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REVISED

The Honorable Robert Olson, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 144-S
Topeka, Kansas 66612

Dear Senator Olson:

SUBJECT: Revised Fiscal Note for SB 369 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 369 is respectfully submitted to your committee.

SB 369 would enact the Kansas Affordable Housing Tax Credit Act. The Act would provide a new Kansas Affordable Housing Income Tax Credit for qualified low-income housing projects located in Kansas and determined by the Kansas Housing Resources Corporation (KHRC) to be eligible for the federal low-income housing tax credit beginning in tax year 2023. The amount of the Kansas tax credit would be the same as the federal tax credit amount, but would not include the federal special rule that limits the credits claimed in the first year. The eligibility requirements of the state tax credit would be the same as the federal tax credit. The KHRC would be responsible to review applications for the new tax credit and allocate the tax credits to the owners of any selected qualified development. The tax credit would be non-refundable and could be carried forward for up to 11 tax years. Any portion of the tax credit that is not claimed during that time period would be forfeited. The Act includes recapture provisions if it were determined that the project does not meet eligibility requirements. The KHRC would monitor and oversee compliance with the provisions of this Act and would report any specific occurrences of noncompliance to the Director of Taxation. The Director of Taxation at the Department of Revenue in consultation with KHRC would have the authority to write rules and regulations to implement the bill.

On or before December 31, of each year, KHRC would be required to submit a written report to the Legislature. The report would specify the number of qualified developments that have been allocated credits during the year and the total number of units supported by each development; a description of each qualified development that has been allocated credits including the geographic location of the development, the household type and any specific demographic information available about residents intended to be served by the development, the income levels intended to be served by the development, and the rents or set-asides authorized for each development; and provide housing market and demographic information that demonstrates how the qualified developments supported by the credits are addressing the need for affordable housing within the communities they are intended to serve as well as information about any remaining disparities in the affordability of housing within those communities.

Estimated State Fiscal Effect				
	FY 2022 SGF	FY 2022 All Funds	FY 2023 SGF	FY 2023 All Funds
Revenue	--	--	--	--
Expenditure	--	--	$191,312	$191,312
FTE Pos.	--	--	--	1.00

The Department of Revenue estimates that SB 369 would not have a fiscal effect on state revenues until FY 2024. The fiscal effect to state revenues during subsequent years would be as follows:

	FY 2024	FY 2025	FY 2026	FY 2027
State General Fund	($14,400,000)	($14,400,000)	($14,400,000)	($14,400,000)

To formulate these estimates, the Department of Revenue reviewed housing data from KHRC. Federal Low-Income Housing Tax Credit is comprised of two different credits. One through a qualified allocation process administered by KHRC that is sometimes referred to as the 9.0 percent credit. The other is awarded non-competitively depending on if the development budget being funded by 50.0 percent of financing is coming from tax exempt bonds and is commonly referred to as the 4.0 percent credit. Projects cannot receive both tax credits. KHRC indicated that the amount of federal low-income housing tax credits allocated each year (9.0 percent credit) is historically between $7.0 to $8.0 million. KHRC estimates the value allocated for the federal low-income housing credit for tax year 2022 at $7.4 million. Assuming this to be the average amount for subsequent years, the bill would reduce State General Fund revenues by approximately $7.4 million beginning in tax year 2023 or FY 2024.

In the original fiscal note issued, the Department of Revenue did not include fiscal note information on the 4.0 percent tax credit. KHRC indicates that the average allocation for the 4.0 percent credit from calendar years 2018 through 2021 was around $3.5 million each year. Based on data from Missouri, KHRC anticipates that the use of the 4.0 percent credit would double in Kansas. KHRC estimates the value allocated for the 4.0 percent credit for tax year 2022 would increase to $7.0 million. Assuming this to be the average amount for subsequent years, the bill would reduce State General Fund revenues by approximately $7.0 million beginning in tax year 2023 or FY 2024. Unlike the first credit which is capped each year by the allocation plan, there is no cap on this credit as long as the projects qualify. The Department notes that projects receiving the current 25.0 percent historic rehabilitation credit may also qualify for this new tax credit.

The Department of Revenue indicates that it would require a total $191,312 from the State General Fund in FY 2023 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 1.00 new FTE position to answer questions from taxpayers and to manage the new Kansas Affordable Housing Income Tax Credit. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Insurance Department indicates that the bill would also allow insurance companies to claim this new tax credit. If insurance companies claim this tax credit, then it would reduce insurance premiums taxes collections that are distributed to the Start General Fund (99.0 percent) and the Insurance Service Regulation Fund (1.0 percent). The Insurance Department indicates it would require $1,000 from the Insurance Service Regulation Fund in FY 2023 for computer programming costs that would allow the processing of insurance premium tax returns that include this new tax credit. Any fiscal effect associated with SB 369 is not reflected in *The FY 2023 Governor's Budget Report*.

KHRC is a self-supporting, nonprofit, public corporation that serves as the primary administrator of federal housing programs for the State of Kansas. The annual budget for KHRC is not approved by the Legislature. KHRC currently manages the federal low-income housing tax credit program and would likely hire additional staff to manage the new state income tax credit program. Application fees charges to developers of low-income housing projects would be used to offset any costs incurred to manage this new program.

Sincerely,

Adam Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Bobbi Mariani, Insurance