

HCS#2 SCS SB 100 -- ECONOMIC INCENTIVES AND TAXATION

SPONSOR: Stouffer (Zerr)

COMMITTEE ACTION: Voted "do pass" by the Committee on Economic Development by a vote of 18 to 3.

This substitute changes the laws regarding economic incentives and taxation.

TAX AMNESTY AND COLLECTION OF STATE MONEYS (Sections 32.028, 32.087, 32.088, 32.383, 32.385, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460, 105.716, 140.910, 144.083, and 168.071, RSMo)

The Director of the Department of Revenue is authorized to retain 1% of the amount of any local sales or use tax collected for the cost of collection.

Beginning January 1, 2012, a no-tax-due statement from the Department of Revenue stating that an individual does not owe any kind of taxes or fees to the state or an agency of the state is required before the issuance or renewal of a city or county occupation license or a state license to conduct any business. The statement cannot be dated more than 90 days before the date of the application or renewal. Before an individual can receive a monetary judgment or settlement in an amount less than \$10,000 from the State Legal Expense Fund, he or she must also have a no-tax-due statement.

Beginning January 1, 2012, the Department of Elementary and Secondary Education must provide, at least annually, to the Director of the Department of Revenue the name and Social Security number of each certificate holder or applicant for a certificate of license to teach in Missouri. The Director of the Department of Revenue must at least once a year verify that all income taxes have been paid and state income tax returns have been filed in the past three years and must send a notice to the Department of Elementary and Secondary Education and the certificate holder or applicant if a person has not paid his or her taxes or filed the tax returns. A certificate holder's license must be suspended within 90 days after the notice; and an applicant's license cannot be issued unless the taxes are paid, an arrangement has been made with the Department of Revenue to pay the taxes, the taxes were paid under protest, or the tax liability is found to be reasonably disputed.

An amnesty is authorized from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the Department of Revenue which occurred on or prior to December 31, 2010. A taxpayer must apply

for amnesty, file a tax return for each tax period for which amnesty is requested, pay the unpaid taxes in full within 60 days of approval by the department, and agree to comply with state tax laws for eight years from the date of the agreement. All new revenues resulting from the tax amnesty program will be deposited into the General Revenue Fund unless otherwise earmarked by the Missouri Constitution.

The Director of the Department of Revenue and the Commissioner of the Office of Administration are authorized to jointly enter into a reciprocal agreement with the federal government or any other state to offset vendor and contractor payments for any type of debt owed to the state. Currently, the department has a reciprocal agreement with the United States Treasury to offset income tax overpayments.

All agencies of the state are authorized to refer to the Department of Revenue for collection any debt owed to them. The department can compromise any referred state debt; use all general creditor or agency- or state-specific remedies afforded by law to collect the debt; employ staff, attorneys, prosecuting attorneys, and private collection agencies to aid in the collection of a debt; and pursue assets of the debtor, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, and pension or retirement payments through an administrative garnishment order.

#### NEIGHBORHOOD ASSISTANCE TAX CREDIT (Section 32.115)

No new project can be approved under the Neighborhood Assistance Tax Credit Program after June 30, 2011.

#### INCOME TAX CREDIT FOR COSTS TO ATTRACT SPORTING EVENTS (Section 67.3000)

The substitute authorizes an income tax credit for the eligible costs of bringing a sporting event, as specified in the substitute, 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 60 days of the conclusion of the sporting event, the department, in consultation with the Director of the Department of Revenue, must determine the amount of tax revenues which are directly

attributable to the sporting event. Within 60 days of receiving the documentation from the applicant of the eligible costs, the Department of Economic Development must issue a refundable tax credit equal to 100% of the eligible costs or 50% of the increase in tax revenues within the market area which are directly attributable to the sporting event, whichever is less. The tax credit may be transferred, sold, or assigned.

No more than \$10 million of these tax credits can be issued by the department in any fiscal year, and no more than \$8 million of these tax credits can be issued in any fiscal year for sporting events held in St. Louis City or the counties of St. Louis or Jackson.

The department can only certify a support contract for a sporting event in which the location is selected after August 28, 2014. The department cannot certify a contract after August 28, 2020, but can certify a contract before that date for a sporting event that will be held after that date.

#### MISSOURI PROPERTY TAX CREDIT (Sections 135.025 and 135.030)

The provisions of the Missouri property tax credit, commonly known as the circuit breaker tax credit, which allow a renter to receive credit for paid rent are revised to reduce the amount of credit that can be received until no credit is authorized after January 1, 2015.

#### LOW-INCOME HOUSING TAX CREDITS (Section 135.352)

Beginning July 1, 2011, the substitute limits the total amount of low-income housing tax credits authorized annually to \$110 million and reduces from three years to two years the time period that a low-income housing tax credit can be carried back. The substitute also reduces, from \$6 million to \$3 million, the maximum amount of tax credit that can be authorized each year for projects financed through tax-exempt bond issuance.

#### NEIGHBORHOOD PRESERVATION TAX CREDITS (Section 135.484)

Beginning January 1, 2012, the annual cap on neighborhood preservation tax credits is reduced from \$16 million to \$10 million. The maximum tax credit for a project consisting of multiple-unit qualifying residences in a distressed community cannot exceed \$3 million. Tax credits will be allocated among projects located within qualifying and eligible areas based upon demand. No tax credits provided under these provisions can be issued on or after August 28, 2014.

#### PREGNANCY RESOURCE CENTERS TAX CREDIT (Section 135.630)

The substitute extends the provisions regarding a tax credit for a contribution to a pregnancy resource center from August 28, 2012, to August 28, 2019.

#### FOOD PANTRY DONATION TAX CREDIT (Section 135.647)

The substitute extends the provisions regarding an income tax credit for a donation to a food pantry from August 28, 2011, to August 28, 2019.

#### RESIDENTIAL TREATMENT AGENCY TAX CREDITS (Section 135.1150)

The provisions regarding the residential treatment agency tax credit are extended 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.

#### 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 tax credit of 50% of the amount of a taxpayer's contribution to a 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.

#### AEROTROPOLIS TRADE INCENTIVE AND TAX CREDIT ACT (Sections 135.1500 - 135.1521)

The substitute establishes the Aerotropolis Trade Incentive and Tax Credit Act to encourage foreign trade by authorizing the Mayor of the City of St. Louis or the executive officer of certain counties to designate a gateway zone in a specified site within 50 miles of the Lambert-St. Louis International Airport, an area within the airport boundaries, or any area owned or managed by a port authority of any county or the City of St. Louis by providing written notification to the Department of Economic Development of the designation, including a legal description of the area of the gateway zone. Certain economic incentives will be available in a gateway zone for freight forwarders and owners of, tenants in, and entities operating within eligible facilities.

For all taxable years beginning on or after January 1, 2011, tax credits are authorized for freight forwarders against income taxes with the exception of withholding taxes; corporate franchise taxes; and financial institution taxes. For all taxable years beginning on or after January 1, 2013, tax credits are authorized for owners of eligible facilities with level one air cargo activity and for owners of qualified facilities with level two air cargo activity against income taxes with the exception of withholding taxes; corporate franchise taxes; and financial institution taxes.

The substitute specifies the requirements for freight forwarders and owners of, tenants in, and entities operating within eligible facilities to receive benefits and how the benefits will be calculated.

The tax credits for freight forwarders and owners of eligible facilities are 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 during the eligibility period. 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.

The City of St. Louis and any county with a designated gateway zone may establish a board of supervisors that must annually levy special assessments on eligible facilities located within the gateway zone that receive benefits provided under the provisions of the substitute. Except for assessments levied on eligible facilities within the boundaries of the airport, which must be remitted to the airport, revenues derived from the special assessments must be used to market and promote the gateway zone and defined cargo activities of the airport.

#### DATA STORAGE CENTERS (Section 144.810)

Beginning August 28, 2011, the substitute authorizes a state and local sales and use tax exemption on items related to a new or 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 purposes of constructing, repairing, or remodeling a new data storage center. 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. 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.

MISSOURI SCIENCE AND INNOVATION REINVESTMENT ACT (Sections 196.1109, 196.1115, 348.250 - 348.300, and 620.1900)

The substitute establishes the Missouri Science and Innovation Reinvestment Act. The substitute:

- (1) Adds to the list of purposes of the Missouri Technology Corporation and provides for its perpetual existence;
- (2) Requires the advice and consent of the Senate for the gubernatorial appointments to the corporation's board of directors;
- (3) Changes the mandatory annual audit of the corporation by the State Auditor to an audit at the discretion of the State Auditor;
- (4) Specifies the terms and requirements for various designated and appointed board members; how members may be removed from the board; meeting requirements and the operation of the board; and board powers, including employment and benefits for the president and other corporation employees;
- (5) Requires the corporation to also submit an annual report by January 1 to the Governor and General Assembly on the distribution of money from the fund and any income of the corporation during the prior year, the growth of science and innovation research and industry in the state, and financial or performance audit recommendations including any recommendation for additional necessary legislation. Copies of the financial and performance evaluations must be given to the State Auditor. Currently, the corporation is required to only submit an annual report by November 1 on the corporation's structure, operation, and financial status to the Governor and General Assembly;
- (6) Specifies that the corporation will be exempt from certain specified property, income, and sales and use taxes;
- (7) Requires the board to adopt and maintain a conflict of interest policy and to establish an executive committee, an audit

committee, and a research alliance and specifies the duties and powers of each committee and the alliance;

(8) Adds additional provisions for closing certain meetings and records of the corporation board and committees of the board under the Open Meetings and Records Law, commonly known as the Sunshine Law;

(9) Renames the Missouri Technology Investment Fund as the Missouri Science and Innovation Reinvestment Fund and specifies that it will be funded, in part, by moneys appropriated by the General Assembly based on a certain percentage of the increase in gross wages of science and innovation employees over base year gross wages as defined in the substitute. The Director of the Department of Economic Development, with assistance from the Director of the Department of Revenue, must establish the base year gross wages and determine the annual increase of science and innovation employees' gross wages that exceeds the base year gross wages. This difference is multiplied by the applicable percentage to determine the amount that the Director of the Department of Revenue must transfer to the fund for each of the 25 funding years beginning July 1, 2012;

(10) Prohibits the board from selling the corporation or substantially all of its assets or merging the corporation with another entity without prior authorization by the General Assembly and specifies that the corporation will not terminate before the satisfaction of all outstanding financial obligations; and

(11) Requires any contract between the corporation and a not-for-profit organization for the operation of an innovation center to provide at least a 100% match by the nonprofit organization of any funds received by it from the corporation.

#### MISSOURI HOUSING DEVELOPMENT COMMISSION (Section 215.020)

The substitute specifies that the appointment of the executive director of the Missouri Housing Development Commission must be with the advice and consent of the Senate for a term of three years. Reappointments are allowed but also will be subject to the advice and consent of the Senate. The term of the executive director who is serving on the effective date of the substitute also will be for three years, subject to the advice and consent of the Senate, as well as his or her reappointment. The executive director only can implement policies that have been presented by the executive director and approved by the commission. The operating budget of the commission will be subject to annual appropriation.

HISTORIC STRUCTURES REHABILITATION TAX CREDITS (Sections 253.545  
- 253.559 and 620.1900)

Beginning July 1, 2011, the substitute limits the total amount of historic preservation tax credits that the Department of Economic Development can approve annually to \$115 million. For all applications for tax credits approved on or after July 1, 2011, no more than \$250,000 may be issued for eligible costs and expenses incurred in the rehabilitation of certain eligible property.

The substitute specifies that certain expenses for the rehabilitation of an historic structure that are incurred by a taxpayer for up to one year before the submission date of a preliminary application for an historic structures rehabilitation tax credit may be deemed qualified expenses but are incurred at the taxpayer's risk.

A taxpayer is authorized to submit a preliminary application for tax credit approval if the taxpayer has submitted the necessary documentation to qualify the property as an eligible property and a certified historic structure or as a structure in a certified historic district.

A taxpayer or his or her authorized representative may appeal any official decision on a preliminary or final application to an independent third-party appeals officer designated by the department.

The substitute specifies that at least 20% of the fees collected from recipients of tax credits and other moneys deposited into the Economic Development Advancement Fund must be used for administration of the Historic Structures Rehabilitation Tax Credit Program, to be divided equally between the Department of Economic Development and the State Historic Preservation Fund.

REMEDIATION TAX CREDITS (Section 447.708)

The costs of environmental insurance premiums and the backfill of areas where contaminated soil excavation occurs are added to the list of expenses that qualify for a remediation tax credit.

JOB RETENTION INCENTIVES (Sections 620.1878 and 620.1881)

The substitute authorizes economic incentives for job retention projects under the Missouri Quality Jobs Program for qualified companies that retain a specified number of existing jobs and make a specified amount of new capital investments. The economic incentives can be in the form of retaining taxes otherwise withheld from retained jobs or tax credits. 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.

#### CLEANSFIELD RENEWABLE ENERGY DEMONSTRATION PROJECT (Section 620.2300)

An owner of a park which consists of at least 50 acres in which property is subject to remediation under a clean-up program supervised by the Department of Natural Resources or the United States Environmental Protection Agency may seek to establish a cleansfields renewable energy demonstration project by submitting an application to the Department of Economic Development for certification of the project. The department must review all project applications and, in consultation with the Department of Natural Resources, verify satisfaction of all requirements. If the Department of Economic Development approves a project application, it must forward the application and approval to the Missouri Public Service Commission. Upon receipt of the application and approval, the commission must assign twice the credit to any electric power, renewable energy, renewable energy credits, or any successor credit generated from certain renewable energy resources or certain electric power generated off-site by utilizing biomass fuel or renewable energy resources.

#### RETALIATORY TAXES IMPOSED UPON INSURANCE COMPANIES (Section 1)

The substitute specifies that an insurance company claiming a state premium tax credit or deduction cannot be required to pay any additional retaliatory tax under Section 375.916 as a result of claiming the credit or deduction.

The provisions regarding the Developmental Disability Care Provider Tax Credit Program will expire August 28, 2015; and the provisions regarding the Aerotropolis Trade Incentive and Tax Credit Act will expire eight years from the effective date.

The substitute contains an emergency clause for the provisions regarding the tax amnesty, Aerotropolis Trade Incentive and Tax Credit Act, and cleansfield renewable energy demonstration project.

FISCAL NOTE: Estimated Net Income on General Revenue Fund of Unknown Greater than \$100,000 in FY 2012, FY 2013, and FY 2014. Estimated Net Effect on Other State Funds of an income of Unknown to a cost of Unknown in FY 2012, an income of Unknown to a cost of Unknown in FY 2013, and an income of Unknown to a cost of More than \$300,000 in FY 2014.

PROPONENTS: Supporters say that the costs for children who are served by these developmental disability care providers have increased tremendously and the bill will provide an additional incentive for persons to donate to these providers.

Testifying for the bill were Senator Stouffer; Dr. Raymond Kenison and Dr. Robert Springate, Missouri Baptist Children's Home; and Missouri Coalition of Children's Agencies.

OPPONENTS: There was no opposition voiced to the committee.