COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1799-01
Bill No.: HB 736
Subject: Banks & Financial Institutions; Business & Commerce; Insurance–General
Type: Corrected
Date: February 22, 2001
Corrected Oversight assumption regarding bank franchise tax credit.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on All State Funds*	**(Unknown)**	**(Unknown)**	**(Unknown)**

#*Does not include potential revenue losses of $3.3 million which could be realized due to passage of legislation pending regarding repeal of the franchise tax.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	$0	$0	$0
Total Estimated Net Effect on All 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 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Office of the Secretary of State–Securities Division**, the **Department of Economic Development–Divisions of Finance** and **Credit Unions**, and the **Department of Insurance** assume the proposal will have no fiscal impact on their agencies.

Officials with the **Department of Revenue** assume no administrative impact would result from the passage of this proposal; however, they declined to comment on the revenue impact.

Officials with the **Office of Administration–Division of Budget & Planning** assume there will be a loss of state revenues due to the proposal. The Office is not able to calculate the amount of the loss.

Oversight notes that the proposal has the potential to result in a loss of revenue to the state in several ways. First, by allowing tax credits to Missouri residents who are shareholders of out-of-state S corporation banks, the bill will reduce the tax liability of some Missourians. Second, by allowing tax credits to be passed through Missouri S corporation banks to their shareholders, the proposal will result in some tax credits being taken that otherwise would not, and could cause other tax credits to be utilized in a shorter time frame. Finally, by providing that if legislation is enacted which eliminates the franchise tax, banks will continue to be allowed to claim the amount they would have paid in franchise tax as a credit against their bank tax liability, the bill creates the potential for a large revenue loss.

#Currently, banks reduce their bank tax liability for any franchise tax paid, and further receive a 50% credit. Thus, repealing the franchise tax would eliminate the credit of 50% of the franchise tax received by banks. According to officials with DOR, the amount of franchise tax paid by Missouri banks is $6,598,000. **Oversight** assumes this proposal would result in a cost to General Revenue *if* any pending legislation repealing the franchise tax is enacted along with this proposal. Additionally, there is an unknown cost for tax credits allowed to shareholders of out-of-state S corporation banks.

FISCAL IMPACT - State Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
Loss–Tax Credits Allowed*	**(Unknown)**	**(Unknown)**	**(Unknown)**

#*Does not include potential revenue losses of $3.3 million which could be realized due to passage of legislation pending regarding repeal of the franchise tax.

FISCAL IMPACT - Local Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small financial institutions.

DESCRIPTION

This bill amends various provisions relating to banking law. In its main provisions, the bill:

(1) Allows banking S corporations to take a tax credit for all of their allowed tax returns, as opposed to allowing only a credit on the tax on bank income;

(2) Redefines "tax credit" for purposes of banking S corporations to include all income taxes and corporate franchise taxes;

(3) Allows resident shareholders of nonresident S corporations to take the tax credits that are allowed to resident S corporations, but only for the amount of tax paid in the foreign state and not to exceed 6% of the corporation's net income;

(4) States that, if the corporate franchise tax is repealed for Missouri corporations other than financial institutions, then (a) financial institutions will be granted a tax credit, in lieu of the existing tax credit, of 1.5% of net income. S corporations can pass this tax credit through to their shareholders; and (b) all taxes and tax credits on S corporations will be passed through to the shareholders, with certain exceptions;

(5) Allows not-for-profit corporations with civil, charitable, or educational purposes to be chartered or branched in Missouri as banks insured by the Federal Deposit Insurance Corporation;

(6) Modifies bank stockholders' meetings laws to allow transaction of business by written consent if one bank holding company owns all of that bank's stock;

(7) Allows state bank and trust companies to (a) be passive investors in business entities owned by other financial institutions; and (b) lend money on real estate and handle real estate closings and escrows;

DESCRIPTION (continued)

(8) Allows certain bank and trust companies in communities with sufficiently small populations, as established by rule of the Division of Finance, to keep the additional powers granted to them for 5 years after they exceed the allowable population;

(9) Allows state bank and trust companies to offer any product or service that a national bank can offer, as long as the state bank follows federal law while conducting these practices;

(10) Expands the capital investment allowances granted to state banks to include holding companies authorized to do business in this state;

(11) Clarifies that certain investment prohibitions in the bill are limited only to other allowable investments;

(12) Allows bank and trust stockholders to appoint a chief executive officer or a president. Current law only allows presidents to be appointed;

(13) Allows bona fide fees to be collected on residential real estate loans for any actual and necessary services associated with the loan;

(14) Allows late payment charges not to exceed 5% of the payment due or $50, whichever is less, on small loans overdue for 15 days or more; and

(15) Prohibits any regulation regarding the charging of insurance commissions on credit insurance from being more restrictive on financial institutions than regulations are on insurance agents.

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 Insurance
Department of Revenue
Office of Administration
  Division of Budget & Planning
Office of the Secretary of State

Jeanne Jarrett, CPA
Director

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