

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3681-10
Bill No.: SS for HCS for HB 1549, 1771, 1395 & 2366 w/ SA 4, SA 5, SA 6, SA 7, SA 8, SA 9, SSA 1 for SA 10, SA 11, SA 17, SA 19, and SA 20
Subject: Federal- State Relations; Immigration; Public Assistance.
Type: #Revised
Date: May 14, 2008
#Revised to reflect compliance language in proposal.

Bill Summary: This proposal modifies the law relating to illegal immigrants.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown greater than \$341,744)	(Unknown greater than \$513,090)	(Unknown greater than \$520,451)
Total Estimated Net Effect on General Revenue Fund	(Unknown greater than \$341,744)	(Unknown greater than \$513,090)	(Unknown greater than \$520,451)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
MO Worker Protection Fund	Unknown	Unknown	Unknown
Total Estimated Net Effect on Other State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Department of Revenue	2 FTE	2 FTE	2 FTE
Department of Labor & Industrial Relations	0 FTE	3 FTE	3 FTE
Department of Economic Development	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	3 FTE	6 FTE	6 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	(Unknown over \$100,000)	(Unknown over \$100,000)	(Unknown over \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Section 43.032 Highway Patrol

Officials at the **Missouri Highway Patrol** assume that there is no fiscal impact from this proposal.

Section 67.307 Sanctuary

In response to similar legislation HB 1395 filed this year the following responded:

Officials at the **Office of the State Public Defender, Office of the State Court Administration, Department of Public Safety, City of West Plains, Boone County Sheriff Department** and the **Department of Corrections** assume that there is no fiscal impact from this proposal.

Officials at the **Office of the Attorney General** assume any costs arising from this proposal can be absorbed with existing resources.

Officials at the **Springfield Police Department, City of Centralia** and the **Clinton County Commission** assume a small fiscal impact.

Oversight assumes the notification and reporting requirements would generate administrative impact and would have no state or local fiscal impact.

ASSUMPTION (continued)

Section 292.675 Public Works Projects

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume Chapter 292 establishes an Inspection Section that is assumed to be under the DOLIR. Funding for the Inspection Section has not been obtained for more than 30 years, since OSHA has become the enforcement agency for workplace health and safety. It is assumed that the provisions of this bill would be enforced by the Division of Labor Standards' Workers Safety Program.

The Division estimates that 3 full-time employees would be required to administer this legislation. Two Investigator II's and one Administrative Analyst . The Investigator II position would be assigned to investigate any claim of violation to assure compliance with the provisions of the legislation and determine whether a penalty shall be assessed. The Administrative Analyst would be assigned to review training programs to determine compliance.

Oversight assumes this bill has an effective date of August 28, 2009 and therefore will not begin until FY 2010.

Section 302.063 Driver's License

In response to similar legislation SB 750 filed this year the following responded:

Officials from the **Department of Revenue (DOR)** state the department currently requires applicants to present proof of lawful presence status upon application for any new or renewal permit, driver, and nondriver license applicants at the time of issuance. The applicant is issued a 60-day temporary license or permit pending verification. The status is then verified through the Systematic Alien Verification of Entitlements (SAVE) program through the Department of Homeland Security prior to mailing of the actual document. Based on the proposal, as written, DOR assumes that the current lawful presence verification procedures and required documentation will remain unchanged.

Section 544.470 Bail

In response to similar legislation SB 1269 filed this year the following responded:

Officials from the **Boone County Sheriff's Department** assume they would incur costs of \$62.50 per day per suspected illegal alien in custody, that must remain in custody until their status in the US is verified. If the person is illegally in the US, Boone County Sheriff's Department would incur costs of \$62.50 per day until the case is adjudicated. Officials assume the cost of this legislation on sheriff's departments with jails could be substantial.

ASSUMPTION (continued)

Officials from the **St. Louis County Department of Justice Services** assume they are unable to determine if the US Immigration authorities would reimburse any costs to local jails for persons found to be illegal. Officials state the inmate per diem costs in St. Louis County are approximately \$80. Officials assume an indeterminate number of suspected illegal persons that would be held and an indeterminate number of days held. Officials state 20 persons incarcerated per week, or 80 per month, held for just one day would cost approximately \$80,000 annually for the incarceration. Costs would be approximately \$160,000 if the person was held for two days. Officials state additional significant costs would be incurred for overtime if jail overcrowded conditions result or if local jails need to contract for more bed space.

Oversight assumes local law enforcement agencies would incur increased costs for holding the suspected illegal aliens in custody. Based on information received from local law enforcement agencies, Oversight assumes the cost could exceed \$100,000 per fiscal year.

Officials at the **Office of Attorney General (AGO)** assume that there would be costs associated in the implementation of this proposal.

The AGO assumes costs can be absorbed for those costs associated with: Section 67.307.2 regarding review of local government sanctuary policies; Section 650.681 regarding complaints made about a public entity that fails to exchange relevant information with the federal government; and Section 285.543 requiring the AGO to maintain a database documenting any business entity whose license has been suspended or terminated. The AGO assumes that this provision is limited to violations occurring under the provisions of this proposal.

The AGO assumes that there will be costs associated with Sections 285.525 to 285.550 relating to investigating and filing actions in those cases where an employer knowingly employs, recruits, hires, or continues to employ any unauthorized alien to perform work in this state. The AGO will have rulemaking authority to process complaints under these sections. The AGO assumes that costs will be under \$100,000 per year and that, as the AGO determines how many legitimate complaints are filed, the AGO may seek appropriations in future years to handle the additional workload.

The AGO assumes that the cost is unknown to follow up on complaints alleging employers are misclassifying workers (Sections 285.309, 285.500-285.518). The AGO assumes that any costs necessary to investigate and enforce these provisions shall not exceed \$100,000.

As the AGO develops protocols to handle complaints, the AGO may seek additional

ASSUMPTION (continued)

appropriations to fulfill its responsibilities.

Officials at the **Department of Revenue (DOR)** assume they would need to update their registration forms, procedures and computer system. They also would need one Tax Processing Technician I for every 3,315 applications received. Any one applying for a business tax licence would require research through the Status verification system and newly hired employees would also need verified. Additionally, they will need one Revenue Processing Technician I for every 4,800 follow-up contacts annually.

DOR will require programming changes to the Missouri Electronic Driver License (MEDL also referred to as Over The Counter -OTC) software and supporting applications. These programming changes will need to be designed and tested at a cost of 40 hours times \$100 per hour for a cost of \$4,000.

Officials at the **Office of Administration Information Technology (ITSD DOR)** estimates that this legislation could be implemented utilizing 1 existing CIT III's for 1 month at a rate of \$4,186. ITSD DOR estimates the IT portion of this request can be accomplished within existing resources; however; if priorities shift, additional FTE/overtime would be needed to implement.

Officials at the **Department of Economic Development (DED)** assume DED would be required to enforce and collect fines from credit or program benefit recipients administered by DED for violation of statute against hiring illegal aliens. DED would do compliance checks of recipients employees and initiate any necessary collection actions. DED assumes the need for one Compliance Auditor III to conduct 450 site visits to review and monitor credit/benefit recipients hiring practices. DED assumes there could be an unknown need for collection services to collect these civil fines. DED assumes the need for space and funding to operate the compliance program.

This legislation allows for penalties of \$25,000 for first offense and \$50,000 for second offense from business who employ unauthorized aliens. The proposal allows the fee to be collected by the agency administering the program. For the purposes of the fiscal note, **Oversight** assumes the fees will result in an increase of general revenue.

Officials at the **Missouri Housing Development Commission** assume this would require contractors to pay fines for employees who work on "public works projects" and have not received OSHA construction safety training. Public works projects are defined as those "...constructed for public use or benefit or paid for wholly or in part by public funds." This

ASSUMPTION (continued)

definition could potentially be applied to construction projects receiving grants from the MO Housing Trust Fund. In that situation it would be possible for the fine to be paid back into the Trust Fund resulting in a positive fiscal impact. The amount of the positive fiscal impact is unknown.

In response to previous version of this bill, officials at the **State Public Defenders (SPD)** assume this proposal requires all public employers to only contract with employers who participate in the status verification program. This could potentially mean that every individual attorney with whom we contract, every court reporter we utilize, every trainer we bring in for a training program, every expert used in a case, cannot be used unless they participate in this program. Because most of these individuals are doing us a favor by working with us for much lower pay than they can make in private sector contracts, they are unlikely to voluntarily agree to take on the extra work involved in verifying the status of each of their employees. As a result, SPD anticipates increased difficulty (more so than we're already experiencing, which is significant) in finding contract attorneys, experts, etc. willing to work with us.

Additionally, it is unclear whether the part of the statute that requires all public employers to verify immigration status before providing benefits would be deemed applicable to the public defender system or not since the federal and state constitutions require us to provide benefits to all accused of criminal offenses who can't afford a lawyer without regard to immigration status. However, if that is something that we ARE expected to do, there will be a significant impact in the time and resources required for us to verify the immigration status of all 88,000 of our cases prior to providing services, esp at a time when we already lack the resources to provide the services we are constitutionally required to provide these clients.

Officials at the **Department of Higher Education (DHE)** assume the bill provides that applicants for public benefits, which would include state grants and scholarships, would have to provide proof of their legal eligibility to receive the benefits at the time of application. The DHE assumes that it will incur some cost in addressing the proof of eligibility standards. It cannot, however, estimate the cost to any reasonable degree of certainty.

In response to the previous version of this bill, officials at the City of West Plains and the **City of Centralia** assume some fiscal impact in administering law if passed.

Officials at the **Office of the Attorney General (AGO)** assume that there will be some costs associated with the following sections: Section 67.307.2 regarding sanctuary policies of municipalities and possible AGO review of those policies; Section 285.530.3 requiring all public

ASSUMPTION (continued)

employers to sign an affidavit affirming that there is no knowing hiring of unauthorized aliens.

While the first two provisions are likely to be absorbed with existing resources, the costs to carry but Section 285.560 are unknown because it is impossible to know the number of civil rights cases that may be brought as a result of enforcing these sections and how many of those cases the AGO will be required to defend for those municipalities.

Officials at the **City of Columbia** assume at least \$100,000 in costs to comply with the verification provisions.

In response to a previous version of this bill, officials **City of Kansas City** assume that there is no fiscal impact from this proposal.

Officials at the **St. Joseph Police Department** assume costs would be incurred as a result of the enforcement activities.

Officials at the **Department of Conservation, Department of Mental Health, Missouri Department of Transportation, Office of the State Courts Administrator, Department of Agriculture, Missouri Veterans Commission, Department of Public Safety, Department of Social Services, Office of the State Treasurer, Department of Insurance, Financial Institutions and Professional Registration, Department of Natural Resources, Administrative Hearing Commission, Department of Corrections, Missouri Highway Patrol, Missouri Senate, Office of Administration, Office of Prosecution Services** and the **Department of Health and Senior Services** assume that there is no fiscal impact from this proposal.

Officials at the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. 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. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the 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

ASSUMPTION (continued)

the state of funding the formula.

Officials from the **Office of the Secretary of State (SOS)** state 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 \$2,500. 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 request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
<u>Cost - Department of Revenue</u>			
Personal Services	(\$42,292)	(\$52,273)	(\$53,841)
Fringe Benefits	(\$18,702)	(\$23,115)	(\$23,808)
Expense and Equipment	<u>(\$12,458)</u>	<u>(\$2,060)</u>	<u>(\$2,123)</u>
<u>Total Costs - Dept. of Revenue</u>	(\$73,452)	(\$77,448)	(\$79,772)
FTE Change- Dept. of Revenue	2 FTE	2 FTE	2 FTE
 <u>Cost - Dept of Revenue</u>			
Computer modifications (208.009)	(\$4,000)	\$0	\$0

Cost - Department of Labor (292.675)

Personal Service	\$0	(\$99,860)	(\$102,856)
Fringe Benefits	\$0	(\$44,158)	(\$45,483)
Expense and Equipment	<u>\$0</u>	<u>(\$7,215)</u>	<u>(\$7,432)</u>
<u>Total Costs - Department of Labor</u>	\$0	(\$151,233)	(\$155,771)
FTE Change - Dept. of Labor	0 FTE	3 FTE	3 FTE

Cost -Office of Attorney General

Knowingly employee (285.525 through 285.550)

(Under \$100,000)	(Under \$100,000)	(Under \$100,000)
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Misclassifying workers

<u>(Not more than \$100,000)</u>	<u>(Not more than \$100,000)</u>	<u>(Not more than \$100,000)</u>
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Total Costs - AGO

(Not more than \$200,000)	(Not more than \$200,000)	(Not more than \$200,000)
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Cost - Dept. of Economic Development

Personal Services	(\$37,744)	(\$46,652)	(\$46,652)
Fringe Benefits	(\$17,083)	(\$21,115)	(\$21,115)
Expense and Equipment	<u>(\$13,465)</u>	<u>(\$16,642)</u>	<u>(\$17,141)</u>
<u>Total Costs - Dept. of Economic Dev.</u>	(\$68,292)	(\$84,409)	(\$84,908)
FTE Change- Dept. of Econ. Dev.	1 FTE	1 FTE	1 FTE

Cost - Dept. of Economic Development

Collection Services

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE

<u>(Unknown greater than \$341,744)</u>	<u>(Unknown greater than \$513,090)</u>	<u>(Unknown greater than \$520,451)</u>
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Estimated Net FTE Change on General Revenue

3 FTE	6 FTE	6 FTE
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MO WORKER PROTECTION FUND

Income - Agencies

Fines and Penalties Collected	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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**ESTIMATED NET EFFECT ON
MO WORKER PROTECTION FUND**

<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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FISCAL IMPACT - Local Government

FY 2009 (10 Mo.)	FY 2010	FY 2011
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LOCAL GOVERNMENT FUNDS

Costs - Local Law Enforcement Agencies

Detention Costs (Section 544.470)	(Unknown over \$100,000)	(Unknown over \$100,000)	(Unknown over \$100,000)
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Cost - Local Government (Other sections)

Administration of program	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENT FUNDS**

<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>
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FISCAL IMPACT - Small Business

The OHSA training requirement could have impact on contractors in increased costs for the training and reduced workers compensation payments.

FISCAL DESCRIPTION

This act modifies the law relating to illegal immigrants.

SANCTUARY: Municipalities are barred from adopting policies designed to give aliens sanctuary when they are present in violation of federal immigration laws. Those municipalities that adopt sanctuary policies shall be ineligible for any grants provided by the state.

Law enforcement officers shall report arrested individuals to the United States Citizenship and

FISCAL DESCRIPTION (continued)

Immigration Services if the officer has probable cause to believe the individual is not legally present in the United States. Those arrested for domestic violence shall not be reported until the person is convicted of domestic violence. (Section 67.307)

PUBLIC BENEFITS: Under federal law, unlawfully present aliens are not eligible for state or local public benefits with certain exceptions. This act reiterates federal law stating that such aliens are ineligible and the exceptions.

Applicants for benefits shall provide proof of citizenship, residency, or lawful presence in order to receive benefits. If applicants cannot provide such proof they can sign an affidavit attesting to their status and shall be eligible to receive temporary benefits until their status can be determined.

If an applicant is an alien, the applicant shall not receive benefits until lawful presence is verified by the federal government. (Section 208.009)

EMPLOYMENT: Employers are barred from employing unauthorized aliens. Violators are subject to the suspension of their business permits and licenses or exemptions. In order to correct the violation and have permits and licenses reinstated, the employer shall terminate the employment of the alien or request a second verification from the federal government, sign a sworn affidavit stating that the violation has ended, and submit documentation confirming the entity is enrolled in a federal work authorization program.

Violators under contract with the state shall have their contracts voided and shall be barred from contracting with the state for three years. Subsequent violations shall result in a void contract and a permanent bar from contracting with the state.

Business entities shall participate in a federal work authorization program in order to be eligible for state contracts. Public employers shall also participate in such a program.

Contractors are not liable for unauthorized aliens hired by their subcontractors if the contract binding the two parties affirmatively states that the subcontractor does not knowingly hire unauthorized aliens.

Contractors will not be liable for employing unauthorized aliens if they are enrolled in a federal work authorization program or in compliance with the federal I-9 verification program. (Sections 285.525, 285.530, 285.535, and 285.540 shall become effective January 1, 2009)

FISCAL DESCRIPTION (continued)

OSHA TRAINING: Contractors and subcontractors who contract to work on public works projects shall provide a 10 hour Occupational Safety and Health instruction and safety program, or similar program approved by the department of labor, for their employees. All employees working on projects must have completed the course within 60 days of beginning work and shall keep evidence of completion on the worksite.

Contractors and subcontractors in violation will forfeit \$2,500 plus \$100 for each worker employed for each day the worker is employed without training to the public body awarding the contract.

Public bodies and contractors may withhold assessed penalties from contractors and subcontractors respectively.

This section becomes effective on August 28, 2009. (Section 292.675)

DRIVER'S LICENSES: The Department of Revenue shall not issue any driver's license to illegal aliens nor to persons who cannot prove lawful presence. A driver's license issued to an illegal alien in another state shall not be honored by the state of Missouri and the Department of Revenue for any purpose. The state of Missouri hereby declares that granting drivers licenses to illegal aliens is repugnant to the public policy of Missouri and therefore Missouri shall not extend full faith and credit to out-of-state drivers licenses issued to illegal aliens. (Section 302.063)

BAIL: There shall be a presumption that releasing a person under any conditions set by the court, pending trial, appeal, or other proceeding, shall not reasonably assure the person's appearance if the judge reasonably believes the person is an illegal alien. If such presumption exists, the person shall be jailed until he or she provides verification of his or her lawful presence in the United States to rebut such presumption. If the person adequately proves his or her lawful presence, the judge shall review the issue of release again. However, if the person cannot prove his or her lawful presence, the person shall continue to be jailed until discharged in accordance with the law. (Section 544.470)

HARBORING: Individuals are barred from transporting or harboring any alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the U.S. in violation of the law. (Section 577.722)

COMMUNICATIONS WITH THE FEDERAL GOVERNMENT: The act bars government

FISCAL DESCRIPTION (continued)

entities, political subdivisions, and government officials from interfering with any communication with the federal government regarding the citizenship or immigration status of any individual. The state shall not fund government entities, agencies, or political subdivisions that have policies that would interfere with such communications. (Section 650.681)

ATTORNEY GENERAL: The act bars employers with 5 or more employees from knowingly misclassifying employees. Employers must submit federal IRS 1099-MISC forms to the Department of Revenue and penalties for failing to do so are provided. The Attorney General has the power to investigate alleged misclassifications and enforce the section.

The state carries the burden of proving that the employer misclassified the worker and there is a rebuttable presumption that an unauthorized alien is an employee under the act and shall be treated so if the employer cannot produce an I-9 form verifying the legal status of the worker or other forms verifying the individual is an independent contractor. Injunctions may be sought and employers shall be charged \$50 per day per misclassified worker up to a maximum of \$50,000 for violations. Penalties are increased for repeat offenders in an amount of \$100 per day per misclassified worker up to \$100,000.

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

Department of Conservation
Metropolitan Community College
Office of the Secretary of State
Office of Administration
City of West Plains
Linn State Technical College
City of Kansas City
City of Centralia
Department of Mental Health
Department of Revenue
Department of Labor and Industrial Relations
Missouri Department of Transportation
St. Louis County
Office of the State Courts Administrator

L.R. No. 3681-10

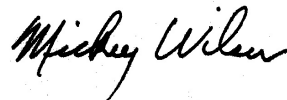
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SA 17, SA 19, and SA 20

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SOURCES OF INFORMATION (continued)

Department of Agriculture
Missouri Veterans Commission
Department of Public Safety
Department of Social Services
State Public Defender
Office of the Attorney General
Office of the State Treasurer
Department of Higher Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Health and Senior Services
Department of Elementary and Secondary Education
Department of Natural Resources
Administrative Hearing Commission
Department of Revenue
Department of Economic Development
Department of Corrections
Boone County Sheriff Department
Missouri State Highway Patrol
Clinton County Commission
Springfield Police Department
City of Columbia
Missouri Highway Patrol
Office of Prosecution Services
Budget and Planning
St. Joseph Police Department
Missouri Senate



Mickey Wilson, CPA

Director

May 14, 2008