

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0639-04
Bill No.: SCS for HCS for HB 241, with SA 1
Subject: Banks and Financial Institutions; Estates, Wills, and Trusts; Uniform Laws
Type: Original
Date: May 15, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Economic Development–Division of Finance and Division of Credit Unions**, and the **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their agency.

Officials with the **Office of Administration–Division of Budget & Planning (BAP)** indicated that they cannot determine any possible impact on state revenues due to the proposal's revision of income recognition by trusts. They suggest that the Department of Revenue would be better suited to assess these provisions.

BAP officials state that currently there has been no change to the Federal Estate Tax. Several proposals to eliminate, phase out, or reduce the federal estate tax have been discussed. If the Federal Estate Tax were eliminated Missouri GR revenues would be reduced by \$153 million in FY02, \$158.4 million in FY03, and \$163.9 million in FY04.

Officials with the **Department of Revenue (DOR)** indicated that they cannot determine any possible impact on state revenues due to the proposal's revision of income recognition by trusts.

DOR officials stated in response to previous similar proposals that this legislation provides for the repeal of the Missouri Estate Tax upon repeal of the Federal Estate Tax. Currently, the Federal Estate Tax has not been repealed. Therefore, there is little or no administrative impact to the Department of Revenue. If the Federal Estate Tax is ever repealed then the Department anticipates a reduction in revenue and a reduction in FTE.

Oversight assumes since the tax base for the state estate tax is derived from the Federal Estate Tax Return, Missouri Estate Tax would be eliminated with the elimination of the Federal Estate Tax. Therefore, the revenue impact is shown as zero for this bill. Oversight notes that according to the Tax Expenditure Report for January 2001, the Missouri Estate Tax revenues for FY97-98 were \$100,861,000, FY98-99 were \$120,579,000 and FY99-00 were \$132,750,000. Oversight assumes that DOR would experience an administrative savings of approximately 3 FTE and the associated fringe benefits and expense, due to the repeal of the state estate tax. Savings would be approximately \$110,000 annually. Oversight assumes both the revenue loss and administrative savings would be as a result of changes to federal law.

Oversight also notes that this bill updates the manner in which fiduciaries report income for trust and estates and achieve uniformity with federal standards. As such, Oversight assumes that there will be minimal or no impact on state revenues from these provisions.

Officials with the **Office of the Secretary of State (SOS)** assume this bill repeals the state tax if and when the Federal Estate Tax is repealed. DOR would promulgate rules to implement this

ASSUMPTION (continued)

bill. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Revenue could require as many as approximately 4 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. Costs for this proposal would be \$246.00 for FY 2002. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

If the federal estate tax is ever repealed, there will be a decrease in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

As amended, the substitute removes any tax imposed on the transfer of a decedent's estate in Missouri if the federal estate tax is repealed. The effective date of this provision would be the same as the federal effective date.

DESCRIPTION (continued)

Also, the substitute revises principal and income distributions for trusts. The substitute:

- (1) Redefines the standards and processes used to determine which parts of a trust constitute principal and which constitute income from that principal, as well as trustees' obligations in administering those trusts;
- (2) Allows trustees discretion in adjusting the trust portfolio, to do what is fair and reasonable to all beneficiaries, absent clear intent in the trust to the contrary, in accordance with the Prudent Investor Act;
- (3) Adopts and sets the "unitrust amount" (the default mechanism used to determine how much of a portfolio to count as income) at 3%;
- (4) Repeals the rule against perpetuities as it applies to trusts, under certain conditions; and
- (5) Reduces the statute of limitations, from 5 years to 2 years, for claims of breach of trust resulting from a trustee's allocation of income and principal.
- (6) Includes procedures for removal of a trustee.

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
 Division of Finance
 Division of Credit Unions
Department of Revenue
Office of State Courts Administrator
Office of Administration
 Division of Budget & Planning
Office of the Secretary of State



Jeanne Jarrett, CPA
Director

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