

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5876H.02P
 Bill No.: Perfected HCS for HB Nos. 2366 & 2511
 Subject: Employees - Employers; Department of Labor and Industrial Relations; Contracts and Contractors; Labor and Management; Immigration
 Type: Original
 Date: March 31, 2026

Bill Summary: This proposal modifies provisions relating to employment of unauthorized aliens.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)
Total Estimated Net Effect on General Revenue	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)

*DOC notes that current capacity will be met by July 2029 (FY 2030) or potentially much sooner. Therefore, Oversight has made the decision to reflect the marginal cost of incarceration up to an unknown cost if DOC needs to add staff and/or rehabilitate, expand or construct additional capacity. Oversight assumes the unknown cost has the potential to exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on 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

§§285.530, 285.535, 285.543, and 285.550 - Employment of Unauthorized Aliens

Officials from the **Attorney General's Office** assume 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 notes this proposal modifies the provisions allowing the Attorney General (AGO) to enforce the law governing the employment of unauthorized aliens. The AGO is given authority to investigate alleged or suspected violations of the law pertaining to the proper classification of employees for purposes of public works projects. Furthermore, the AGO is given powers provided by the Merchandising Practices Act for the purpose of investigating any alleged or suspected violation of the law governing the employment of unauthorized aliens.

Oversight notes that according to the Migration Policy Institute website there were approximately 65,000 unauthorized immigrant population in Missouri, as of 2023. Additionally, approximately 41,000 of the unauthorized population were actively working in Missouri.

Officials from the **Department of Corrections (DOC)** assume this legislation modifies provisions relating to employment of unauthorized aliens.

§285.535 is modified so the attorney general has the authority to investigate any businesses suspected of hiring unauthorized aliens. Complaints may be filed against employers allegedly engaging in these practices, but they must be accompanied by a sworn affidavit subject to perjury (section 575.040). Perjury committed in any proceeding not involving a felony charge is considered a class E nonviolent felony offense.

As these are new crimes, there is little direct data on which to base an estimate, and as such, the department estimates an impact comparable to the creation of a new class E felony.

For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, with 1.4 years served in prison prior to first release. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2029.

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	1	(\$11,123)	(\$9,269)	0	\$0	2	(\$9,269)
Year 2	2	(\$11,123)	(\$22,691)	0	\$0	4	(\$22,691)
Year 3	2	(\$11,123)	(\$23,145)	0	\$0	7	(\$23,145)
Year 4	2	(\$11,123)	(\$23,608)	0	\$0	7	(\$23,608)
Year 5	2	(\$11,123)	(\$24,080)	0	\$0	7	(\$24,080)
Year 6	2	(\$11,123)	(\$24,561)	0	\$0	7	(\$24,561)
Year 7	2	(\$11,123)	(\$25,053)	0	\$0	7	(\$25,053)
Year 8	2	(\$11,123)	(\$25,554)	0	\$0	7	(\$25,554)
Year 9	2	(\$11,123)	(\$26,065)	0	\$0	7	(\$26,065)
Year 10	2	(\$11,123)	(\$26,586)	0	\$0	7	(\$26,586)

The department will assume a marginal cost (multiplied by number of offenders) for any projected increase or decrease in the incarcerated population. Marginal cost is \$30.47 per day or an annual cost of \$11,123 per offender which includes costs such as medical, food, wages and operational E&E. The unknown amount is a result of the uncertainty in the growth of the underlying offender population. The impact of any new legislation combined with the growth of the underlying population could result in the tiered approach below in order to meet the population demands.

1. Fully staffing their current capacity (27,368), which is habitable, but they do not have the staffing resources for all bed space.
2. Rehabilitating current space that is not currently habitable and obtaining staffing resources for that space (requires capital improvements).
3. Expanding new capacity by adding housing units or wings to existing prisons and obtaining staffing resources for that space (requires capital improvements).
4. Constructing a new prison and obtaining staffing resources. Based on current construction projects in other Midwest states, the department estimates the cost of constructing a new 1,500-bed maximum security prison at approximately \$825 million to \$900 million plus annual operating costs of approximately \$50 million (requires capital improvements).

The department's population projections indicate current physical capacity will be met by July 2029; however recent trends indicate that capacity could be met much sooner. Should new construction be the result of the increasing offender population, the full cost per day per offender would be used which is \$106.96 or an annual cost of \$39,040. This includes all items in the marginal cost calculation plus fringe, personal service, utilities, etc.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases 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.

* If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

Officials from the **Office of Administration- Budget & Planning (B&P)** assume §285.530 and 285.535 is modified and holds contractors and subcontractors liable for their direct subcontractors who have unauthorized aliens working for them. If the Attorney General of Missouri (AG) has reason to believe an employer has hired and/or employs unauthorized aliens, and that employer is a direct subcontractor to a contractor or subcontractor, then the AG may seek to suspend any license, permit, or exemption issued under state law and seek monetary damages equal to ten times the wages paid to the unauthorized alien from the contractor and/or subcontractor, and direct subcontractor.

To the extent any penalties or fines are awarded to the state, TSR may be impacted.

Oversight notes that violations of §285.535. 5. could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fines vary widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Officials from the **Office of the State Courts Administrator (OSCA)** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight notes OSCA assumes this proposal may have some impact on their organization although it can't be quantified at this time. As OSCA is unable to provide additional information regarding the potential impact, Oversight assumes the proposed legislation will have a \$0 or (Unknown) cost to the General Revenue Fund. For fiscal note purposes, Oversight also assumes the impact will be under \$250,000 annually. If this assumption is incorrect, this would alter the fiscal impact as presented in this fiscal note. If additional information is received, Oversight will

review it to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note.

Officials from the **Office of Administration - Administrative Hearing Commission, Department of Commerce and Insurance, Department of Economic Development, Department of Elementary and Secondary Education, Department of Health and Senior Services, Department of Higher Education and Workforce Development, Department of Labor and Industrial Relations, Department of Mental Health, Department of Natural Resources, Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Missouri Gaming Commission, Missouri Veterans Commission, Office of the Director, State Emergency Management Agency), Department of Revenue, Department of Social Services, Joint Committee on Administrative Rules, Joint Committee on Legislative Research (Legislative Research and Oversight Division), Missouri Consolidated Health Care Plan, Missouri Department of Agriculture, Missouri Department of Conservation, Missouri Department of Transportation, Missouri House of Representatives, Missouri Lottery Commission, Missouri National Guard, Missouri Senate, Missouri State Employee's Retirement System, Office of Administration (Administrative Hearing Commission, Commissioner Office), Office of the Governor, Office of the Secretary of State, Office of the State Auditor, Joint Committee on Administrative Rules, Office of the State Treasurer, University of Missouri System, University of Central Missouri, Northwest Missouri State University, City of Kansas City, City of O'Fallon, Office of the State Public Defender, Missouri Office of Prosecution Services, Missouri Ethics Commission, and Missouri House of Representatives and State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations for this proposal.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Cost – DOC (§285.535 and §575.040)</u> Increased incarceration cost p.4-5	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)
<u>Cost – OSCA (§§585.530, 585.535)</u> Increase in potential court cost p.5-6	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Gain</u> – School Districts (§§285.535.5) Potential Penalties p.5-6	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
ESTIMATED NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

FISCAL IMPACT – Small Business

Violators of provisions in sections 285.530 and 285.535 will have to pay monetary damages of twice the amount of wages they paid to any of their unauthorized alien workers. This may have a negative impact on small businesses found in violation of these sections.

FISCAL DESCRIPTION

Current law provides that a general contractor or subcontractor of any tier will not be liable when the general contractor or subcontractor contracts with its direct subcontractor who employs an unauthorized alien in violation of law. This bill provides that the general contractor or subcontractor will be liable in such circumstance if the general contractor or subcontractor has knowledge, as defined under 8 37 CFR 274a.1, of such violation. Upon notification from the attorney general (AG) of the alleged or suspected violation of the Sections outlined in this bill, the general contractor or subcontractor must fully cooperate with any investigation conducted by the AG related to the alleged violation.

The bill modifies the provisions allowing the AG to enforce the law governing the employment of unauthorized aliens. The AG is given authority to investigate alleged or suspected violations of the law pertaining to the proper classification of employees for purposes of public works projects. Furthermore, the AG is given powers provided by the Merchandising Practices Act for the purpose of investigating any alleged or suspected violation of the law governing the employment of unauthorized aliens.

In any action brought by the AG to enforce the provisions of law governing the employment of unauthorized aliens, the State will have the burden of proving by a preponderance of the evidence that the employer knowingly employed, hired for employment, or continued to employ an unauthorized alien to perform work within this State. An employer that participates in a Federal work authorization program will have an affirmative defense that such employer has not violated the Sections outlined in the bill.

The AG can seek an injunction prohibiting the employer from employing an unauthorized alien and seek monetary damages in the amount equal to ten times the amount of wages paid by the employer to any unauthorized alien workers during the time in which such unlawful employment is alleged to have occurred. The AG can also seek an injunction to suspend and the court will have the power to suspend any applicable license, permit, or exemption issued under State law in connection with this matter. The AG can bring an action for injunctive and monetary relief in the circuit court of any county where the alleged violation is occurring or about to occur, or in the Cole County Circuit Court.

If a court determines that an employer has knowingly hired an unauthorized alien, the court must enter a judgment in favor of the State and award penalties in an amount consistent with the prayer for relief in the petition. The AG can enter a consent judgment with any person alleged to have committed a violation prohibited by this bill.

The bill provides that any employer that reports an alleged violation of the sections outlined in this bill to the AG will not be subject to any liability.

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

Attorney General's Office
Department of Commerce and Insurance
Department of Corrections
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Higher Education and Workforce Development
Department of Labor and Industrial Relations
Department of Mental Health
Department of Natural Resources
Department of Public Safety
 Alcohol and Tobacco Control
 Capitol Police
 Fire Safety
 Missouri Gaming Commission
 Missouri Highway Patrol
 Missouri Veterans Commission
 Office of the Director
 State Emergency Management Agency
Department of Revenue
Department of Social Services
Joint Committee on Administrative Rules

Joint Committee on Legislative Research
Legislative Research
Oversight Division
Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Department of Transportation
Missouri Ethics Commission
Missouri House of Representatives
Missouri Lottery Commission
Missouri National Guard
Missouri Office of Prosecution Services
Missouri Senate
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Office of Administration
Administrative Hearing Commission
Commissioner's Office
Office of the Governor
Office of the Lieutenant Governor
Office of the Secretary of State
Office of the State Auditor
Office of the State Courts Administrator
Office of the State Public Defender
Office of the State Treasurer
State Tax Commission
Northwest Missouri State University
Missouri University System
University of Central Missouri
City of O'Fallon
City of Kansas City



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