

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4844H.01I
Bill No.: HB 1641
Subject: Administrative Rules; General Assembly
Type: Original
Date: February 11, 2026

Bill Summary: This proposal modifies provisions for the Joint Committee on Administrative Rules.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the unknown impact could exceed \$250,000 annually.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Various State Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the unknown impact could exceed \$250,000 annually.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the unknown impact could exceed \$250,000 annually.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE
Total Estimated Net Effect on FTE	0 or Unknown FTE	0 or Unknown FTE	0 or Unknown FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§536.190 – Powers of the Joint Committee on Administrative Rules

Officials from **Joint Committee on Administrative Rules (JCAR)** state they currently employ one legal counsel and one administrative assistant. Current staff would be able to absorb some increased workload without more resources. However, 536.190.6 allows JCAR to employ counsel, investigators, and technical staff. If the Committee were to wish to employ additional personnel including investigators or other technical staff, additional appropriation would be needed including office space and IT support. IT support for JCAR is currently provided by the Senate's IT Department.

Oversight assumes there could be additional costs for the Joint Committee on Administrative Rules to implement this proposal.

Officials from the **Department of Health and Senior Services (DHSS)** assume Section 536.190 of the proposed legislation allows the Joint Committee on Administrative Rules (JCAR) to hold hearings questioning “any rule, regulation, guidance document, program manual, policy, or directive issued, adopted, implemented or enforced by any state agency or department whether currently in effect, suspended, withdrawn, or superseded, and whether formally promulgated under chapter 536, that has or purports to have general applicability or binding effect upon persons, political subdivisions, or entities outside the agency.”

Section 536.190.4 allows the committee to, upon a majority vote, “issue a notice of noncompliance for rules, policies, or directives that exceed statutory authority, should have been promulgated under chapter 536, or have unapproved fiscal or economic impacts exceeding two hundred fifty thousand dollars annually.” The agency is given thirty (30) days to respond in writing with corrective action or justification.

Section 536.190.5 requires state departments to file a notice to the Committee of any guidance document, directive, or policy of general applicability not promulgated as a rule under chapter 536. The notice must be filed within ten (10) days of issuance.

In order to track, respond and meet the prescribed turnaround times listed in the proposed legislation, DHSS will need an additional (1) Legal Counsel at \$99,201 annually and one (1) Administrative Support Professional at \$61,176 annually to track and respond to the requests from JCAR.

Officials from the **Department of Mental Health (DMH)** assume Section 536.190 modifies provisions for the Joint Committee on Administrative Rules (JCAR). Subject to appropriate, JCAR is authorized to employ counsel, investigators, and technical staff to assist JCAR in carrying out its duties. The proposal requires JCAR to file an annual report with the general

assembly related to the requirements and activities under the proposal. The annual report and the agency's compliance is to be considered during the appropriations process and when considering any legislative matters related to the agency.

DMH operates or oversees multiple complex programs. While DMH promulgates rules as appropriate to implement programs, it is not unusual for DMH to issue provider alerts and program communications to assist providers in understanding program/funding expectations and implementation recommendations. If all of these communications were subject to this proposal and/or required to be promulgated through the formal rule process, it would be extremely cumbersome and would result in delays in making needed adjustments for existing programs and would eliminate flexibility in initiating new programs. These delays could result in a loss of funding if the funding has implementation requirements or time limits. In addition, section 536.025.1(1) is very specific and limited as to what qualifies to be filed as an emergency rules. As a result, it is likely most communications that DMH would need to promulgate under this proposal would not qualify as an emergency and could only go into effect once finalized through the regular rulemaking process. There would also be impacts under this proposal if JCAR nullified existing rules and communications necessary for implementation of programs.

DMH operates with federal funds received from Medicaid, various Federal grants, etc. with departmentwide estimated revenues for Fiscal Year 2026 totaling nearly \$2.6 billion. All of these funds carry with them a requirement to enforce certain regulations. To the extent the proposed process prevents, delays, or nullifies required regulations, the potential impact for this legislation could be between \$0 and over \$2.5 billion federal funds.

It is anticipated that DMH would need at least one attorney and one paralegal to assist the divisions in drafting and filing rules and also to assist DMH staff with production of documents and to represent DMH in witness interviews and testimony.

The potential impact for this legislation for General Revenue could be \$203,384 in FY27, \$237,266 in FY28, and \$241,358 in FY29; and Federal funds impact could be between \$0 and up to \$2.6 billion loss in FY27, FY28 and FY29.

Officials from the **Department of Natural Resources (DNR)** assume the impact unknown - potentially significant. The language is unclear in terms of what is meant by "unapproved cost" in 536.190.4. Additionally, while it is not possible to estimate the number and type of rules that would not be approved by the General Assembly or be delayed as a result of this proposal, and potentially resulting in the loss of delegation of federal programs and the loss of federal funds, the consensus of the department's subject matter experts is that the proposal could lead to a loss of as much as \$145,254,556 in funding.

The bill at section 536.190 subsection 2, subdivision (1) will provide JCAR authority to review and evaluate any rule, regulation, guidance document, program manual, policy, or directive issued, adopted, implemented, or enforced by any state agency or department whether currently in effect, previously in effect, suspended, withdrawn, or superseded, and whether formally

promulgated under chapter 536, that has or purports to have general applicability or binding effect upon persons, political subdivisions, or entities outside the agency;

At subsection 2, subdivision (3), the bill gives JCAR authority to require agencies to produce documents, data, or witnesses necessary for the committee's review and issue subpoenas for the compulsory attendance of witnesses, including agency directors, officers, and employees, and for the production of papers, records, and other evidence relevant to matters within its jurisdiction.

The Division of Environmental Quality has various guidance documents, program manuals, policies, or directives that have binding effects on persons, political subdivisions, or entities outside the agency. The programs also have numerous existing rules/regulations that fall within its jurisdiction that contain binding requirements. It is unknown whether or how frequently JCAR may initiate a review. Nor is it known the resources needed to respond to JCAR requests for documents, data, witnesses, and subpoenas that JCAR may review using the authority from this bill. Therefore, the fiscal impact is \$0 – unknown. The department anticipates being able to absorb the costs. However, until the FY27 budget is final, the department cannot identify specific funding sources. Absorbing the costs could detract from other core priorities and requirements of the department.

This proposed legislation could have potentially adverse fiscal impacts to the department if rules necessary to maintain federal delegations of authority are delayed or not adopted by a concurrent resolution by the General Assembly to proceed.

Because state rules are largely based on federal regulations and cannot be less stringent than federal requirements, the proposed language may make it more difficult to fulfill federal obligations for state review and revision of the state environmental rules pursuant to the Clean Air Act, Resource Conservation and Recovery Act, Clean Water Act, and Safe Drinking Water Act. If the department is unable to meet federal regulatory requirements to maintain delegated authority, the state could lose the associated federal funding.

State revenue could be impacted if the state were to lose delegated authorities to implement federal environmental laws, such as drinking water primacy, clean water act, clean air act, hazardous waste management, and solid waste management, etc. The EPA would implement the federal regulations tied to the various federal environmental laws. The state would then lose the associated federal funding tied to the programs and related state fee revenues.

Although the bill language would not result in the immediate loss of federal delegated authority; over time, if the General Assembly does not affirm regulations that are needed for the Department to retain its delegation authority, it could have this impact.

As such, the fiscal impact is \$0 to unknown but could range as high as all the fees and federal funds which would be received in the future.

Summary of Fiscal Impact

Team Member Time and Expense and Equipment - \$0 – unknown. The department anticipates being able to absorb the costs. However, until the FY27 budget is final, the department cannot identify specific funding sources. Absorbing the costs could detract from other core priorities and requirements of the department.

Federal Fund Revenue - \$0 to unknown but could range as high as all the fees and federal funds which would be received in the future

Fee Fund Revenues - \$0 to unknown but could range as high as all the fees and federal funds which would be received in the future

Officials from the **Department of Revenue (DOR)** assume this proposal attempts to delineate additional duties for the Joint Committee on Administrative Rules (JCAR). Besides their current duties of reviewing the state Code of Regulations, they would have the authority to review and evaluate all program manuals, policies or directives issued, adopted, implemented or enforced by a state agency. This review would include all currently in effect policies as well as any suspended, withdrawn or superseded previous policies.

The current rule-making authority in statutes prohibits an agency from promulgating a rule unless they are expressly given authority by the General Assembly. Currently, DOR must be given express direction from the General Assembly in a piece of legislation in order for us to create a rule on the legislation. The General Assembly gives that authority when creating a bill that requires DOR to implement. If the General Assembly wishes to allow DOR to define the specifics of the detailed information needed, they add language to the bill that DOR SHALL promulgate rules.

Additionally, the General Assembly adds that DOR MAY promulgate rules when they have given basic instructions on the program but know that more detailed instructions may be needed. The MAY allows DOR to work out procedures with or without going through the rule-making process.

Statutes require that agencies review their rules every five years. DOR completed our five-year review of our rules and is in the process of reviewing/updating those that need it. The current rule-making process is tedious and generally takes more than six months from the first filing of the rule until it becomes effective. DOR only implements rules when required or when we believe it is necessary to answer questions arising from taxpayers. A part of that six-month process is the review done by JCAR of all our rules. This proposal appears to be continuing with that process

This proposal, however, is allowing JCAR to review all our program manuals, policy and directives issued. It would also require as part of that review a hearing in which staff must appear to justify the necessity of the program manual, policy or directive. At this time, DOR can not estimate the fiscal impact of this proposal. The staff time and resources needed to attend these hearings will be based on the number of policies that JCAR would want to review.

DOR develops program manuals to help ease the administration of our programs. As an example, our tax credit program manuals are created to help staff verify the accuracy of the claimed credit and to apply it correctly to a taxpayer's account. With over 85 active credits the manuals help to ensure that the requirements of each tax credit outlined in statute are all properly applied. The manuals help manage the hundreds of thousands of credits redeemed annually.

Additionally, statutes in Section 536.021.10, allow the issuance of letter rulings by the director of revenue which may be seen as "directives issued" when taxpayers have questions about their particular tax situation. Often taxpayers have tax situations that are not always addressed by legislation and need help interpreting the law correctly. If this proposal were to make these letter rulings subject to this new hearing process, this could slow down the issuance of the letter rulings. Which in turn could delay getting guidance to a taxpayer or group of taxpayers needing it.

DOR is unable to determine at this time, a fiscal impact to this proposal. Should the actions of JCAR stop rules, regulations, policies or letter rulings of the department, the ability of the department to enforce current statutes could be impeded, including the processing of tax return refund claims which could require the department to pay interest which could lead to greater interest payments. DOR assumes the impact is unknown but that it has the potential to be significant.

Officials from the **Department of Social Services (DSS)** note this legislation proposes a new Section 536.190, which would add additional duties/requirements for JCAR and proposed rules. JCAR would under this Section review and evaluate any rule, regulation, guidance document, program manual, policy, or directive issued, adopted, implemented, or enforced by any state agency or department whether currently in effect, previously in effect, suspended, withdrawn, or superseded, and whether formally promulgated under chapter 536, that has or purports to have general applicability or binding effect upon persons, political subdivisions, or entities outside the agency.

Fiscal Impact:

(1) Legal Counsel. Requires potentially significant amounts of DSS-DLS staff time and DSS time in general for potential increase in JCAR oversight for non-rule documents.

Officials from the **Missouri Department of Agriculture (MDA)** assume the fiscal impact is unknown. It would depend on the volume of reviews, which program is impacted, the level of Office of the Director involvement, etc.

Officials from the **Department of Public Safety (Division of Alcohol and Tobacco Control, Fire Safety, Director's Office, Missouri Gaming Commission, and Missouri Highway Patrol)** each assume the proposal will have no fiscal impact on their respective organizations. However, each division notes this legislation will delay the rulemaking process, increase

administrative burden, and could have significant impacts on the public service responsibilities of their respective divisions.

Oversight assumes there could be costs to track, respond and meet the prescribed turnaround times listed in the proposed legislation. In addition, this proposal requires agencies to produce necessary documents, data, or witnesses for the Committee's review. Oversight assumes an unknown cost to state agencies for additional staff.

Additionally, **Oversight** assumes there could be an impact to general revenue, various state funds, federal funds, and local political subdivisions if rules are not passed timely due to delays or noncompliance.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from **Department of Labor and Industrial Relations** assume a potential minimal impact. The department estimates existing staff could absorb additional requests for information.

Officials from the **Office of Administration (Administrative Hearing Commission, Budget and Planning), Department of Commerce and Insurance, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Corrections, Department of Public Safety (Capitol Police, Missouri Veterans Commission, and State Emergency Management Agency), Office of the Governor, Missouri Department of Conservation, Missouri Ethics Commission, Missouri Department of Transportation, MoDOT & Patrol Employees' Retirement System, Office of Administration, Office of the State Courts Administrator, Office of the State Public Defender, Office of the State Treasurer, University of Missouri System, Office of the Lieutenant Governor, Office of the State Auditor, Missouri House of Representatives, Joint Committee on Public Employee Retirement, Legislative Research, Oversight Division, Missouri Senate, Missouri Lottery Commission, Missouri Consolidated Health Care Plan, Missouri State Employee's Retirement System, and State Tax Commission** each assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

In response to similar legislation, SB 891 (2026), officials from the **Missouri National Guard** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have

any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

Officials from the **Office of the Secretary of State (SOS)** note 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 its 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.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Cost – JCAR (\$536.190) Additional duties p.3</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost – State Agencies (\$536.190) To track, respond and meet requests requiring additional FTE p.8</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Revenue Loss – (\$536.190) From delays or noncompliance p.8</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
VARIOUS STATE FUNDS			
<u>Revenue Loss – (\$536.190) From delays or noncompliance p.8</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
FEDERAL FUNDS			
<u>Revenue Loss</u> – (\$536.190) From delays or noncompliance p.8	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Loss</u> – (\$536.190) From delays or noncompliance p.8	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill adds additional duties and responsibilities to the Joint Committee on Administrative Rules. The Committee may:

- (1) Review and evaluate any rule, regulation, guidance document, program manual, policy, or directive by any state agency or department, whether it is currently in effect or not, so long as it affects individuals or entities outside the issuing agency;
- (2) Determine whether the action is a "rule" under Chapter 536, RSMo or exceeds statutory authority;
- (3) Require agencies to produce necessary documents, data, or witnesses for the Committee's review and issue subpoenas to produce those documents, data, or witnesses within its jurisdiction;
- (4) Swear in witnesses appearing before the Committee; and
- (5) Refer noncompliance, obstruction, or false testimony to the appropriate prosecuting authority and the ethics commissions of the House of Representatives and the Senate.

The Committee may initiate a review on its own motion, at the request of a member of the General Assembly, or at the request of an affected person or entity. The Committee may determine the validity, intent, consistency, and impacts of agency actions and conduct audits or investigations to determine whether the actions exceed the agency's authority, conflict with the legislature's intent, or create unauthorized burdens.

The Committee may issue agencies with notices of noncompliance by a majority vote when rules, policies, or directives exceed statutory authority, should have followed the rulemaking procedures in Chapter 536, or have unapproved fiscal impacts exceeding \$250,000. The adopting agency will have 30 days to respond in writing to indicate corrective action or justify the original rule, policy, or directive.

Each state department must file notice with the Committee within 10 days of issuing any guidance document, directive, or policy of general applicability not adopted under the rulemaking procedures in Chapter 536.

The Committee may employ counsel, investigators, and technical staff to carry out its duties. The Committee must submit an annual report to the General Assembly listing:

- (1) Each rule or policy reviewed;
- (2) Findings of compliance or noncompliance;
- (3) Agency responses; and
- (4) Any corrective actions taken. Reports issued by the Committee and an agency's compliance with the Committee's reviews and investigations must be considered by all standing committees of the House of Representatives and the Senate during the appropriations process and when acting on any legislative matters relating to the agency.

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

Joint Committee on Administrative Rules
Missouri House of Representatives
Missouri Senate
Office of Administration
Administrative Hearing Commission
Budget and Planning
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health

Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
Office of the Director
Division of Alcohol and Tobacco Control
Capitol Police
Fire Safety
Missouri Gaming Commission
Missouri Veterans Commission
State Emergency Management Agency
Department of Social Services
Office of the Governor
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri Department of Transportation
Missouri National Guard
MoDOT & Patrol Employees' Retirement System
Petroleum Storage Tank Insurance Fund
Office of Administration
Office of the State Courts Administrator
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer
University of Missouri System
Attorney General's Office
State Tax Commission
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri State Employee's Retirement System



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