

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3111-01
Bill No.: Perfected HB 1736
Subject: Business and Commerce; Merchandising Practices; Banks and Financial
Institutions; Social Services, Department of; Elderly; Disabilities
Type: Original
Date: March 12, 2020

Bill Summary: This proposal changes the law regarding financial institutions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	(Less than \$137,252)	(Less than \$535,484)	(Less than \$888,244)	(Less than \$967,740)
Total Estimated Net Effect on General Revenue	(Less than \$137,252)	(Less than \$535,484)	(Less than \$888,244)	(Less than \$967,740)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Other State Funds	\$0	Up to (\$538,508)	Up to (\$1,077,016)	Up to (\$1,077,016)
Residential Mortgage Licensing Fund (0261)	Up to \$6,000	Up to \$6,000	Up to \$6,000	Up to \$6,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$6,000	Up to (\$532,508)	Up to (\$1,071,016)	Up to (\$1,071,016)

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	0 FTE	0 FTE	0 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 FTE	1 FTE

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

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Local Government	\$0 to Unknown	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Sections 409.605 - 409.6-604 - Senior Savings Protection Act

In response to similar legislation HCS for HB 2461, officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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 require additional resources.

In response to similar legislation (HCS for HB 354) from 2019, officials from the **SOS** stated in calendar years 2017 and 2018, approximately 3 Respondents were penalized under Section 409.4-412 for a total amount of approximately \$400,000 and approximately 51 Respondents were penalized under Section 409.6-604 for a total amount of approximately \$1,672,000. The money collected is forwarded to the state treasury for the benefit of the county and township school funds in accordance with Article IX, Section 7 of the Missouri Constitution.

The Securities Division does not estimate an increase in the number of penalties imposed, but the penalties themselves would increase, so the gross amount would be higher.

Oversight notes the bill changes the maximum amount of civil penalties that may be assessed and that there may be an increase in the gross amount collected pursuant to Section 409.4-412 and 409.6-604. Without additional information, and since this is a maximum amount possible, Oversight will reflect a zero to unknown amount of additional penalty revenue to school districts.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** assume Section 409.610 requires the DHSS to provide information regarding a qualified adult to the reporting qualified individual or investment advisor representative upon request, subsequent to notifying the department of potential financial exploitation of the qualified adult. DHSS, Division of Senior and Disability Services, Section of Adult Protective Services investigators are responsible for investigating reports of financial exploitation.

An Adult Protective Community Worker II (average salary \$36,170) would be responsible to provide the information requested to the qualified individual. The Special Investigations Unit investigates on average 100 reports of financial exploitation of this nature and anticipates a 20% increase in these types of reports. Providing requested information to the qualified individual is estimated to take 30 minutes per report. Assuming 120 reports ($100 \times 0.20 = 20$; $100 + 20 = 120$), it is estimated providing this information to qualified individuals will take an additional 60 hours, or 0.03 FTE ($60 \text{ hours} \div 2,080 \text{ hours per year} = 0.03$) for total personal service cost of \$904.25 ($\$36,170 \times 0.03 \times 10/12$) for FY21 and \$1,085.10 ($\$36,170 \times 0.03$) in subsequent years.

The department anticipates being able to absorb the costs of the Adult Protective Community Worker. However, until the FY21 budget is final, the department cannot identify specific funding sources.

Subdivision 409.615.3(3) permits the holding of disbursement or transaction for the account of a qualified adult to be extended by the Director of DHSS, after notifying the commissioner of securities. With this proposed legislative change, the DHSS would continue to work closely with the Secretary of State, Securities Commissioner. If, during our investigation it is determined an extension is needed due to additional time is required for investigation and/or additional time is required for medical assessment and court proceedings when the qualified adult's capacity is in question, then DHSS would either continue with investigation and/or the Office of General Counsel would be responsible for guardianship/conservatorship petition through Probate Court when the department has exhausted alternative arrangements.

The further investigation would be the responsibility of the Adult Protective Community Worker and as described in prior section, the department anticipates being able to absorb the costs. However, the responsibility of Office of General Counsel attorneys to petition and participate in probate court hearings is anticipated to be absorbed by the department.

ASSUMPTION (continued)

Also, within this subsection, DHSS would be responsible for conducting reviews of circumstances every thirty days to determine if the order extension should remain in effect. This would be the responsibility of the Adult Protective Community Worker and as described in prior section, the department anticipates being able to absorb the costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

Oversight does not have any information to the contrary. Oversight assumes that DHSS will be able to handle any potential increase of workload with existing staff and resources.

House Amendment 1

Oversight assumes House Amendment 1 will have no fiscal impact on state or local governments.

House Amendment 2

Oversight assumes House Amendment 2 will have no fiscal impact on state or local governments.

House Amendment 3

Sections 30.260-30.758 - Linked Deposit Program

Officials from the **Office of the State Treasurer (STO)** state that total state revenue will decrease because linked deposit loans earn less in interest than other options that the State Treasurer has to invest in as a result of this proposal.

The current activity for the Linked Deposit Program is as follows:

Small Business Program	\$256,644,377
Job Enhancement Program	\$ 700,000
Alternative Energy Program	\$ 0
Agriculture Program	\$190,655,584
Local Government Program	\$ 14,960,735
Multi-Family Housing Program	\$ 43,625,460
Total Active Deposits	\$506,596,156

ASSUMPTION (continued)

Approved and Waiting Placement	\$ 5,285,387
Awaiting Approval	\$ 425,636
In Progress	\$ 9,935,287
Total	\$522,242,466

Fiscal Impact

39% to GR - \$688,584

61% to all other interest earning funds - \$1,077,016

Formula

Average 5 year agency bond: 3.00 callable or 2.75 bullet = Average of 2.875% the state earns

Average yield on linked deposit is .668%

Opportunity cost is 2.207% (2.875% - 0.668%)

$\$80,000,000 (\$800,000,000 - \$720,000,000) * 2.207\% = \$1,765,600$

GR	39% x \$1,765,600 =	\$688,584;
Other	61% x \$1,765,600 =	<u>\$1,077,016</u>
Total		\$1,765,600

The STO stated the fiscal impact is staggered; no impact in FY 2021, half of \$1,765,600 in FY 2022, and a full impact in FY 2023.

Oversight notes the proposal increases the aggregate cap from \$720 million to \$800 million. Current law states that no more than \$110 million shall be used for linked deposits to eligible small businesses. This proposal will increase the \$110 million to \$190 million.

Oversight notes that increasing the allocation for Linked Deposits will result in a decrease to state revenue given that there are investments with higher interest rates of return that the STO could take advantage of. The interest rate environment with lending institutions will not be constant and Oversight is unable to determine the amount of businesses that would utilize the Linked Deposit program in the future. Therefore, Oversight will reflect a loss to general revenue of up to \$688,584 and a loss to other state funds of up to \$1,077,016 (STO estimate of interest lost with program being fully utilized with the additional \$80,000,000).

ASSUMPTION (continued)

Oversight also notes there is potential savings to local political subdivisions if they choose to utilize the Linked Deposit Program. Therefore, Oversight will reflect an unknown positive fiscal impact to political subdivisions to the extent they avail themselves of up to \$80 million in increased linked deposit authority.

Oversight notes this increase in the Linked Deposit program may have positive benefits to the various Missouri businesses and entities that utilize the program. Oversight considers these benefits to be indirect impacts and have not reflected them in the fiscal note.

Sections 443.717 - 443.857 - Mortgage Broker Licensing

Officials from the **Department of Commerce and Insurance (DCI)** estimate 8 to 10 new companies will request licenses along with a \$600 licensing fee. Additional revenues to the Residential Mortgage Fund are estimated to be up to \$6,000 (10 x \$600). The expected slight increase in applications is due to the minor language change in 443.857 related to the in-state office requirement. The proposed language would reduce a current barrier to entry for some companies already providing certain niche mortgage fulfillment services in other states. DCI expects there would be some new applications in the first year.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the department may need to request additional staff to handle increase in workload.

Oversight notes that the DCI has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a revenue to the Residential Mortgage Fund of up to \$6,000 in FY 2021, FY 2022 and FY 2023 and no additional cost to the DCI on the fiscal note.

House Amendment 4

§§565.184 and 570.145 - Abuse of an elderly, disabled person or vulnerable person

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state that the Missouri Division of Finance has an Originating Agency Identifier (ORI) pursuant to Section 43.543, RSMo, for mortgage licensing, however, the Missouri Division of Finance primarily conducts background checks through an FBI Channeler (FieldPrint), and utilizes the Nationwide Mortgage Licensing System and Registry (NMLSR). As the background checks are being conducted via an FBI Channeler, there is no Patrol impact.

ASSUMPTION (continued)

Oversight notes that the MHP has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for that agency.

Officials from the **Department of Corrections (DOC)** state this legislation enhances the penalty of abuse of an elderly person, a person with disability, or a vulnerable person to a class E felony. It also enhances the penalty for the offense of financial exploitation of an elderly person or person with a disability and modifies the value limits of certain offenses. This bill adds two offenses as a new class E felony that were earlier dealt as class A misdemeanors.

In FY 2019, there were 18 persons charged with an A misdemeanor under subdivision 565.184.2.

In FY 2019, three persons were charged with an A misdemeanor for financial exploitation that is now updated to class E felony. No person was sentenced with a class A, class B, class C, class D, or a class E felony under 570.145.

For each new nonviolent class E felony, the DOC estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years of which, 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

According to the number charged in FY 2019, we estimate there will be 15 people sentenced to prison and 51 to probation by FY 2024 with the ratio of standard class E felony.

Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	7	7	7	7	7	7	7	7	7	7
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	14	14	14	14	14	14	14	14	14	14
Change (After Legislation - Current Law)										
Admissions	7	7	7	7	7	7	7	7	7	7
Probations	14	14	14	14	14	14	14	14	14	14
Cumulative Populations										
Prison	7	14	15	15	15	15	15	15	15	15
Parole			6	9	9	9	9	9	9	9
Probation	14	28	42	42	42	42	42	42	42	42
Impact										
Prison Population	7	14	15	15	15	15	15	15	15	15
Field Population	14	28	48	51	51	51	51	51	51	51
Population Change	21	42	63	66	66	66	66	66	66	66

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison	# of probation & parole officers	# to probation and parole	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	7	(\$6,386)	(\$37,252)	0	14	\$0	(\$37,252)
Year 2	14	(\$6,386)	(\$91,192)	0	28	\$0	(\$91,192)
Year 3	15	(\$6,386)	(\$99,660)	0	48	\$0	(\$99,660)
Year 4	15	(\$6,386)	(\$101,653)	1	51	(\$77,503)	(\$179,156)
Year 5	15	(\$6,386)	(\$103,686)	1	51	(\$69,567)	(\$173,254)
Year 6	15	(\$6,386)	(\$105,760)	1	51	(\$70,320)	(\$176,080)
Year 7	15	(\$6,386)	(\$107,875)	1	51	(\$71,083)	(\$178,959)
Year 8	15	(\$6,386)	(\$110,033)	1	51	(\$71,854)	(\$181,887)
Year 9	15	(\$6,386)	(\$112,233)	1	51	(\$72,635)	(\$184,868)
Year 10	15	(\$6,386)	(\$114,478)	1	51	(\$73,425)	(\$187,903)

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2020 fiscal notes. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 44 probation and parole districts.

The DOC cost of incarceration is \$17.496 per day or an annual cost of \$6,386 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

ASSUMPTION (continued)

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

In response to similar legislation HCS for HB 1451, For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for the abuse or financial exploitation of an elderly person from an A misdemeanor to a E felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2019, SPD's Trial Division opened 8 cases under charge code 565.184 and 35 new cases under charge code 570.145 of the 62,002 total cases opened.

Charge Code	Description	Number of Cases
565.184	Abuse of an elderly person, a person with a disability or a vulnerable person	8
570.145	Financial exploitation of elderly/disabled person	35
	Total Number of Cases	43

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per

ASSUMPTION (continued)

year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Bill as whole:

Officials from the **Department of Social Services, Office of Administration, Office of the State Courts Administrator, Office of Prosecution Services, Department of Mental Health, and Attorney General's Office** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

FISCAL IMPACT -
State Government

**GENERAL
REVENUE FUND**

Lost opportunity for
higher returns - STO

Decrease in
investment returns
§30.753 HA 3

FY 2021
(10 Mo.)

FY 2022

FY 2023

Fully
Implemented
(FY 2024)

\$0 Up to (\$344,292) Up to (\$688,584) Up to (\$688,584)

Costs - DOC
 (§565.184 &
 §570.145) Increased
 incarceration costs

HA 4

(\$37,252)

(\$91,192)

(\$99,660)

(\$101,653)

Personal service

\$0

\$0

\$0

(\$39,927)

Fringe benefit

\$0

\$0

\$0

(\$25,160)

Expense and

Equipment

\$0

\$0

\$0

(\$12,416)

Total Costs - DOC

(\$37,252)

(\$91,192)

(\$99,660)

(\$179,156)

FTE Change -

DOC

0 FTE

0 FTE

0 FTE

1 FTE

Costs - SPD
 (§565.184 &
 §570.145) Salaries,
 fringe benefits, and
 equipment and
 expense HA 4

(Less than
\$100,000)

(Less than
\$100,000)

(Less than
\$100,000)

(Less than
\$100,000)

**ESTIMATED NET
EFFECT ON THE
GENERAL
REVENUE FUND**

(Less than
\$137,252)

(Less than
\$535,484)

(Less than
\$888,244)

(Less than
\$967,740)

Estimated Net FTE
change for General
Revenue

0 FTE

0 FTE

0 FTE

1 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
OTHER STATE FUNDS				
<u>Lost opportunity for higher returns - STO</u> Decrease in investment returns \$30.753 HA 3	<u>\$0</u>	<u>Up to (\$538,508)</u>	<u>Up to (\$1,077,016)</u>	<u>Up to (\$1,077,016)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0</u>	<u>Up to (\$538,508)</u>	<u>Up to (\$1,077,016)</u>	<u>Up to (\$1,077,016)</u>
RESIDENTIAL MORTGAGE LICENSING FUND				
<u>Revenue - DCI</u> \$600 filing fee §§443.717 - 443.857 HA 3	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>
ESTIMATED NET EFFECT TO THE RESIDENTIAL MORTGAGE LICENSING FUND	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>	<u>Up to \$6,000</u>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
LOCAL POLITICAL SUBDIVISIONS				
<u>Income</u> - School Districts Potential increase in penalties §409.4-412 & §409.6-604 p. 4	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<u>Savings</u> - Local Political Subdivisions Linked Deposit Participation §§30.260 - 30.758 HA 3	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO THE SCHOOL DISTRICTS	<u>\$0 to Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

Small businesses could benefit from continued opportunities to participate in the linked deposit program. Small business credit unions could be affected as a result of this proposal.

FISCAL DESCRIPTION

This proposal changes the law regarding financial institutions.


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

Office of the Secretary of State
Department of Commerce & Insurance
Office of the State Treasurer
Department of Health and Senior Services
Department of Social Services
Department of Mental Health
Office of Administration
Office of the State Courts Administrator
Attorney General's Office
Department of Public Safety-Missouri State Highway Patrol



Julie Morff
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March 12, 2020



Ross Strobe
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March 12, 2020