

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1344-01  
Bill No.: Perfected HB 535  
Subject: Secretary of State  
Type: Original  
Date: May 6, 2019

Bill Summary: This proposal modifies provisions pertaining to the Secretary of State.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
General Revenue	Up to (\$686,915)	Up to (\$763,151)	Up to (\$850,752)	Up to (\$93,465)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Up to (\$686,915)</b>	<b>Up to (\$763,151)</b>	<b>Up to (\$850,752)</b>	<b>Up to (\$93,465)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
Technology Trust Fund (0266)	\$36,260	\$45,331	\$1,406,690	\$3,246,072
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$36,260</b>	<b>\$45,331</b>	<b>\$1,406,690</b>	<b>\$3,246,072</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>Fully Implemented (FY 2024)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§ 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-528 and 417.018 - Fees Extension

Officials from the **Office of the Secretary of State (SOS)** state:

This proposal extends the SOS's technology trust fund. The fund pays for the establishing, procuring, developing, modernizing and maintaining:

- (1) An electronic data processing system and programs capable of maintaining a centralized database of all registered voters in the state;
- (2) Library services offered to the citizens of this state;
- (3) Administrative rules services, equipment and functions;
- (4) Services, equipment and functions relating to securities;
- (5) Services, equipment and functions relating to corporations and business organizations;
- (6) Services, equipment and functions relating to the Uniform Commercial Code;
- (7) Services, equipment and functions relating to archives;
- (8) Services, equipment and functions relating to record services; and
- (9) Services, equipment and functions relating to state and local elections.

An estimated impact of \$2,700,000 for each fiscal year is based on historical fee collections as follows:

Collected			Average
FY2016	FY2017	FY2018	
\$ 2,676,598	\$ 2,678,515	\$ 2,758,713	\$ 2,704,609

Impact will be \$1,350,000 in FY22, \$2,700,000 in FY23 - 26 and \$1,350,000 in FY27.

**Oversight** assumes collections will continue to increase, but will assume for fiscal note purposes SOS's estimated impact.

#### House Amendment 2 §§ 347.044 and 358.460 - Filing Fee Changes

**SOS** also assumes Total State General Revenue regarding these particular filings will decrease, for Limited Liability Companies and Limited Liability Partnerships.

ASSUMPTION (continued)

A new filing of Information Statement for LLCs will start in 2023 and affect LLCs every five years thereafter for each new registration resulting in a positive fiscal impact.

These estimates assume various rate of participation and use an averaging of historical date to determine estimations.

347.044-347.183 (LLC)

	<u>GR 0101</u>	<u>TECH 0266</u>
<b>FY2020</b>	\$(423,855)	\$180
<b>FY2021</b>	\$(299,629)	\$216
<b>FY2022</b>	\$(260,216)	\$225

358.460-358.470 (LLP)

	<u>GR 0101</u>	<u>TECH 0266</u>
<b>FY2020</b>	\$(565)	
<b>FY2021</b>	\$(590)	
<b>FY2022</b>	\$(545)	

Fiscal Impact for FY2023-FY2027 347.044-347.183 (LLC)

	<u>GR 0101</u>	<u>TECH 0266</u>
<b>FY2023</b>	\$345,686	\$180,913
<b>FY2024</b>	\$708,412	\$544,933
<b>FY2025</b>	\$351,644	\$270,496
<b>FY2026</b>	\$303,875	\$233,750
<b>FY2027</b>	\$259,675	\$199,750

SOS states they believe that there will be a significant decrease in LLC filings and a steady reduction in numbers in 2026 and 2027 as a result of this proposal. The reduction in comparison of fund impact from 2023 to 2027 is based on the assumption that proposal change which require LLCs to file an information statement with a \$15 (paper) or \$5 (online) fee every 5 years, will deter people from creating as many LLCs. The SOS assumes the reduction will be significantly less by 2027. They estimate projections of potentially 311,390 Active LLCs in 2024, with potentially 47,00 new LLC filings in 2027, that will be legitimate LLC companies in business.

SOS also assumes there will be a need for a software change in FY2023 as a result of this proposal. The estimated cost for the change is \$85,000.

ASSUMPTION (continued)

**Oversight** will reflect the cost for software change of \$85,000 in FY2024 as the proposal is fully implemented.

The **Office of the Secretary of State** states they reserve the right to offset or request additional resources for estimated fiscal note impacts during the budget process.

**Oversight** notes that the Technology Trust Fund (0266) had a balance of \$4,660,427 as of April 30, 2019.

Oversight notes that SOS used a rolling average to calculate their projected estimates for new filings of Articles of Organization, Articles of Termination, Cancellation of Registration, and Notice of Winding Up; each for the paper and online filings both domestic and foreign. This calculation was based on data from 7/1/2015 to 6/30/2018. The below tables show the baseline provided by SOS.

Estimated 2020 Filing	Domestic		Foreign	
	Paper	Online	Paper	Online
Articles of Organization	3,728			
Articles of Organization (E)		46,541		
Articles of Termination	2,301			
Articles of Termination (E)		1,994		
Cancellation of Registration			629	
Cancellation of Registration (E)				356
Notice of Winding up	2,183			
Notice of Winding up (E)		1,718		

ASSUMPTION (continued)

Estimated 2021 Filing	Domestic		Foreign	
	Paper	Online	Paper	Online
Articles of Organization	3,660			
Articles of Organization (E)		47,273		
Articles of Termination	2,296			
Articles of Termination (E)		2,040		
Cancellation of Registration			612	
Cancellation of Registration (E)				373
Notice of Winding up	2,187			
Notice of Winding up (E)		1,779		

Estimated 2022 Filing	Domestic		Foreign	
	Paper	Online	Paper	Online
Articles of Organization	3,580			
Articles of Organization (E)		47,936		
Articles of Termination	2,307			
Articles of Termination (E)		2,095		
Cancellation of Registration			597	
Cancellation of Registration (E)				388
Notice of Winding up	2,191			
Notice of Winding up (E)		1,815		

SOS used that average for a baseline to compare the decrease in fees with 15% decrease in filings. SOS assumes that as a result of LLC's being required to file an information statement as a result of the proposal there will be a significant decline in active LLCs.

**Oversight** inquired the SOS for additional information and data to support the expected decrease in the number of LLC filings. The SOS provided historical data that shows while paper LLC filings are currently decreasing at an average rate of 13% each year, total LLC filings are increasing at a rate of 8% each year. Oversight assumes that while LLC filings may decrease over time, there is no data to suggest the decrease would be a result of this proposal. Oversight has recalculated the number of projected filings based on the trend of percentage growth from 7/1/2015 to 06/30/2018. The trend shows a decrease in paper filings with an increase in electronic filings until FY2022, then remain constant till FY2024.

ASSUMPTION (continued)

**Oversight** notes that Section 347.740 RSMo currently allows the SOS to collect an additional \$5 fee to be deposited in the Secretary of State’s Technology Trust fun (0266) on “each and every” fee required in Chapter 347 until the section sunsets on December 31<sup>st</sup>, 2021 (changed to 2026 in this bil). Oversight will not reflect the \$5 fee for any LLC filings that already collect a fee.

		<u>Paper LLC</u> <u>Filings</u>	<u>Online LLC</u> <u>Filings</u>
ACTUAL	FY2016	4,415	41,516
	FY2017	3,931	44,436
	FY2018	3,353	49,993
ESTIMATED	FY2019	2,917	54,992
	FY2020	2,538	60,492
	FY2021	2,208	66,541
	FY2022	1,921	73,195

ASSUMPTION (continued)

<b>Estimated 2020*</b>	<b>Domestic</b>		<b>Foreign</b>		
	<b>Filing</b>	<b>Paper</b>	<b>Online</b>	<b>Paper</b>	<b>Online</b>
Articles of Organization	2,538				
Articles of Organization (E)			60,492		
Articles of Termination	2,514				
Articles of Termination (E)			3,294		
Cancellation of Registration				407	
Cancellation of Registration (E)					782
Notice of Winding up	2,248				
Notice of Winding up (E)			3,140		

<b>Estimated 2021*</b>	<b>Domestic</b>		<b>Foreign</b>		
	<b>Filing</b>	<b>Paper</b>	<b>Online</b>	<b>Paper</b>	<b>Online</b>
Articles of Organization	2,208				
Articles of Organization (E)			66,541		
Articles of Termination	2,615				
Articles of Termination (E)			3,986		
Cancellation of Registration				350	
Cancellation of Registration (E)					1,048
Notice of Winding up	2,270				
Notice of Winding up (E)			3,988		

<b>Estimated 2022*</b>	<b>Domestic</b>		<b>Foreign</b>		
	<b>Filing</b>	<b>Paper</b>	<b>Online</b>	<b>Paper</b>	<b>Online</b>
Articles of Organization	1,921				
Articles of Organization (E)			73,195		
Articles of Termination	2,719				
Articles of Termination (E)			4,823		
Cancellation of Registration				301	
Cancellation of Registration (E)					1,404
Notice of Winding up	2,293				
Notice of Winding up (E)			5,065		

\* As estimated by Oversight:

ASSUMPTION (continued)

The total fiscal impact as a result of the decrease in fees starting in FY 2020 as well as the new information statement filing fee starting in FY 2023 in the proposal to General Revenue and the Technology Trust Fund are seen below in the tables.

347.044-347.183 (LLC)

	<u>GR 0101</u>	<u>TECH 0266</u>
<b>FY2020</b>	\$(686,350)	\$36,260
<b>FY2021</b>	\$(762,561)	\$45,331
<b>FY2022</b>	\$(850,207)	\$56,690

358.460-358.470 (LLP)

	<u>GR 0101</u>	<u>TECH 0266</u>
<b>FY2020</b>	\$(565)	
<b>FY2021</b>	\$(590)	
<b>FY2022</b>	\$(545)	

Oversight notes the SOS assumes only 35% all LLCs that have filed prior to January 1<sup>st</sup> 2019 for a total of 617,909 and 85% LLCs that filed after January 1<sup>st</sup> 2019 will remain active and file an information statement in FY 2023 or later. The SOS also assumes 90% of the the information statements will be filed online paying the \$5 fee; while the remaining 10% will file with paper, paying the \$10 fee. Oversight will use the same assumptions but will recalculate for LLC filing growth.

Fiscal Impact for FY2023-FY2027 347.044-347.183 (LLC)

	<u>GR 0101</u>	<u>TECH 0266</u>
<b>FY2023</b>	\$319,095	\$265,913
<b>FY2024</b>	\$757,287	\$631,072
<b>FY2025</b>	\$437,103	\$364,253
<b>FY2026</b>	\$298,027	\$248,356
<b>FY2027</b>	\$325,628	\$271,357

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
<b>GENERAL REVENUE FUND</b>				
<u>Loss - SOS - fee</u> revenue reduction p. 9	Up to (\$686,915)	Up to (\$763,151)	Up to (\$850,752)	Up to (\$850,752)
<u>Income - SOS - new</u> fee revenue for LLC p. 9	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$757,287</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>Up to</u></b> <b><u>(\$686,915)</u></b>	<b><u>Up to</u></b> <b><u>(\$763,151)</u></b>	<b><u>Up to</u></b> <b><u>(\$850,752)</u></b>	<b><u>Up to</u></b> <b><u>(\$93,465)</u></b>
<b>TECHNOLOGY TRUST FUND (0266)</b>				
<u>Income - SOS -</u> filing fees p. 9	\$36,260	\$45,331	\$56,690	\$631,072
<u>Revenue - SOS -</u> fees extended p. 3	\$0	\$0	\$1,350,000	\$2,700,000
<u>Cost - SOS -</u> software change p 4-5	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$85,000)</u>
<b>ESTIMATED NET EFFECT ON TECHNOLOGY TRUST FUND</b>	<b><u>\$36,260</u></b>	<b><u>\$45,331</u></b>	<b><u>\$1,406,690</u></b>	<b><u>\$3,246,072</u></b>

FISCAL IMPACT -  
Local Government

	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that file with the Office of the Secretary of State would be impacted by this proposal.

FISCAL DESCRIPTION

This bill extends the expiration date from December 31, 2021, to December 31, 2026, for the additional \$5 fee collected by the Secretary of State for every fee required in Chapter 347, RSMo, (Limited Liability Companies); Chapter 351 (General and Business Corporations); Chapter 355 (Nonprofit Corporations); Chapter 356 (Professional Corporations); Chapter 359 (Uniform Limited Partnership Law); Article 9 (Secured Transactions) of Chapter 400 (Uniform Commercial Code); and Chapter 417 (Trademarks, Names and Private Emblems). The additional fee is deposited in the Secretary of State's Technology Trust Fund.

This bill changes the filing fees for specified company filings filed with the Secretary of State (SOS); creates an information statement to be filed every five years by every limited liability company and foreign limited liability company operating in the state.

The bill includes procedures for the SOS to cancel the registration of any limited liability company that does not file updated information statements, and a reinstatement process, with fees.

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

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SOURCES OF INFORMATION

Office of the Secretary of State



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