

HCS#2 HB 323 & 528 -- TAXATION AND JOB DEVELOPMENT

SPONSOR: Sutherland

COMMITTEE ACTION: Voted "do pass" by the Committee on Ways and Means by a vote of 10 to 0.

This substitute changes the laws regarding taxation and several economic development programs and establishes the Small Business and Entrepreneurial Growth Act.

TAX CREDITS AND EXEMPTIONS

The substitute:

(1) Removes the \$100,000 cap, adds taxpayers who modify their homes for a senior citizen residing with them to those eligible for the tax credit, and adds the costs of constructing additional rooms to accommodate a senior citizen or disabled person to the eligible costs for which a tax credit may be claimed. Currently, up to \$100,000 in tax credits remaining unused under the Rebuilding Communities Tax Credit Program are allocated for use by taxpayers who modify their homes for a disabled person residing with them;

(2) Allows business headquarters to receive tax credits for new or expanding businesses. Expansions at headquarter facilities will be considered separate business facilities and entitled to the credits if at least 25 new employees and at least \$1 million of new investment are attributed to the expansion. Buildings on multiple noncontiguous properties will be considered one facility if they are in the same county or within the same municipality. No headquarters will receive the credits for facilities commencing or expanding operations after January 1, 2020;

(3) Authorizes a tax credit, beginning January 1, 2009, to a taxpayer for 100% of the state sales tax paid on any new motor vehicle assembled and purchased in Missouri on or after that date. The tax credit may be claimed against a taxpayer's income tax; corporate franchise tax; financial institutions tax; or bridge, express, and public utility companies tax. Any political entity may exempt these sales from the local sales tax by an order or ordinance;

(4) Authorizes a state and local sales tax exemption for all electrical energy, gas, other utilities including telecommunications services, and machinery or equipment used by a business that, after August 28, 2009, relocates its facility to one that is located within an underground mine that is no longer used for mining, and which has at least 500,000 square feet of

space. The facility must be used for data processing, hosting, Internet publishing and broadcasting, and web search portals. The business cannot receive these exemptions and simultaneously receive benefits from the Quality Jobs Program;

(5) Authorizes the Department of Economic Development to allocate up to \$5 million in tax credits per year to encourage equity investment in technology-based early stage Missouri companies, commonly known as angel investments. Investors who contribute the first \$500,000 in equity investment to a qualified Missouri business may be issued a tax credit equal to 30% of the investment or 40% if the qualified business is in a rural area or distressed community. An investor can receive a credit of up to \$50,000 for an investment in a single, qualified business or up to \$100,000 for investments in more than one qualified business per year. Credits can be carried forward for up to three years or transferred;

(6) Increases the total amount of all tax credits that can be authorized for the Small Business Incubator Program from \$500,000 to \$1 million in any taxable year; and

(7) Increases the cap on tax credits certified for qualified film production projects from \$4.5 million per year to \$10 million in any fiscal year beginning January 1, 2009.

#### RURAL EMPOWERMENT ZONES CRITERIA

Currently, rural empowerment zones are only allowed to exist in Hickory County, which has a population of 8,940 residents. The substitute allows these zones to exist in any county with 18,000 or fewer residents, which includes 56 counties. The substitute also prohibits more than two rural empowerment zones in any county.

#### QUALITY JOBS PROGRAM

The substitute:

(1) Revises the definition of "technology business project" as it relates to the Missouri Quality Jobs Act to include certain clinical molecular diagnostic laboratories;

(2) Specifies that if the department fails to respond within 30 days to a Quality Jobs Program applicant's notice of intent, the notice is deemed a disapproval. Currently, the notice is deemed an approval if the department fails to respond within 30 days;

(3) Specifies how the department must apply certain definitions when a business that has already received an approved notice of

intent later files another notice of intent;

(4) Eliminates the per-company annual cap on technology business projects. Currently, the cap is \$500,000 per business, per year;

(5) Eliminates the per-company annual cap on high-impact projects. Currently, the cap is \$750,000 per company, per year;

(6) Allows a qualified company wishing to receive tax credits for job retention projects under the program to do so if it has maintained the lesser of 1% of the average number of total employees in the county in which the project is located during the previous 12 months or 750 full-time employees and the qualified company agrees to maintain at least the same number of full-time employees during the period for which it receives benefits as it did when it applied for the benefits. Currently, a qualified company must have maintained at least 1,000 full-time employees. The substitute also changes other conditions which must be met for a qualified company to receive these tax credits;

(7) Increases the annual cap on job retention projects from \$3 million to \$30 million;

(8) Allows the department to issue tax credits for approved job retention projects until August 30, 2015. Currently, tax credits for job retention projects cannot be issued after August 30, 2013; and

(9) Eliminates the annual cap on the program. Currently, the annual cap is \$60 million.

#### SMALL BUSINESS AND ENTREPRENEURIAL GROWTH ACT

The substitute establishes the Small Business and Entrepreneurial Growth Act which, beginning January 1, 2010, allows small business employers who increase their total payroll by increasing the number of jobs and meeting certain qualifications to retain the Missouri withholding tax from the salaries of the newly created jobs for one year. If the employer pays at least 50% of the cost of the premiums for health insurance for all employees, the withholding tax can be retained for two years. In either case, wages for the new jobs must equal or exceed the county average wage. No employer retaining these withholding taxes will be eligible for the benefits under the Quality Jobs Act.

#### QUALIFIED EQUITY INVESTMENT (NEW MARKETS) TAX CREDIT

Currently, no qualified equity investments can be made under the New Markets Tax Credit Program beyond Fiscal Year 2010. The substitute extends the date through FY 2012 and increases the

program's tax credit cap from \$15 million to \$27.5 million per fiscal year.

#### DOWNTOWN REVITALIZATION PRESERVATION PROGRAM

The substitute allows contributions to a downtown revitalization preservation development project from any private not-for-profit organization or local contributions from tax abatement or other sources to be substituted on a dollar-for-dollar basis for the local match of 100% of payments in lieu of taxes and economic activity taxes from the development's fund.

#### QUALIFIED RESEARCH EXPENSES (RESEARCH AND DEVELOPMENT) TAX CREDIT

Currently, no tax credits for qualified research expenses can be approved, awarded, or issued. The substitute removes these restrictions and allows a tax credit equal to no more than 6.5% of a taxpayer's qualified research expenses. The annual aggregate cap on the amount of these tax credits that can be authorized by the department is \$10 million.

Qualified research expenses will be limited to those incurred in the research and development of agricultural biotechnology, plant genomics products, diagnostic and therapeutic medical devices, and prescription pharmaceuticals consumed by humans or animals. Expenses incurred in the research, development, or manufacturing of power system technology for aerospace, space, defense, or implantable or wearable medical devices are also permitted.

The department director may allow a taxpayer to transfer up to 40% of the tax credits issued, but not yet claimed, between January 1, 2010, and December 31, 2016. The substitute requires that the department director act between August 1 and August 15 on tax credit applications filed between January 1 and July 1 for claims from the previous year.

The formula is specified by which tax credits will be issued if the eligible claims for the credits exceed the annual cap. No one taxpayer can be issued more than 30% of the total amount of tax credits authorized in any calendar year.

#### BUSINESS, EDUCATION, SCIENCE, AND TECHNOLOGY DISTRICTS

The substitute allows the governing body of a municipality to establish a business, education, science, and technology (BEST) district. BEST projects may be implemented in the district according to a BEST plan. The district, plan, and project must be established or adopted by ordinance. The substitute specifies the requirements of a BEST plan and the findings a municipality must make before adopting a BEST plan.

Following a municipality's establishment of a BEST district and adoption of a BEST plan and one or more BEST projects, the BEST revenues estimated for the businesses within the BEST district will be available for appropriation by the General Assembly from the General Revenue Fund to the department for distribution to the treasurer of the municipality. Municipalities cannot commit any BEST revenues prior to an appropriation being made from the General Revenue Fund to the department for a particular BEST project. The municipality's treasurer will deposit the BEST revenues into a segregated BEST Projects Financing Fund. The State Treasurer will be the custodian of the fund and may approve disbursements. The initial appropriation or disbursement will not be made until the department director has approved a BEST plan and projects.

The substitute specifies that "BEST revenues" means:

- (1) Fifty percent of the incremental increase in the general revenue portion of eligible state sales tax revenues received under Section 144.020, RSMo. Sales tax revenue attributable to retail sales will only be included in this amount if it can be proven that the sales tax revenue is attributable to new sources which did not exist in the state in the baseline year; and
- (2) State income taxes withheld from new employees by the employers at the businesses located within the BEST project.

The substitute requires the department director to approve a BEST plan and projects if certain specified findings are made. The initial appropriation of BEST revenues will not be made until the department director, or his or her designee, finds that:

- (1) The BEST project will be completed and its obligations paid within 25 years from the adoption of the municipal ordinance;
- (2) BEST revenues do not exceed 50% of the total BEST project costs;
- (3) Municipal funding will provide funds for the BEST project equal to at least 10% of the BEST eligible project's costs. These funds must be available within 10 years following the establishment of the BEST district;
- (4) At least one higher education institution has committed to having a significant physical presence in the BEST district and plans to offer educational resources in the BEST district such as classrooms, curriculum, dedicated faculty, graduate students, and defined partnerships with target industry clusters; and
- (5) The BEST plan and projects are financially feasible and will

result in a net benefit to the state.

No BEST district will have the power to acquire any real property by eminent domain. Revenues will only be used to pay for specified eligible BEST project costs. The municipality is required to submit an annual report to the department which includes certain specified information.

The provisions regarding tax credits on the sales tax paid on new vehicles assembled and purchased in Missouri will expire December 31 six years from the effective date.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$126,562 to More than \$22,926,562 in FY 2010, \$14,563,694 to More than \$44,736,562 in FY 2011, and \$14,607,649 to More than \$57,279,996 in FY 2012. Estimated Cost on Other State Funds of \$0 to Unknown in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that the bills allow taxpayers with elderly or disabled persons living in their homes to make modifications and adds modifications for the blind and hearing disabled. The \$10 million annual cap on the Rebuilding Communities Tax Credit Program is not fully used, and there is a large demand for funds to make home improvements for the elderly and disabled. The tax credit is on a first-come, first-served basis. Currently, only 45 to 50 disabled individuals benefit from the credit. The bills will allow 800 to 1,000 more individuals to benefit and stay in their homes. Missouri lacks homes that are handicap accessible. Individuals with disabilities require changes in their environments to function, such as widening hallways and doorways, adding ramps, modifying bathrooms, installing stair lifts and handrails, and other architectural barrier modifications. Non-profit organizations cover some of the expenses for families but a cap in their finances often exists. The bills will help people stay out of institutions so they can live and function at home.

Testifying for the bill were Representatives Sutherland and Grisamore; National Multiple Sclerosis Society; Julie Stanglein; Clark Byron, Coalition for Independence; Southwest Center for Independent Living; and Paraquad, Incorporated.

OPPOSERS: There was no opposition voiced to the committee.