

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1262-08
Bill No.: SCS for HCS for HBs 518, 288, 418, & 635
Subject: Roads and Highways; Transportation, Department of Transportation
Type: Original
Date: May 2, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Less than \$100,000) to Unknown	(Less than \$100,000) to Unknown	(Less than \$100,000) to Unknown
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000) to Unknown	(Less than \$100,000) to Unknown	(Less than \$100,000) to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
State School Moneys*	\$0	\$0	\$0
Motorcycle Safety Trust	Up to \$1,976,167	Up to \$2,371,400	Up to \$2,371,400
Highway	\$105,362	\$128,295	\$128,295
Total Estimated Net Effect on <u>Other</u> State Funds	Up to \$2,081,529	Up to \$2,499,695	Up to \$2,499,695

* Offsetting savings and losses to State School Moneys Fund.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government**	\$35,120	\$42,765	\$42,765

** Local School Districts would have offsetting income from increase fines and losses from reduced distribution from State School Moneys Fund.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Department of Public Safety – Missouri State Highway Patrol, State Treasurer’s Office, Boone County Sheriff’s Department, Jackson County Sheriff’s Department, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of the State Public Defender (SPD)** assume existing staff could provide representation for those few cases arising where indigent persons were charged as a result of proposed revisions relating to highway construction and work zones. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would give the Department of Transportation the authority to adopt rules to implement the provisions of this act. These rules would be published in the Missouri Register and the Code of State Regulations. These rules could require as many as 18 pages in the Code of State Regulations and half again as many pages in the Missouri Register, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23 and the estimated cost of a page in the Code of State Regulations is \$27. Based on these costs, the estimated cost of the proposal is \$1,107 in FY 06 and unknown in subsequent years. The actual cost 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 would 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.

Failure to Yield Right of Way – Sections 302.302 and 304.351

Officials from the **Office of State Courts Administrator (CTS)** assume the proposal would amend the right of way statute by imposing additional fines and license suspensions when the violation resulted in physical injury, serious physical injury, or death to any person. Because of the increased penalties, CTS would expect that some cases may become protracted. CTS would not expect the total number of cases involving this provision would be great enough to impact the budget of the judiciary.

Officials with the **Department of Transportation (MoDOT)** assume that the proposed legislation would impose additional fines on drivers who fail to yield the right of way and cause a motor vehicle crash. Such fines would be deposited into the Motorcycle Safety Trust Fund, which is administered by the Highway Safety division of MoDOT.

Based on 2003 traffic crash statistics as recorded by the Missouri State Highway Patrol, there were 137 fatal crashes, 1,220 serious injury crashes and 8,122 evident or probable injury crashes where the driver failed to yield the right-of-way.

ASSUMPTION (continued)

Using those statistics, the positive fiscal impact for such crashes could reach \$2,371,400.

\$1,624,400 (8,122 evident or probably injury crashes X \$200 surcharge)
\$610,000 (1,220 serious injury crashes X \$500 surcharge)
\$137,000 (137 fatal crashes X \$1,000 surcharge)
\$2,371,400

However, MoDOT assumes that the courts have discretion of assessing a lower surcharge, therefore the actual fiscal impact is likely to fall below the above stated amount.

Officials from the **Department of Revenue (DOR)** assume the changes in this section will create new conviction types. Suspensions and revocations will increase from the increased point values. The Driver and Vehicle Services Bureau (DVSb) assumes the legislation will produce an estimated 10,494 convictions that would result in 10,494 suspensions/revocations per year. Figures were obtained from the Department of Public Safety publication Missouri Traffic Crashes 2003 Revised Edition – 2002 Statistics, as this is the most current information available.

10,494	Number of accidents with injuries/fatalities arising from failure to yield right-of-way convictions
<u>x 100%</u>	Estimated percentage of drivers to be convicted of causing an injury/fatal accident due to failing to yield right-of-way convictions
10,494	Estimated number of convictions received per year

This legislation is estimated to produce 40 convictions that will produce 40 suspensions/revocations per day.

10,494	Estimated number of convictions received per year
<u>/ 260</u>	Days per year
40	Estimated number of suspensions/revocations to process per day

The DOR assumes the resulting increased work volumes will require an additional two FTE, however, the department will process this additional workload utilizing existing staff resources.

The DOR's Driver and Vehicle Services Bureau will incur forms cost of \$404.55 due to producing notice of suspensions, reinstatement letters, and responding to correspondence, envelope costs of \$837, and a postage cost of \$7,744 for FY06 and \$9,338 for FY07 and FY08. Forms and envelope costs will be incurred using existing resources. Postage cost is reflected in the fiscal note.

BLG:LR:OD (12/02)

ASSUMPTION (continued)

Certification of Alcohol Related Reports – Sections 302.510, 302.530, and 577.041

Officials from the **Department of Revenue (DOR)** assume this proposal will create a FTE cost savings of \$2,006 in fiscal year 06, due to the reduction in the number of rejected Alcohol Influence Reports (AIRs) that have to be processed. DOR estimates the cost avoidance by not processing rejected AIRs to be approximately \$2,000 in FY06 and approximately \$2,600 in FY07 and FY08.

DOR assumes the provisions in Section 302.530.1 will create a cost savings of approximately \$800 in FY06 and a cost savings of approximately \$900 in FY07 and FY08 due to the reduction in the number of rejected hearing requests that have to be processed.

DOR assumes the provisions in Section 302.530.6 will create a cost savings of approximately \$3,500 in F06 and a cost savings of approximately \$4,300 in FY07 and FY08 due to the reduction in processing time of mailing the hearing decision by certified mail.

DOR assumes the proposal will provide a cost avoidance by reducing the number of Alcohol Influence Reports (AIRs) rejected due to the report not being notarized. The estimated cost avoidance would be approximately \$1,700 in FY06 and approximately \$2,000 for FY07 and FY08.

DOR assumes the provisions in Section 302.530.1 would result in a cost avoidance by reducing the number of hearing requests rejected due to the driver license not being surrendered. The estimated cost avoidance for FY06 would be \$640. The estimated cost avoidance for FY07 and FY08 would be \$770.

DOR assumes the provisions in Section 302.530.6 would produce an estimated cost avoidance of \$29,000 for FY06 and an estimated cost avoidance for FY07 and FY 08 of \$35,000.

DOR assumes the provisions in Section 302.302.1(14) would result in a \$20 reinstatement fee being assessed on suspensions. DOR estimates an increase in revenue of \$140,500 for FY06 and \$171,000 for FY07 and FY08.

ASSUMPTION (continued)

Highway Work Zones – Sections 304.580, 304.582, 304.585, and 304.590

Officials from the **Office of State Courts Administrator (CTS)** assume the proposal would modify the law with respect to highway work zones, with increased penalties, and create the crime of endangerment of a highway worker. CTS assumes there may be some increase in the number of cases filed. CTS would not anticipate a fiscal impact on the judiciary from these provisions.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this bill. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. Any increase in this money distributed to schools becomes a deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula with a proration factor of 1.00.

Officials from the **Department of Corrections (DOC)** assume, based on MoDOT statistics, 28 MoDOT employees were so injured in 2003, including 1 fatality, and 69 in 2004, including 2 fatalities. Penalty provisions in this proposal are for a class C felony when a fatality occurs, however it is assumed those perpetrators could presently be charge with either Involuntary Manslaughter – Vehicular Intoxicated or Assault II – Vehicular Injury, both punishable as a class C felony. DOC assumes at least a portion of the non-fatality injuries would be convicted of the newly defined class D felony (who wouldn't have previously been charged pursuant to existing law) and serve the average (for a class D felony) of 9.2 months in prison before parole.

The DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender per day, or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Primary Seat Belt Enforcement/Child Booster Seats – Sections 307.178, 307.179, and 476.385

Officials from the **Office of State Courts Administrator (CTS)** assume the proposal would allow an officer to stop a vehicle for non-compliance with the seat belt law if the violation is clearly visible to the officer without stopping the vehicle, and would modify the law with respect to child passenger restraint, with additional fines. Depending on the degree of enforcement, there could be a significant increase in the number of cases filed. CTS has no way of estimating that increase. Any significant increase would be reflected in future budget requests.

Lane Use for Trucks – Section 304.015

Officials from the **Department of Revenue (DOR)** assume this proposal will require one form to be modified in order to include the weight of the commercial motor vehicle, so there can be a distinction between a “truck” and “commercial motor vehicle” when assessing points. The Record of Conviction (DOR-152) will be destroyed and reprinted at a cost of \$420. This cost will be incurred by the department’s existing resources.

DOR also assumes this proposal will require program modifications to be made to the Missouri Drivers Licensing system (MODL) in order to create new convictions, create new conviction evaluation routines, modify conviction screens and database records, modify MODL extract routine, and modify the Commercial Drivers Information System (CDIS) table update process. The proposal will require program modifications to the Administrative Driving While Intoxicated (ADWI) system. The program modifications and creations will need to be tested (design, development, and testing).

ASSUMPTION (continued)

DOR further assumes this proposal will require program modifications to be made to the Missouri Drivers Licensing system (MODL) in order to create new convictions, create new conviction evaluation routines, modify conviction screens and database records, modify MODL extract routine, and modify the Commercial Drivers Information System (CDIS) table update process. The proposal will require program modifications to the Administrative Driving While Intoxicated (ADWI) system.

DOR assumes internal testing and programming costs will be incurred by the department's existing resources.

The proposed legislation could increase total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	Unknown	Unknown	Unknown
<u>Savings</u> – Department of Revenue			
Personal Service	\$6,339	\$7,801	\$7,801
Fringe Benefits	\$2,704	\$3,327	\$3,327
Postage	<u>\$31,126</u>	<u>\$37,350</u>	<u>\$37,350</u>
<u>Total Savings</u> – DOR	\$40,169	\$48,478	\$48,478
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Revenue (§302.302)			
Postage	<u>(\$7,743)</u>	<u>(\$9,338)</u>	<u>(\$9,338)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than \$100,000) to <u>Unknown</u>	(Less than \$100,000) to <u>Unknown</u>	(Less than \$100,000) to <u>Unknown</u>

STATE SCHOOL MONEYS FUND

<u>Savings</u> – Reduced distributions to local school districts	Unknown	Unknown	Unknown
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<u>Losses</u> – Reduced appropriations from General Revenue Fund	(Unknown)	(Unknown)	(Unknown)
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ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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MOTORCYCLE SAFETY TRUST FUND

<u>Income</u> – MoDOT Surcharge fines	Up to <u>\$1,976,167</u>	Up to <u>\$2,371,400</u>	Up to <u>\$2,371,400</u>
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ESTIMATED NET EFFECT ON MOTORCYCLE SAFETY TRUST FUND	<u>Up to</u> <u>\$1,976,167</u>	<u>Up to</u> <u>\$2,371,400</u>	<u>Up to</u> <u>\$2,371,400</u>
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HIGHWAY FUND

<u>Revenues</u> – Department of Revenue Reinstatement fees	<u>\$105,362</u>	<u>\$128,295</u>	<u>\$128,295</u>
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ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>\$105,362</u>	<u>\$128,295</u>	<u>\$128,295</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – School Districts			
Incomes from fines	Unknown	Unknown	Unknown
<u>Revenues</u> – Cities			
Reinstatement fees	\$21,072	\$25,659	\$25,659
<u>Revenues</u> – Counties			
Reinstatement fees	\$14,048	\$17,106	\$17,106
<u>Losses</u> – School Districts			
Reduced distribution from State School Moneys Fund	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS**	<u>\$35,120</u>	<u>\$42,765</u>	<u>\$42,765</u>

** Includes offsetting income from increase fines and losses from reduced distribution from State School Moneys Fund to Local School Districts.

FISCAL IMPACT - Small Business

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

DESCRIPTION

Local Log Truck – Section 301.010

The proposal would allow harvesting equipment to be transported upon a local log truck.

DESCRIPTION (continued)

Failure to Yield Right of Way – Sections 302.302 and 304.351

The proposal would increase the penalties and impose driver's license points on any person failing to yield the right-of-way when the violation results in physical injury, serious physical injury, or death to a person. Any person violating Section 304.351 (failure to yield right-of-way) which results in physical injury would be assessed a fine of not less than \$200 and have 8 points assessed against his or her driver's license. If a serious physical injury results, the person would be guilty of a class B misdemeanor and a fine of not less than \$500 would be imposed and 8 points would be assessed. If the failure to yield violation leads to a fatality, the person would be guilty of a class A misdemeanor and a fine of not less than \$1,000 would be imposed and 12 points would be assessed against his or her driver's license.

Certification of Alcohol Related Reports – Sections 302.510, 302.530, and 577.041

The proposal would require alcohol related reports submitted to the Department of Revenue by law enforcement officers to be certified rather than verified. The proposal would require law enforcement officers to certify the alcohol arrest reports under penalties of perjury prior to filing the reports with the department. The reports would be admissible as prima facie evidence at administrative hearings. The proposal would repeal the requirement for license surrender in order to obtain a hearing on administrative alcohol arrests.

Highway Work Zones – Sections 304.580, 304.582, 304.585, and 304.590

The proposed legislation would change the laws regarding highway work zones. "Worker" or "highway worker" would be defined as any person who is working in a construction or work zone or any employee of the Department of Transportation working on a state highway or state highway right-of-way.

Any person guilty of a moving violation within a construction or work zone for the first offense would be subject to a \$35 fine and \$75 for a second or subsequent violation. A fine for speeding in a construction or work zone would be \$250 for the first offense and \$300 for a second or subsequent violation. Passing in a construction or work zone would be a class C misdemeanor. The proposal would establish the crime of endangerment of a highway worker and would specify the circumstances.

A \$5.00 surcharge would be assessed on all traffic violations in the state, to be deposited in the newly created Work Zone Safety Trust Fund. The Work Zone Safety Trust Fund would be used for funding enforcement of all traffic laws in construction or work zones.

DESCRIPTION (continued)

Lane Restriction by Large Trucks – Section 304.015

The proposal would prohibit trucks (in excess of 48,000 pounds) from being driven in the far left-hand lane on interstate highways, freeways, or expressways in the urban areas of this state. This prohibition would not apply in certain circumstances.

No Passing When Marked with Solid Yellow Stripe – Section 304.016

The proposal would prohibit driving to the left hand side of the a roadway when it is clearly marked with a solid yellow center stripe indicating a no passing zone or an unsafe location to overtake or drive to the left side of the roadway, except that this would not apply when executing a lawful turn or when avoiding debris in the roadway.

Abandoned Motor Vehicles – Section 304.155

Under the proposal, law enforcement officers could authorize a towing company to immediately move any vehicle left unattended on any interstate highway or freeway in an urbanized area. Currently, a vehicle must be abandoned for at least four hours.

Affirmative Defense for Proceeding Through Red Light with a Motorcycle – Section 304.281

The proposal would provide that a person operating a motorcycle who enters or crosses an intersection controlled by a traffic-control signal against a red light would have an affirmative defense to that charge if the person would establish all of the following conditions:

1. The motorcycle has been brought to a complete stop;
2. The traffic control signal continues to show a red light for an unreasonable time;
3. The traffic control signal is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and
4. No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard.

DESCRIPTION (continued)

The affirmative defense would apply only to a violation for entering or crossing an intersection controlled by a traffic control signal against a red light and does not provide a defense to any other civil or criminal action.

Highway Work Zone Protection – Sections 304.580, 304.582, 304.585

The proposal would increase various penalties for offenses occurring within highway work zones or construction zones. Under this proposal, any person convicted of a second or subsequent moving violation within a work zone would be assessed a fine of \$75. The proposal would provide that a person who is convicted of speeding or passing a vehicle within a work zone when a highway worker is present a second or subsequent time would be assessed a fine of \$300 in addition to any other fine authorized by law.

The proposal would impose 8 points on a person's license who commits the offense of endangerment of highway worker (license suspension) and 12 points for aggravated endangerment of a highway worker (license revocation).

The proposal would also create the crime of "endangerment of a highway worker." The proposal would provide that if a person commits the offense of endangerment of a highway worker in which no injury or death results the person would be guilty of a class A misdemeanor and would have their driver's license suspended. The person would be guilty of aggravated endangerment of a highway worker if a death or injury results. If an a highway worker is injured, the person would be guilty of a class D felony and would have his or her license revoked. If a death results, the person would be guilty of a class C felony and have his or her license revoked. A person would commit the offense of endangerment of a highway worker if the motorist would:

1. Exceed the posted speed limit by 25 mph or more;
2. Pass another vehicle in a work zone and such offense would result in the death or injury of a highway worker;
3. Fail to stop for a work zone flagman or fail to obey traffic control signals erected in the work zone;
4. Drive through or around the work zone by any lane not clearly designated for such purpose;

DESCRIPTION (continued)

5. Physically assault or attempt to assault a highway worker with a motor vehicle or other instrument;
6. Intentionally strike or moves barrels, barriers, signs, or other devices erected to control the flow of traffic for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of another person; or
7. Commit various offenses in which points may be assessed under Section 302.302.

Airbag Fraud – Section 307.156

Persons who install airbags that do not meet federal safety standards or install airbags that have been installed in another motor vehicle without disclosing such fact would be guilty of a class D felony.

Primary Seat Belt Enforcement/Child Booster Seats – Sections 307.178, 307.179, and 476.385

The proposal would permit a law enforcement officer to enforce the seat belt law if the violation is clearly visible to the officer without stopping the vehicle. Noncompliance with the seat belt law would not constitute probable cause for a search of the driver, passenger, or vehicle. If there are more persons than there are seat belts, then the passengers who are unable to wear seat belts would sit in the area behind the front seat unless the vehicle is designed only for a front-seated area. This provision would not apply to passengers who are accompanying a driver who possesses an intermediate driver's license. (Section 307.178)

The proposal would require children less than four years old to use an appropriate child passenger restraint system. Children four years of age through five years of age would be required to be secured in a child booster seat. Children six years of age or older would use a child passenger restraint system, child booster seat, or safety belt appropriate for that child. The fine for violating this section would be \$25. No court costs would be charged and no points would be assessed. A person could avoid the \$25 penalty by demonstrating that the person obtained a child safety seat prior to or at his or her hearing which is satisfactory to the court or the party responsible for prosecuting the violator's citation. No points would be assessed against a person's driver's license for violating the child restraint provisions of this act. (Sections 307.179 and 476.385)

DESCRIPTION (continued)

Treatment of Prior and Persistent Offenders Involving Municipal Intoxicated-related Traffic Offenses – Section 577.023

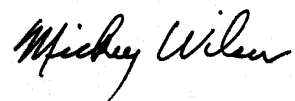
The proposal would clarify that the penalty enhancement provisions in Section 577.023 relating to prior/persistent offenders should be applied consistently whether in municipal, county, and state courts. Specifically, when an individual is charged under a municipal ordinance the individual is not entitled to suspended imposition of sentence if he/she meets the definition and classification as prior or persistent offender under Section 577.023.1(2) and (3).

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

The proposed legislation could increase total state revenue.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Transportation
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
State Treasurer's Office
Boone County Sheriff's Department
Jackson County Sheriff's Department
Springfield Police Department



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Bill No. SCS for HCS for HBs 518, 288, 418, & 635
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Mickey Wilson, CPA
Director
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