

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3929-04
BILL NO.: HCS for HB 1547
SUBJECT: Economic Development; Economic Development Dept.; Insurance - General;
 Taxation and Revenue - General.
TYPE: Original
DATE: April 6, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	\$0 to (\$10,000,000)	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0 to (\$10,000,000)	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development (DED)** state this proposal would make several changes to Certified Capital Company legislation, including;

- Increases ownership interest and voting power of affiliate of a certified company from 10% to 15%;
- Adds a definition of Missouri agricultural business and allows the investment into these types of companies to be secured (currently, investments by a CAPCO cannot be secured);
- Adds a definition of “reasonable costs and syndicating” a CAPCO and allows for payment of these costs at 10% of certified capital;
- Makes minor changes to “management fee definition” but does not change percentage of 2.5%;
- Revises the definition of “qualified investment” to include an investment of cash “directly or indirectly through a wholly owned subsidiary” of the CAPCO;
- Revises “qualified Missouri business” definition and would allow businesses with gross sales of over \$7.5 million to be qualified as long as the CAPCO invests 25% of its certified capital into “qualified Missouri developmental stage businesses” within 4 years of becoming a certified CAPCO (if they do not meet this requirement the business would be disqualified); would change the date for which the DED director may reduce the tax credit percentage each year, so the director cannot reduce the credit amount until three years after August 28, 2000;
- Revises Sec. 135.503.3 to state a CAPCO cannot submit a request to DED for certified capital over the total amount of certified capital that is available (currently, the CAPCOs can oversubscribe with their investors and raise as much certified capital as they can);
- Revises language in Sec. 135.516.1(1), (2) and (3) to change the benchmark date for investments of certified capital (instead of having to meet benchmarks from the date they are **designated** as a CAPCO, the benchmark date will end with date they **raised** the certified capital. This change would give the CAPCO approximately an additional 90 days, different from the current language, in which to make investments to meet the benchmarks); would also allow investments by CAPCO wholly owned subsidiaries to be qualified investments and count towards the CAPCO benchmarks;
- Allows for subsequent investments into affiliates of the CAPCO, as long as at the time of the initial investment the entity was not an affiliate of the CAPCO and because of the initial investment the entity became an affiliate of the CAPCO (essentially, the CAPCO would be able to make investments into an entity that was owned by the CAPCO);
- Allows CAPCOs to invest 5% of certified capital into any security or policy issued by an insurance company or their affiliate from certified capital raised after August 28, 2000

ASSUMPTION (continued)

- (currently, CAPCOs are not allowed to make any investments into affiliates/investors of the CAPCO);
- Adds new language to Sec. 135.516.1(7), to allow the CAPCO to organize one or more wholly owned subsidiaries to receive all or a portion of the certified capital raised by the CAPCO (the subsidiary is then allowed to make investments/loans to count as CAPCO investments); and
 - Adds the requirement that 25% of qualified investments from certified capital raised after August 28, 2000 must be in “qualified Missouri agricultural businesses.”

The DED states this proposal would increase Certified Capital Company (CAPCO) tax credits by \$100 million in calendar year 2000, or FY 2001. These credits can be taken at 10% per year. The DED assumes all \$100 million in credits will be authorized in CY 2000 and credits of \$10 million could be claimed against CY 2000 tax returns in FY 2001. The DED assumes the need for one (1) Economic Incentive Specialist II (at \$36,468 annually) to administer the additional tax credits.

Officials from the **Department of Revenue (DOR)** anticipates an increase in the number of tax credits. However, the increase is unknown. The Division of Taxation, Personal Tax Bureau, will need one temporary tax season employee (a cost of \$6,067) for every 130,000 credits filed with this credit (key entry) and one Tax Processing Tech I for every 2,000 credits claimed (processing). One Tax Processing Tech I will also be needed for every 3,000 pieces of correspondence received regarding this legislation

Officials from the **Department of Insurance (INS)** state this proposal modifies the aggregate credits allowed by authorizing an additional \$10 million in year 2000 and deletes language that caps aggregate credits at \$10 million any year thereafter. Premium tax revenues collected will decrease by \$10 million in calendar year 2000, but the impact of removing the cap on aggregate credits cannot be determined as it is not known how many companies would invest or the amount. Approximately \$140 million in premium taxes are collected each year.

Officials from the **Office of Administration** stated this proposal should not result in additional costs or savings to their agency, but there would be impact on total state revenue.

Officials from the **Department of Agriculture** assumes the proposed legislation would not fiscally impact their agency.

Oversight assumes the proposal authorizes an additional \$10 million of tax credits for calendar year 2000, but does not speak to additional tax credits for years thereafter. Therefore, Oversight

has ranged the fiscal impact of this proposal as \$0 to \$10 million in FY 2001, only. Oversight

ASSUMPTION (continued)

also assumes the Department of Economic Development will not require the requested FTE since additional tax credits are not authorized for years after calendar year 2000. Oversight also assumes the DOR will request additional FTE if it is determined that it is needed, however, for purposes of the fiscal note, oversight assumes this proposal will not fiscally impact the Department of Revenue.

This proposal would result in a decrease in Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
---	---------------------	---------	---------

GENERAL REVENUE FUND

<u>Loss - General Revenue Fund</u>	\$0 to	\$0 to	\$0 to
Additional tax credits on CAPCO	(\$10,000,000)		

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

This proposal could have a fiscal impact on certain small businesses, including certified capital companies.

DESCRIPTION

This bill makes several changes to the Missouri Certified Capital Company Law. The definition of an "affiliate of a certified company" is changed from any person controlling 10% of the outstanding voting securities to 15%. This proposal also defines a Missouri agricultural business and allows the investment into these types of companies to be secured. For companies designated as certified capital companies (CAPCO's) after August 28, 2000, no more than 10% of their certified capital may be considered as a reasonable cost for the purpose of forming,

syndicating, managing, or operating the CAPCO. The annual management fee for said certified capital company shall not exceed 2 ½ % of the certified capital of the company. The proposal changes the definition of a qualified investment to include cash directly or indirectly invested

DESCRIPTION (continued)

through a wholly owned subsidiary. The proposal caps the amount of capital that any one investor may invest in one or more certified capital companies an any calendar year at \$10 million. The bill changes the total amount of certified capital for which credits are allowed, from a cap of \$10 million in aggregate credits to \$5 million for calendar year 1998 and \$10 million for calendar year 2000. Companies designated as CAPCO's after August 28, 2000 are prohibited from investing more than 5% of their certified capital in a security or policy issued or an account maintained by an insurance company or insurance company affiliate. This proposal also changes the benchmark date for qualified investments of certified capital.

The bill defines a "qualified Missouri development stage business" as certain businesses within an "emerging industry" as defined by DED, or with gross sales in the most recently completed fiscal year of less than \$2 million; and clarifies that allowable distributions, other than qualified distributions, are distributions made from certified capital. The proposal allows the CAPCO to organize one or more wholly owned subsidiaries to receive all or a portion of the certified capital raised and the subsidiary is then allowed to make investments/loans to count as CAPCO investments. Also, the proposal adds the requirement that 25% of qualified investments from certified capital raised after August 28, 2000 must be in a qualified Missouri-agriculture business. Finally, the bill allows companies with gross sales of up to \$7.5 million to be qualified businesses, if they receive an investment from a CAPCO that, within 4 years of its designation as a CAPCO, invests at least one-half of its certified capital in qualified investments in a development stage business.

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

SOURCES OF INFORMATION

Department of Economic Development
Department of Revenue
Department of Insurance
Office of Administration
Department of Agriculture

L.R. NO. 3929-04
BILL NO. HCS for HB 1547
PAGE 6 OF 5
April 6, 2000

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is written in a cursive style with a large initial "J".

Jeanne Jarrett, CPA
Director
April 6, 2000