tax Credit. Based on data reported to BAP by DOR in the autumn of 2010, renters redeemed \$59.2 million in tax credits in 2008, and \$56.6 million in tax credits in 2009. This proposal would increase General and Total State Revenues by similar amounts in FY 2012 and beyond. This proposal also provides a sunset on the PTC program of 8/28/2015.

This proposal would reduce the program cap for Neighborhood Preservation from \$16 million to \$10 million annually. BAP notes redemptions typically do not exceed this level, so it is unclear if this would result in savings or impact other economic activities. This proposal would also make other administrative changes which may result in savings. The proposal provides a sunset on the program of 8/28/2014.

This proposal would cap the Wine and Grape Production Credit at \$0.2 million annually and would sunset the program on 8/28/2014. Based on prior redemption patterns, BAP estimates this would have no impact on general and total state revenues.

ASSUMPTION (continued)

This proposal would provide a reduced cap of \$75 million for the Historic Preservation Tax Credit program, and would remove the exemption for "micro" projects. Based on prior redemption patterns, and because the program has a carry forward provision, BAP estimates this proposal would increase General and Total State Revenues \$1.5 million in FY 2012, \$6.5 million in FY 2013, and \$16.3 million in FY 2014. Other provisions that may create savings include a cap of \$50,000 per residential project, an exclusion of residential projects valued over \$150,000, reductions to carry-back and carry-forward provisions, and a prohibition on concurrent use of Low Income Housing or Neighborhood Preservation credits. BAP cannot estimate the potential savings. This proposal would provide a sunset on the HTC program of 8/28/2015.

Other economic activity may be reduced as a result of this proposal. BAP cannot estimate the loss of any revenues associated with this reduction.

This proposal would provide a single \$6 million umbrella cap for the Agricultural Product Utilization Contributor Tax Credit and the New Generation Cooperative Tax Credits which the Missouri Agricultural and Small Business Development Authority (MASBDA) may allocate as necessary to assure the best state benefit. Both programs would be sunset on 8/28/14.

This proposal would prohibit authorizations of the Brownfield Jobs and Investment Credit after June 30, 2011. In FY10, there were \$1.6 million in redemptions for this program.

This proposal would reduce the credit for "soft costs" to 25% from 100%, would create a statutory clawback, would create a \$25 million cap for the program, would require a positive Return on Investment (ROI) over a six-year period, and would prohibit the stacking of Brownfield with other programs without a positive ROI. No more than \$5 million in credits could be authorized for projects which also receive Land Assemblage credits. BAP notes that redemptions for this program totaled \$17.6 million in FY10, but exceeded \$25 million in previous years. This proposal would provide a sunset on the Brownfield program of 8/28/2014.

Other economic activity may be reduced as a result of this proposal. BAP cannot estimate the loss of any revenues associated with this reduction.

ASSUMPTION (continued)

This proposal would prohibit the further issuance of tax credits under the Small Business Incubator Credit this program, but would allow loans and grants to continue if matched with private funds. Based on prior redemption patterns, and because the program has a carry forward provision, BAP estimates this proposal would increase general and total state revenues \$0 in FY 2012, \$.07 million in FY13, \$0.25 million in FY 2014, and \$0.5 million annually thereafter.

This proposal would also repeal the authorizing statutes for the following programs effective upon approval, and the proposal contains an emergency clause, so an exact date cannot be determined.

- * The Rolling Stock Credit. This program is subject to appropriation. This proposal would not impact General and Total State Revenues.
- * The Charcoal Producers Tax Credit. This program expired at the end of 2005, and the carryforward period is nearly over. This proposal would have no impact on General and Total State Revenues.
- * The Self-Employed Health Insurance Credit. Based on prior redemption patterns, BAP estimates this proposal would increase General and Total State Revenues \$1.5 million in FY 2012, \$1.6 million in FY 2013, \$1.7 million in FY 2014, and \$1.8 million annually thereafter.
- * The Family Farm Breeding Livestock Tax Credit is repealed, but the program is restructured in 348.500.

These programs may have encouraged other economic activity, but BAP cannot estimate the loss of revenues that would have otherwise been induced by these programs.

ASSUMPTION (continued)

Officials from the **Department of Agriculture** (AGR) assume this proposal would result in a loss of revenue to their organization. AGR officials stated that in situations in which less than the total amount is collected back, the payment would be applied proportionally to collection costs and the underlying debt. In delinquent loan situations, this is typically the case, so based on the past three years average:

\$63,609 collections for which collection assistance would be requested.
 $(\$63,609 + ((10\% \times \$63,609) = \$6,361)) = \$69,970 =$ amount requested plus 10% collection fee added according to this proposal.

\$13,858 collected
So, proportionally applying payment to the collection fee and MASBDA:
 $(\$69,970 / \$63,609) = 90.9\%$, and
 $(\$69,970 / \$6,361) = 9.1\%$; therefore
 $(\$6,361 * 9.1\%) = \$1,261$ reduced revenue to MASBDA because of the collection fee.

Oversight assumes that delinquent accounts would be referred to the Department of Revenue after the Department of Agriculture had exhausted their internal collection process. Accordingly, any amounts collected by DOR on behalf of AGR would be greater than the collections on those accounts without DOR assistance. For fiscal note purposes, Oversight will not indicate a negative impact for AGR.

Officials from the **Department of Conservation** (MDC) assumed that a previous version of this proposal would have a positive unknown fiscal impact on their organization due to the potential collection of delinquent sales taxes.

Officials from the **Department of Elementary and Secondary Education** (DESE) assumed there would be a minimal administrative impact to their organization as a result of this proposal. DESE officials deferred to DOR officials as to the fiscal impact of the DOR collection procedure changes and the sales tax exemption provision.

ASSUMPTION (continued)

DESE officials noted that to the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts would increase the deduction in the Foundation Formula the following year. Therefore the affected districts would see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts would not see a decrease in the amount of funding received through the formula. Any increase in fine money distributed to the hold-harmless districts would simply be additional money. An increase in the deduction, all other factors remaining constant, would reduce the cost to the state of funding the formula.

Finally, DESE officials noted that tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students.

Although they did not respond to our request for information on this proposal, officials from the **Department of Health and Senior Services** assumed a previous version of this proposal (Perfected HCS for HB Nos. 116 and 316, LR 0053-06) would have no fiscal impact on their organization.

Officials from the **Department of Social Services** did not respond to our request for information.

Although they did not respond to our request for information on this proposal, officials from the **Department of Natural Resources** (DNR) noted that a previous version of this proposal (Perfected HCS for HB Nos. 116 and 316, LR 0053-06) would authorize the Department of Revenue to deposit all collections from the proposed amnesty program, other than revenues earmarked in the state constitution, into the state General Revenue Fund. The amount of fiscal impact is unknown.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration** (DIFP) assume that an unknown increase of premium tax revenue as a result of changes to these tax credits 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 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.

ASSUMPTION (continued)

Officials from the **Department of Transportation** deferred to the Department of Revenue for an estimate of the fiscal impact on this proposal.

Officials from the **Department of Revenue** (DOR) assume this proposal could have a positive impact on general and total state revenues. DOR officials provided this estimate, in millions of dollars, of collections for the various sections of this legislation.

Sections	Subject	FY12 Net GR	FY12 Net Total	FY13 Net GR	FY13 Net Total	FY14 Net GR	FY14 Net Total
32.028, 32.400, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460	Centralized State Debt Collections	\$0.75	\$1.00	\$4.00	\$6.00	\$5.00	\$7.50
32.087	1% collection fee	\$0.35	\$0.35	\$0.35	\$0.35	\$0.35	\$0.35
32.38	Tax amnesty	\$20.00	\$24.00	\$0.00	\$0.00	\$0.00	\$0.00
32.088, 105.716, 144.083, 140.910 (admin garnishments), 168.071 (teacher certificates)	Enhanced No Tax Due and Garnishment	\$6.00	\$6.00	\$20.63	\$21.50	\$20.63	\$21.50

The department estimates FY 2012 increases to general revenue of approximately \$7 million for the collections provisions provided above, FY 2013 increases to general revenue of approximately \$25 million, FY 2014 increases to general revenue of approximately \$26 million and combined increases to total state revenue of approximately \$90 million through FY 2014.

DOR officials stated that collections under previous tax amnesty programs were approximately \$74 million in FY 2002 and \$42 million in FY 2003.

ASSUMPTION (continued)

For Section 32.383 DOR officials assume the proposal could have a positive impact on Total State Revenue in FY 2012 of up to \$74 million. However, DOR officials also estimated that up to \$50 million of the \$74 million which would be received through amnesty would already be identified as outstanding liabilities. DOR assumes that an overwhelming majority of the \$50 million, plus interest and penalties, could be collected without amnesty.

In addition to the new collections provided above, and in relation to Section 32.058, DOR estimates annual savings of \$1 million.

In Fiscal Year 2010, DOR mailed approximately 380,000 notices by certified mail at an approximate cost of \$1.25 million. These notices include, but are not limited to, the Individual Income Tax Notice of Deficiency, Individual Income Tax Final Decision, the Corporation Income Tax Notice of Deficiency, Corporation Income Tax Final Decision, the Withholding Tax Notice of Deficiency, Withholding Tax Final Decision, Sales and Use Tax Assessments, and the Assessment of Unpaid Sales Tax and Motor Vehicle Penalty Fee. If the certified mail requirement was removed for each of these notices, DOR would save approximately \$2.80 per mail piece, for a total postage savings of approximately \$1 million. In addition, DOR paid approximately \$.021 per certified mail envelopes and \$.017 per non certified mail envelopes. Therefore, DOR could save approximately \$1,500 dollars in envelope costs.

DOR officials provided an estimate of the cost to implement the proposal.

Projected Amnesty Program Costs

Based on 2011 estimates, there are approximately 490,000 known taxpayers eligible for amnesty.

DOR estimates the programs costs would be as follows.

Postage, envelopes and printing - $490,000 \times \$0.505 = \$247,450$

ASSUMPTION (continued)

The Taxation Division would incur costs for the following:

*	Overtime to review correspondence	\$100,000
*	Overtime to review errors on returns	\$73,000
*	Existing staff and temporary employees to key returns and process payments	\$145,000
*	Customer contacts	<u>\$30,000</u>
	Total	<u>\$348,000</u>

DOR also recommends an advertising budget of at least \$400,000. Advertising the amnesty should enhance participation in the program and help ensure that individuals and businesses not already in contact with the department participate in the program.

In the alternative, the state could contract with a private vendor to administer the amnesty, like several other states, that have achieved very good results. Contracting with a vendor would avoid the direct costs to the department, noted above. Vendor payment could be based on the percentage of debts collected.

Administrative costs

DOR officials assume that Personal Tax would require one additional FTE Revenue Processing Technician I (Range 10, Step L) per 2,400 accounts to be reviewed, tracked, and monitored. DOR officials also assume that implementing the proposal would require a systems upgrade of \$1.5 million, professional services of \$561,000, \$400,000 in advertising, and additional postage of \$86,250.

DOR officials submitted a cost estimate to implement the proposal including one additional employee with related fringe benefits, equipment, and expense, amnesty program costs of \$647,450, system upgrade of \$1,500,000, professional services of \$561,000, and additional postage of \$86,250 totaling \$3,363,747 for FY 2012, \$40,083 for FY 2013, and \$40,497 for FY 2014.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the additional position to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has adjusted the DOR estimate of equipment and expense cost in accordance with OA budget guidelines, and Oversight assumes that one additional employee could be accommodated in existing office space.

Oversight has analyzed the DOR estimates of additional tax collections, but we are not able to determine the reasonableness of those estimates since we do not have access to comparable information for similar programs, nor are we able to review any of the supporting documentation for those estimates since the information is confidential. Accordingly, Oversight will indicate unknown additional revenues for the state General Revenue Fund in excess of \$100,000, in addition to the recovery of program costs, for FY 2012, FY 2013, and FY 2014.

Oversight notes that this proposal would require DOR to deposit all collections from the amnesty program, except for those which are earmarked by the Missouri Constitution, into the state General Revenue Fund. Accordingly, Oversight will indicate an unknown positive fiscal impact from this proposal in FY 2012 for the Conservation Commission Fund and the Parks and Soils Sales Tax Funds. Other state funds and local governments which would receive additional tax collections under existing provisions would not have a fiscal impact from the amnesty program.

Oversight will indicate unknown costs in excess of \$100,000 in FY 2012 for the Department of Revenue to administer the amnesty program and for the consulting, system upgrade, and additional postage.

Oversight also notes that this proposal would authorize DOR to waive penalties, interest, and additions to tax which would be applied and collected under existing provisions regarding delinquent tax administration. Oversight assumes the additional taxes collected would exceed the penalties, interest and additional taxes which would have been collected, and for fiscal note purposes only will indicate an unknown revenue reduction in the General Revenue Fund.

ASSUMPTION (continued)

IT Cost to Implement the Proposal

DOR officials also provided an estimate of the IT cost to implement this proposal of \$304,326 based on 11,484 hours of programming to make changes to DOR programs.

Oversight assumes ITSD-DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes ITSD-DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD-DOR could request funding through the appropriation process.

Reciprocal Collection Agreement with the federal government.

This provision would authorize the Department of Revenue and the Office of Administration to enter into a reciprocal agreement with the federal government. Under this agreement, the state would offset from state tax refunds or from payments due to vendors and contractors debt owed to the federal government. The federal government would offset from federal payments otherwise due to vendors, contractors, and taxpayers debt owed to the state.

In response to a previous version of this provision, DOR officials assumed the provision would result in additional collections of delinquent taxes and other state debt. DOR officials stated that a data match with IRS indicated first year collections of approximately \$7 million. In addition, DOR officials stated that other states which had initiated IRS match procedures experienced reduced collections after the first year.

Finally, DOR officials stated that IRS charges \$17 per match, and there would be costs of approximately \$131,000 the first year for postage and mailing costs, and the IRS fees. DOR officials said there could also be costs to the Office of Administration to extend the IRS match process to vendor and contractor payments.

Oversight assumes these provisions would result in additional collections of state debts but is not able to estimate the amounts which would be collected. Oversight will indicate unknown additional revenues to the General Revenue Fund, to those state funds which receive sales tax revenues, to various other state funds, and to local governments. Oversight will also include unknown collection costs for the IRS match contract, including postage, forms, printing, IRS fees, and programming costs. For fiscal note purposes, Oversight will include those costs in the state General Revenue Fund.

ASSUMPTION (continued)

Officials from the **Department of Economic Development, Division of Business and Community Services** (BCS) assume this proposal would make revisions to several tax credit programs, would sunset several tax credit programs, and would eliminate other programs administered by the Department of Economic Development (DED). The effected programs are listed below.

Tax credits administered by DED that would be sunset include:

- * Neighborhood Assistance Program
- * Development Tax Credit
- * Youth Opportunities
- * Neighborhood Preservation
- * Family Development Account
- * Historic Preservation
- * Brownfield Remediation and Brownfield Jobs & Investment
- * Wine and Grape Growers (135.700).

The Small Business Incubator tax credit program would be repealed under this proposal, and DED officials indicated a potential savings of \$500,000 per year from the repeal of the program.

The proposed legislation would also revise and sunset several tax credit programs that are under the administration of the Departments of Social Services and Agriculture. DED assumes these revisions would have no impact on DED.

Other provisions that would impact DED include changes to Neighborhood Assistance, Distressed Area Land Assemblage, Low Income Housing, Youth Opportunities, Neighborhood Preservation Act, Rebuilding Communities, Wine and Grape Growers, Tax Credit Accountability Act, Family Development Account, Historic Preservation, Brownfield,

DED assumes an unknown positive fiscal impact over \$100,000 as a result of the proposed legislation. The Department anticipates a positive fiscal impact as a result of the sunset or repeal of the specified programs. However, the exact amount of the positive impact is unknown due to the uncertainty as to the amount of tax credits that would otherwise be authorized and subsequently redeemed under the sunset/eliminated programs in any subsequent fiscal year.

ASSUMPTION (continued)

The potential positive fiscal impact as a result of the repealed programs is shown below based on estimates of the range of potential positive fiscal impact, with the high end of the range represented by the applicable program cap and the low end represented by the average annual authorizations of tax credits under the applicable programs for fiscal years 2007 through 2009. This range reflects the fact although in any fiscal years there is the potential for tax credit authorizations under these programs up to the applicable cap, the actual authorizations are often less than the cap amount.

Programs to Sunset	Effective Date	Savings Based on Average Authorizations (FY07-FY09)	Maximum Savings Based on Current Statutory Cap
Neighborhood Assistance	8/28/2015	\$15,652,748	\$16,000,000
Development Tax Credit	8/26/2015	\$1,450,000	\$6,000,000
Youth Opportunities	8/28/2015	\$5,641,665	\$6,000,000
Neighborhood Preservation	8/28/2014	\$14,126,322	\$16,000,000
Family Development Account	8/28/2015	\$99,995	\$300,000
Historic Preservation	8/28/2015	\$170,114,756	\$140,000,000 (FY11)
Brownfield	8/28/2014	\$22,348,784	Unknown (no cap)
Wine and Grape Growers	8/28/2014	\$183,495	Unknown (no cap) (\$200,000 cap proposed)
TOTAL SAVINGS		\$229,617,765	\$184,300,000

ASSUMPTION (continued)

This potential positive fiscal impact would increase by a maximum of \$65 million when the reduced cap for the Historic Preservation Program under this proposal is fully phased-in. DED assumes that tax credits previously authorized or issued under any program with a carry forward provision would continue to be redeemed under these programs, notwithstanding the sunset on the agency's authority to authorize new tax credits.

Officials from the **Department of Economic Development, Missouri Housing Development Commission** (MHDC) provided an estimate of the fiscal impact of the proposed changes in maximum tax credits issued for the Low Income Housing Tax Credit Program and the Affordable Housing Assistance Program. Information for the first five years is shown below.

	LIHTC Projected Issuances and Redemptions Proposed	LIHTC Projected Issuances and Redemptions Under Current Law	LIHTC Projected Change in Issuances and Redemptions	AHAP Projected Change in Issuances and Redemptions	Estimated Impact on General Revenue
FY 2012	\$165,756,074	\$165,756,074	\$0	\$0	\$0
FY 2013	\$165,619,651	\$165,619,651	\$0	\$0	\$0
FY 2014	\$165,319,974	\$165,719,974	(Unknown to \$400,000)	\$0	Unknown to \$400,000
FY 2015	\$168,269,949	\$171,369,949	(Unknown to \$3,100,000)	\$0	Unknown to \$3,100,000
FY 2016	\$168,935,605	\$175,235,605	(Unknown to \$6,300,000)	(Unknown to \$11,000,000)	Unknown to \$17,300,000

Officials from the **Department of Economic Development, Missouri Development Finance Board** (MDFB) assume this proposal would reduce the MDFB Infrastructure Development Credit from a 50% credit to a 35% credit, and would eliminate the MDFB Bond Guarantee Tax Credit program effective August 28, 2014. MDFB officials assume that this proposal would have no fiscal impact on programs administered by MDFB since the programs would continue at their current activity level until after the program sunset date.

ASSUMPTION (continued)

Tax Credit Program Changes

These provisions would make numerous changes in tax credit programs, and would impose a sunset date or change the sunset date for several programs.

Oversight has compared total tax credit issuances relative to total tax credit redemptions for several previous years in order to determine a relationship between the two. Oversight has calculated that annual redemptions ranged from 81 percent to 86 percent of annual issuances over this period. Depending on the program, credits redeemed may have been issued that same year or may have been issued several years previously and carried forward to the year it was redeemed. Oversight assumes that tax credits redeemed in a given year would amount to approximately 83 percent of credits issued, reducing Total State Revenues by that amount.

Total tax credits issued over the most recent five years for all active programs

	Issued	Expected Redemptions at 83%
Maximum	\$909,703,589	\$755,053,979
Average	\$590,971,856	\$490,506,640
Minimum	\$388,958,920	\$321,175,903

With respect to the termination of tax credit programs, Oversight has shown the fiscal impact of those programs in the fiscal notes for legislation which created the programs and/or made significant changes in the programs. Accordingly, for fiscal note purposes the termination of tax credit programs and/or a reduction in the limits for existing tax credit programs would result in a positive fiscal impact for the General Revenue Fund and for other funds which had tax credit redemptions.

ASSUMPTION (continued)

Oversight notes that the Department of Revenue has provided an estimate of potential collections in FY 2012 for the delinquent tax amnesty program of approximately \$74 million. Of this amount, approximately \$50 million has been identified and is in the DOR collection process, and the balance of approximately \$24 million would be identified and collected through the amnesty program. Oversight is not able to determine the reasonableness of those estimates since we do not have access to comparable information for similar programs, nor are we able to review any of the supporting documentation for those estimates since the information is confidential. Accordingly, Oversight will indicate unknown additional revenues for the state General Revenue Fund in excess of \$100,000, in addition to the recovery of program costs, for FY 2012, FY 2013, and FY 2014.

Oversight also notes that most changes to tax credit programs would become effective in FY 2014 and later years. Based on the responses we received for this proposal, only one program, administered by the Missouri Housing Development Commission, would appear to have a fiscal impact from this proposal in the three years included in this fiscal note. The Low Income Housing Tax credit could be reduced up to \$400,000 in FY 2014 according to the MHDC response.

Oversight has also reviewed the potential impact of this proposal on programs administered by agencies which did not respond to our request for information, and noted three additional programs which would have a potential fiscal impact for FY 2013 and FY 2014 due to additional restrictions on program activity included in this proposal. Accordingly, Oversight will indicate no fiscal impact for tax credit program changes for FY 2012 and a fiscal impact from \$0 (no change) to unknown additional revenue for FY 2013 and FY 2014.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Additional revenue</u> - restrictions on tax credit programs *	<u>\$0</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<u>Additional revenue</u> - restriction on sales tax exemption	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional revenue</u> - tax amnesty program *	<u>More than \$100,000</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional revenue</u> - collection procedure improvements	<u>More than \$337,827</u>	<u>More than \$236,124</u>	<u>More than \$237,808</u>
<u>Additional revenue</u> - federal reciprocal agreement	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<hr/>			
<u>Cost</u> - Secretary of State			
IT upgrades	<u>(Less than \$100,000)</u>	<u>\$0</u>	<u>\$0</u>
<hr/>			
<u>Cost</u> - Department of Revenue			
Salary (1.0 FTE)	(\$18,900)	(\$23,360)	(\$24,061)
Overtime	(\$68,000)	\$0	\$0
Fringe benefits	(\$45,483)	(\$12,227)	(\$12,594)
Equipment and expense	(\$5,444)	(\$537)	(\$553)
Total	<u>(\$137,827)</u>	<u>(\$36,124)</u>	<u>(\$37,208)</u>
<u>Cost</u> - Department of Revenue - collection procedures, amnesty program, consulting, system upgrade, and additional postage.	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<u>Cost</u> - Department of Revenue IRS match process	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>Revenue reduction</u> - interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000 to</u> <u>Unknown</u>	<u>More than</u> <u>\$100,000 to</u> <u>Unknown</u>
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Estimated Net FTE Effect on General Revenue Fund	1	1	1
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*** Note: The Department of Revenue has estimated that the amnesty program would result in the collection of approximately \$74 million in FY 2012 of which approximately \$50 million is currently identified and the balance of approximately \$24 million would be considered additional revenue.**

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

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
CONSERVATION COMMISSION FUND			
<u>Additional revenue</u> - restriction on sales tax exemption	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional Revenue</u> - Tax amnesty program	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional Revenue</u> - collection procedure improvements_____	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional revenue</u> - federal reciprocal agreement	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Revenue reduction</u> - interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
PARKS, AND SOIL AND WATER FUNDS			
<u>Additional revenue</u> - restriction on sales tax exemption	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional Revenue</u> - Tax amnesty program	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional Revenue</u> - collection procedure improvements	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Revenue reduction</u> - interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>
<u>Additional revenue</u> - federal reciprocal agreement	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
SCHOOL DISTRICT TRUST FUND			
<u>Additional revenue</u> - restriction on sales tax exemption	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional Revenue</u> - collection procedure improvements	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional revenue</u> - federal reciprocal agreement	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
VARIOUS STATE FUNDS			
<u>Additional revenue</u> - collection procedure improvements	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional revenue</u> - federal reciprocal agreement	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
LOCAL GOVERNMENTS			
<u>Additional revenue</u> - restriction on sales tax exemption	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional Revenue</u> - collection procedure improvements	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Additional revenue</u> - federal reciprocal agreement	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses due to changes in program limits.

FISCAL DESCRIPTION

Department of Revenue Tax Amnesty and collection Procedures

The proposed legislation would create a tax amnesty program for certain taxes paid between August 1, 2011, to October 31, 2011, and would provide improved collection procedures for the Department of Revenue.

FISCAL DESCRIPTION (continued)

Missouri Tax Credit Program Modifications

BROWNFIELD REMEDIATION TAX CREDITS

The act prohibits the authorization of more than twenty-five million dollars in Brownfield remediation tax credits annually. The credit amount for soft costs is reduced from one hundred percent to twenty-five percent. The act prohibits the stacking of other state incentives with Brownfield remediation tax credits unless the project would generate a positive fiscal benefit to the state. The act requires the recapture of Brownfield remediation tax credits to the extent the amount issued exceeds the state benefit. The act prohibits the authorization of more than five million dollars in Brownfield tax credits each fiscal year for projects that receive benefits under the Distressed Areas Land Assemblage program. (Section 447.708)

NEIGHBORHOOD PRESERVATION TAX CREDITS

The "first-come, first-serve" requirement for tax credit issuance is repealed and replaced with a targeted neighborhood approach that would provide priority for projects which provide the highest impact. Neighborhood Associations would now be able to participate in the program. The annual cap on neighborhood preservation tax credits is reduced from sixteen million dollars to ten million dollars. Tax credits would be allocated among projects located within qualifying and eligible areas based upon demand. Residents which receive tax credits for owner-occupied residences would be subject to recapture if they fail to maintain residency in such home for a five-year period. (Sections 135.481 to 135.487)

LOW-INCOME HOUSING TAX CREDITS

Under current law, low-income housing tax credits are allowed over a ten-year period. Beginning July 1, 2011, this act reduces the period of time in which low-income housing tax credits are allowed to a five-year period and limits the total amount of low-income tax credits authorized annually to no more than eighty million dollars. The issuance of four percent low-income housing tax credits would be prohibited after June 30, 2011. The act also prohibits stacking low-income housing tax credits with historic preservation tax credits. Taxpayers would be capable of receiving tax credits once the first low-income unit is occupied by a qualified tenant. The carry-back provision for low-income housing tax credits is reduced from three years to two years. (Section 135.352)

FISCAL DESCRIPTION (continued)

AFFORDABLE HOUSING ASSISTANCE

Under current law, tax credits for contributions to non-profit organizations for the construction, rehabilitation, or acquisition of affordable housing are capped at ten million per fiscal year. This act reduces the cap to eight million five hundred thousand dollars per fiscal year. The one million dollar fiscal year cap on tax credits for contributions to non-profit housing organizations to assist with their basic operating expenses is increased to two million five hundred thousand dollars. The credit amount for affordable housing tax credits is reduced from fifty-five percent of an eligible donation or contribution to forty percent of such donation or contribution. (Sections 32.105 to 32.120)

HISTORIC PRESERVATION TAX CREDITS

Under current law, the Department of Economic Development is prohibited from issuing more than one hundred forty million dollars in historic preservation tax credits in any fiscal year for projects which would receive more than two hundred and seventy-five thousand dollars in tax credits. Beginning fiscal year 2012, and each fiscal year thereafter, this act would prohibit the Department of Economic Development from issuing more than seventy-five million dollars in historic preservation tax credits increased by the amount of any recisions of approved applications for tax such credits. Projects which would receive less than two hundred seventy-five thousand dollars in tax credits would be subject to the seventy-five million dollar cap.

The act prohibits the department from issuing more than fifty thousand dollars in historic preservation tax credits per project for non-income producing residential rehabilitation projects. Non-income producing residential rehabilitation projects involving a subject property with a purchase price in excess of one hundred fifty thousand dollars would be ineligible for tax credits. Applicants for projects that, as of June 30, 2011, have: received approval from the Department of Economic Development; incurred certain levels of expenses; been approved for 4% federal low-income housing tax credits; or received certification from the state historical preservation officer would not be subject to the new limitations on tax credit issuance, but would be subject to the current law limitations on tax credit issuance. The act also prohibits the stacking of historic preservation tax credits with neighborhood preservation tax credits or low-income housing tax credits. Historic preservation tax credits would now be capable of being carried back one year or forward five years. (Sections 253.545 to 253.559)

FISCAL DESCRIPTION (continued)

SOCIAL AND CONTRIBUTION TAX CREDITS

The definition of taxpayer contained in social and contribution tax credit programs is broadened to allow additional donors to participate. Social and contribution tax credits which under current law are non-transferrable would now be transferrable. For all taxable years beginning on or after January 1, 2012, the act decreases the Missouri Development Finance Board Infrastructure Contribution credit from a fifty percent credit for contributions received to a credit equal to thirty-five percent of the amount contributed. The Affordable Housing Assistance Program tax credit is also reduced from fifty-five percent of the eligible donation to forty percent of such donation. The Disabled Access Tax Credit is reduced from fifty percent to thirty-five percent of eligible access expenditures. The per donor contribution limit for food pantry tax credits is increased to \$10,000 for donations of food and the per contribution limit for cash is eliminated. The act excludes international adoption expenses from qualifying under the special needs adoption tax credit program. Beginning January 1, 2012, social and contribution tax credits would be equal to fifty percent of the first one thousand dollars of an eligible contribution or donation and thirty-five percent of any excess above one thousand dollars contributed or donated.

SUNSET PROVISIONS FOR CERTAIN TAX CREDIT PROGRAMS

Due to the commission's recommendation that reforms to programs be made on a prospective basis, rather than utilizing traditional sunset provisions, this act prohibits the authorization of tax credits under the following programs after August 28, 2014:

- 1) The Brownfield Remediation Tax Credit;
- 2) The Neighborhood Preservation Tax Credit
- 3) The MDFB Bond Guarantee Tax Credit;
- 4) The MDFB Infrastructure Development Contribution Tax Credit;
- 5) The Family Farm Breeding Livestock Tax Credit;
- 6) The Agricultural Product Utilization Tax Credit;
- 7) The New Generation Cooperative Tax Credit;

FISCAL DESCRIPTION (continued)

- 8) The Qualified Beef Tax Credit;
- 9) The Wine and Grape Producer Tax Credit; and
- 10) The Neighborhood Assistance Tax Credit.

The authorization of tax credits under the following programs would be prohibited after August 28, 2015:

- 1) The Historic Preservation Tax Credit;
- 2) The Low-Income Housing Tax Credit;
- 3) The Domestic Violence Shelter Tax Credit;
- 4) The Maternity Home Tax Credit;
- 5) The Pregnancy Resource Center Tax Credit;
- 6) The Shared Care Tax Credit;
- 7) The Youth Opportunities Tax Credit;
- 8) The Disabled Access Tax Credit;
- 9) The Family Development Account Tax Credit;
- 10) The Residential Treatment Agency Tax Credit;
- 11) The Food Pantry Tax Credit;
- 12) The Neighborhood Assistance Program; and
- 13) The Property Tax Credit (Circuit Breaker).

FISCAL DESCRIPTION (continued)

Where, under current law, a tax credit was subject to the sunset act, the sunset provision is modified to sunset such program on the date provided above.

The limitations on tax credit authorizations provided in the act would not impair an administering agency's ability to issue tax credits that were authorized prior to the date on which authorizations are prohibited, nor would they affect a taxpayer's ability to redeem such tax credits.

The act prohibits the approval of any new applicants under the Distressed Areas Land Assemblage Tax Credit program after August 28, 2011.

REPEAL OF CERTAIN TAX CREDIT PROGRAMS

This act repeals the following tax credit programs:

- 1) The Charcoal Producers Tax Credit;
- 2) The Self-Employed Health Insurance Tax Credit;
- 3) The Railroad Rolling Stock Tax Credit; and
- 4) The Brownfield Jobs/Investment Credit.

The act also repeals provisions of the Missouri property tax credit, commonly referred to as the circuit breaker tax credit, which allow renters to receive the property tax credit for rent constituting taxes paid.

This act contains an emergency clause.

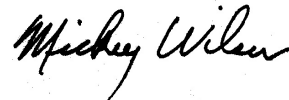
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
 Division of Budget and Planning
Department of Agriculture
Department of Economic Development
 Division of Business and Community Services
 Missouri Housing Development Commission
 Missouri Development Finance Board
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Insurance, Financial Institutions, and Professional Registration
Department of Revenue
Department of Transportation

NOT RESPONDING

Office of the Secretary of State
Department of Conservation
Department of Health and Senior Services
Department of Natural Resources
Department of Social Services



Mickey Wilson, CPA
Director
April 18, 2011