

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0557-03
Bill No.: SCS for SB Nos. 37 & 244
Subject: Department of Revenue; Licenses - Driver's; Licenses - Miscellaneous; Federal - State Relations
Type: Original
Date: January 30, 2017

Bill Summary: This proposal allows the Department of Revenue to issue REAL ID compliant driver's licenses and identification cards.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$430,829)	(\$682,770)	(\$3,280,399) to \$7,551,812
Total Estimated Net Effect on General Revenue	(\$430,829)	(\$682,770)	(\$3,280,399) to \$7,551,812

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Federal Highway Funds	\$0 or (\$33,000,000)	\$0 or (\$66,000,000)	\$0 or (\$66,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (\$33,000,000)	\$0 or (\$66,000,000)	\$0 or (\$66,000,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	0 FTE	6 FTE	6 FTE
Total Estimated Net Effect on FTE	0 FTE	6 FTE	6 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 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Revenue (DOR)** state the following regarding this proposal:

In presenting this fiscal response, the Department assumes that because there would be enabling legislation USDHS would grant an extension to October 1, 2020 in order to comply with the federal REAL ID Act. However, it is unclear if the Department would be granted an extension since this legislation would not enable the Department to fully comply with all provisions of the Act.

§302.170.1

The proposed section lists definitions for biometric commercial purposes and source documents.

§302.170.2

The proposed provisions prohibit the department from retaining copies of source documents presented by applicants applying for or holding driver's licenses or nondriver licenses, except as provided in subsection 3 of this section.

§302.170.3

The proposed section defines the documents that are to be retained by the department, including:

- Original application forms;
- Test score documents issued by state highway patrol examiners;
- Documents demonstrating lawful presence for applicants who are citizens of the United States;
- Any document required to be retained under federal motor carrier regulations in Title 49, Code of Federal Regulations for the issuance of commercial driver's licenses and commercial instruction permits; and
- Any other document at the request of and for the convenience of the applicant where the applicant requests the department review alternative documents.

§302.170.4

This section proposes to modify current prohibiting language and require the Department to amend procedures in order to comply with the provisions of the Act.

To comply with this section, the Department would need to require all current and new DOR staff, contract license office staff, and others who are involved with the processing, production, and manufacturing of a REAL ID compliant license to have a finger-print based background check.

ASSUMPTION (continued)

§302.170.5

This section allows applicants to object to being issued a REAL ID compliant driver or nondriver license. Applicants would be issued a non-compliant document that will not be valid for official federal purposes. This proposed section indicates that the Department shall inform applicants of the option of being issued a REAL ID compliant document or a document that is not REAL ID compliant. This proposed section also requires the Department to provide details in regards to validity and collection requirements for a REAL ID compliant document versus a document not compliant with the Act.

The Department assumes applicants will be provided the option and information at the time of processing in the license office since new, duplicate, and early renewal applicants may not have received information prior to application. It is assumed the applicant will be required to make a selection of the type of document they wish to be issued by selecting the option of a REAL ID compliant or non-compliant document type. This additional discussion, review and selection time may result in additional wait times for applicants in the license office.

The License Offices Bureau will need to ensure license office personnel are properly trained on issuing the new compliant driver license/nondriver license and related requirements and disclosures by conducting regional training meetings throughout the state.

Customer wait times will increase in the license offices due to discussions with customers on the differences between a compliant and noncompliant document and for review and collection of the documents required for a compliant license. The additional volume of early renewal/duplicate license applicants is projected to increase wait times.

The turnaround time for license offices to fill vacancies will increase due to the finger print background check requirement. This could also increase license office wait times.

The proposed change to this subsection prohibits retention of source documents for individuals applying for driver's licenses or nondriver identification cards non-compliant with the REAL ID Act. As such, the state will likely see a reduction of federal highway funds to the state of Missouri for noncompliance in our state commercial driver license programs. Since the exemption in subsection 3 is general in nature, it would appear the explicit prohibition contained in subsection 6 would control. There is no exception in this section to require documents to be retained that are required per federal commercial driver regulations, as outlined generally in subsection 3.

ASSUMPTION (continued)

Failure to comply with federal regulations (49 CFR) could result in the loss of Missouri's portion of federal highway funds, with the first year of non-compliance resulting in 5% reduction (approximately \$33 million), and each subsequent year subject to a 10% reduction (approximately \$66 million). Missouri may lose the ability to issue CDLs if it is determined to be noncompliant.

Oversight will range the fiscal impact of this section from \$0 (does not put Missouri out of compliance) to a loss of \$33 million in federal highway funds in FY 2018 and a loss of \$66 million in subsequent years (if Missouri is found out of compliance).

§302.170.6

The proposed provisions specify that the department "...shall not use, collect, obtain, share or retain biometric data nor shall the department use biometric technology to produce a driver's license or nondriver's license or to uniquely identify licenses or license applicants." The language allows for the collection of the digital image and signature required for issuance of the driver or nondriver license and the collection of biometric data from "...employees of the department of revenue in positions which require a background check in order to be compliant with the federal REAL ID Act..."

To comply with this section, the Department would need to require all current and new DOR staff, contract license office staff, and others who are involved with the processing, production, and manufacturing of a REAL ID compliant license to undergo a fingerprint based background check. Since subsection 6 only excepts departmental employees from the general prohibition against collecting and using fingerprint biometric data, it does not allow the department to fully comply with the REAL ID Act.

§302.170.7

The provisions of the proposed section specify individuals shall not have their privacy rights violated in order to obtain or retain a noncommercial driver license, noncommercial instruction permit or nondriver's license.

§302.170.8

The proposed language provides that no citizen of this state shall have his or her privacy compromised and the state shall within reason protect the sovereignty of the citizens of the state. The provisions of this subsection further define that any data derived from a person's application shall not be sold for commercial purposes to any other organization or state without permission of the applicant or court order.

ASSUMPTION (continued)

Such information, as allowed by the proposed section, may be shared with law enforcement agencies, judges, prosecuting attorney's or for conducting driver history checks in accordance with federal regulation. The state of Missouri shall not participate in any standardized identification system using driver's and nondriver's records except as provided by this section.

§302.170.9

The proposed language allows for individuals harmed or damaged by a violation of this section to bring civil action for damages, including non-economic and punitive damages, as well as injunctive relief, in the circuit court where the person resides or in the circuit court of Cole County.

§302.170.10

The provisions of this section allow the department of revenue to promulgate rules necessary to implement the provisions of this section.

The proposed changes in this bill would repeal sections §§302.065, 302.183 and 302.189.

To implement the proposed changes to §§302.183.3, 302.183.4, 302.183.5 and 302.183.6 RSMo, the Department would be required to:

- Work with OA-ITSD to develop requirements and design documents for changes to the Missouri Electronic Driver License (MEDL) system to support issuance of a REAL ID compliant document according to the provisions of the Act; this includes implementation of a photo first application process;
- The Department would not store facial images captured for applicants applying for a non-compliant document, who do to other requirements, were unable to complete such transaction;
- Work with OA-ITSD to develop requirements and design documents for changes to the MEDL system to display an informational window with details of use and requirements for REAL ID compliant versus a non-compliant document for the applicant to review and select the type of document they wish to be issued;
- Based on the selection of document type REAL ID compliant versus non-REAL ID, MEDL would collect and store facial images and document images accordingly;
- Develop new certification statement to be included on the license verification statement so applicants can review and agree before signing and finalization of the compliant or non-compliant transaction;
- Modify systems and procedures to re-verify the Social Security Number with the Social Security Administration at the time of driver or nondriver license issuance or renewal;

ASSUMPTION (continued)

- Develop required memorandums of agreement for available verification systems required by the Act as applicable;
- Work with OA-ITSD to develop new interfaces for available electronic verification systems not currently being utilized, such as verification of passports, vital records and state to state inquires for verification of prior REAL ID document issuance;
- Implement a new state-to-state verification service to ensure persons opting to obtain a REAL ID compliant document do not hold any other REAL ID document or have surrendered such document as required (if deemed a necessary component for compliance by the United States Department of Homeland Security (USDHS));
- Modify driver and nondriver license card design and printing to issue documents with REAL ID compliant markings and designation of non-compliant document as not for federal identification purposes;
- Complete necessary user acceptance testing of changes to the MEDL application and other supporting applications;
- Complete user acceptance testing in cooperation with the Department's document production vendor to verify all required document design and printing changes have been completed for compliant and non-compliant document formats;
- Document and submit required security plans pursuant to provisions of the Act for internal Driver License Bureau processing areas, license offices, and the document printing facility;
- Initiate fingerprint based background checks for all DOR, license office, and vendor personnel;
- Modify all driver license and nondriver license issuance procedures to incorporate changes required to comply with the provisions of the Act for compliant documents and alternate procedures for issuance of the non-compliant documents;
- Conduct office training sessions as needed to implement system changes and verification document review and collection requirements;
- Update website and manuals to include information regarding the option and requirements for a REAL ID compliant document and non-compliant document;
- Modify renewal post cards or develop new renewal notification letters to include information regarding option for a REAL ID compliant document or non-compliant driver or nondriver license, documents required and other applicable requirements for each option;
- Develop and submit an exception process document to the USDHS for approval, including, but not limited to, issuance of a non-expiring nondriver license for persons 70 years of age and older or photograph exemption for documents issued to religious objectors;
- Obtain USDHS approval of processes to determine compliance.

ASSUMPTION (continued)

Administrative Impact

FY 2018 Driver License Bureau (DLB)

Administrative Analyst II - 1,344hrs. @ \$19.43 per hr. =	\$26,114
Management Analyst Specialist II - 1,456hrs. @ \$23.61 per hr. =	\$34,376
Revenue Band Manager II - 1,008 hrs. @ \$30.59 per hr. =	<u>\$30,835</u>
	\$91,325

FY 2019 Driver License Bureau (DLB)

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Inquiries FY 2019

The Department assumes there will be an estimated 10% increase in public inquires and inquiries to and from other state and federal entities regarding new procedures and verification system responses. FY 2019 and on-going.

170,000 Total potential increased inquiries first year of implementation (Est 10%)

÷264 Total days of service per annual period

644

÷ 100 Estimated # of calls expected per TIO.

6 Estimated # of Revenue Processing Tech I

6 x \$2,265 monthly salary = \$13,590 x 12 = annual cost **\$163,080**

FY 2019 - Personnel Services Bureau

Update Web Page Information- Administrative Analyst III	80 hrs. @ \$22.59 = \$1,807
Develop Form - Management Analysis Spec I	80 hrs. @ \$20.94 = \$1,675
Develop Procedures - Management Analysis Spec I	120 hrs. @ \$20.94 = <u>\$2,513</u>
	Total = \$5,995

ASSUMPTION (continued)

Administrative Impact (continued)

FY 2020 - Personnel Services Bureau

Update Web Page Information- Administrative Analyst III	80 hrs.	@ \$22.59 =	\$1,920
Develop Form - Management Analysis Spec I	80 hrs.	@ \$20.94 =	\$1,675
Develop Procedures - Management Analysis Spec I	120 hrs.	@ \$20.94 =	<u>\$2,513</u>
		Total =	\$5,995

FY 2020 License Offices Bureau (LOB)

Regional training expenses will be incurred in FY 2020 to train license office staff in the amount of approximately **\$4,500**. These travel costs include mileage, hotel, and meals for LOB staff to conduct six different training sessions throughout the state as well as related printing costs for training materials.

OA-ITSD services will be required at a cost of **\$325,458** (4,339.44 hours x \$75 per hour) in FY 2018.

Document Vendor Cost

Estimated vendor cost to complete document design and printing changes to implement proposed provisions to print a REAL ID compliant or non-compliant document with applicable markings in FY 2020 will be **\$28,000**.

Birth Certificate Verification (NAPHSIS)

The Department of Revenue must implement available system(s) for electronic verification of source documents when available. The currently available system for birth certificate verification is through the National Association for Public Health Statistics and Information Systems (NAPHSIS).

The estimated costs included below do not include an allowable jurisdiction specific certification match fee which is based on the specific state cost for a birth or death certificate. The Department has prepared this fiscal note with the assumption that Missouri Department of Health and Senior Services will waive this additional fee for Missouri document verifications completed by the Missouri DOR.

The estimated costs do not include costs for re-submission of verification requests due to data entry errors. The potential number of additional \$0.55 transactions fees is unknown.

ASSUMPTION (continued)

Administrative Impact (continued)

The Department is providing a range based on the amount of Missourians that opt to obtain a REAL ID compliant driver or nondriver license. The range is from 60% to 100% shown below:

Annual license issuance estimate:	1,700,000
Reduction due to Passport:	<u>-344,440</u>
Estimated # of applicants presenting a Birth Certificate	1,355,560

60% REAL ID opt in rate	<u>60%</u>
Verifications annually:	813,336
100% REAL ID opt in rate	<u>100%</u>
Verifications annually:	1,355,560

NAPHSIS per transaction (\$0.55)/Jurisdiction Verification Match Fee (\$1.35)	\$1.90
Total Annual Subscription Fees (\$100 per month)	\$1,200

Total Estimated Annual Cost for Birth Certificate Verification - 60% (813,336 x \$1.90) = **\$1,546,538**

Total Estimated Annual Cost for Birth Certificate Verification - 100% (1,355,560 x \$1.90) = **\$2,576,764**

NOTE: The costs for the verifications will be an annual estimated on-going cost after implementation. This is assumed because individuals applying for non-compliant licenses may later apply for a REAL ID compliant license and all new applicants who may opt to obtain a compliant document.

U.S. Passport Verification Services

One time verification system set-up fee	\$8,440
60% REAL ID opt in rate:	206,664 transactions x \$.09 = \$18,600
100% REAL ID opt in rate:	344,440 transactions x \$.09 = \$31,000

Social Security On-Line Verification (SSOLV) System

Estimated annual increased cost to complete re-verifications of social security numbers for renewal applicants (per transaction cost of \$0.050 x 717,897 renewals based on FY 16 renewals): **\$35,895**

ASSUMPTION (continued)

Administrative Impact (continued)

State to State Verification System (If required for compliance)

Implement a new state to state verification system to comply with provisions of the Act to ensure an applicant is only issued one REAL ID compliant document at any time.

Flat Rate One Time Implementation Fee FY 2018 **\$96,331**

Estimated per state fee FY 2019 equals = \$29,651

FY 2019 annual per driver fee $\$0.0720 \times 4,350,927 =$ \$313,267

FY 2019 Estimated Annual Cost for State to State Verification=**\$342,918**

Estimated per state fee FY 2020 and on-going (assuming 10% increase) equals = \$32,616

FY 2020 annual per driver fee $\$0.0720 \times 4,350,927 =$ \$313,267

Estimated Annual Cost State to State Verification FY 2020/ on-going = **\$345,883**

The Department cannot guarantee that the current estimated per state annual fee or the \$0.072 per driver fee will be the required fee at the time of implementation. Any increase or decrease in the amount charged to the Department will directly affect the fiscal impact of this proposed legislation.

Fingerprint Based Criminal Background Checks

State Fee = \$20.00

FBI Fee = \$12.00

Collection Vendor Fee = \$8.30

Total Cost per Employee \$40.30

1,700 = Estimated number of initial employees requiring initial background checks. Includes 1,430 LOB employees and 270 DLB employees

FY 2019 Initial Background Check Costs

$1,700 \times \$40.30 =$ **\$68,510**

FY 20 and Ongoing Background Check Costs

$768 \times \$40.30 =$ **\$30,950** estimated on-going annual cost

Estimated 700 new employee (49% turnover rate) checks for LOB

Estimated 68 new employee (25% turnover rate) checks for DLB

ASSUMPTION (continued)

Overall Estimated Impact

This fiscal note has been prepared with the information available to the DOR at this time. The DOR is currently prohibited from working with the USDHS to fully understand what implementation steps are necessary for Missouri to guarantee compliance with the Act. This fiscal note does not account for software and/or programming that may be required in order to perform any additional verification required to meet application or system security requirements. If such software or programming is required, the DOR would request additional funding through the appropriations process. Ongoing maintenance or transactional costs may also need to be requested.

These costs represent the ongoing costs for what is estimated to continue for approximately six years (allowing for the six years after implementation when non-compliant licenses will expire).

Due to the USDHS domestic travel restrictions deadline of October 2020, it is assumed approximately 60% of the current license holders, not yet eligible for renewal, wanting to update their document to be REAL ID compliant, would request a document during the first two fiscal years of implementation. Assuming a possible 30% opt-in rate annually, the Department may have increased cost for completion of required verifications and document costs.

In addition, there may be a potential increase in general revenue (assuming a duplicate transaction would be issued) from transaction fees collected and a potential increase in contract license office processing fees. The revenue impact may differ if the Department is required to process the additional early opt in transactions as renewal versus duplicate transactions.

The potential cost and revenue increase below is based on the current total valid licensed drivers and nondriver license holders on record of 4,350,927 and assuming a 30% REAL ID compliant document annual opt in rate for individuals not yet due for renewal, which would be an estimated 1,305,278 additional applications during the first two years of implementation. Based on the current number of license offices, driver license system workstations and current office staffing this large influx of applications could result in increased wait times in license offices and need for additional hours of operation and staffing.

- Increased cost to state: for additional verifications and document cost= **\$4,996,602**
- Potential increase in general revenue from duplicate transaction fees = **\$9,789,585**

ASSUMPTION (continued)

- This calculation is based upon 30% of the current valid licensed driver and non-driver license holders on record requesting the REAL ID compliant document:

$$4,350,927 \times 30\% = 1,305,278 \times \$7.50 \text{ (duplicate license fee)} = \$9,789,585$$

- Potential increase in office processing fees to contract offices = **\$6,526,390**

If federal grants are available to the DOR to assist with implementation costs, the DOR would apply for such grants and work with the appropriations committees to ensure such money could be used for implementation. The State will continue to experience costs after the initial six years when non-compliant licenses expire.

Every new applicant will have the option to obtain a REAL ID compliant document and any individual that didn't originally request a REAL ID compliant document could request a compliant document which will result in additional costs for ongoing electronic verifications.

DOR assumes it will take 18 to 24 months to become fully compliant with the requirements of the REAL ID Act. Once DOR is fully compliant, it will submit a final certification package to DHS. Once DHS approves, DOR will then begin issuing REAL-ID-compliant licenses.

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.

Officials from the **Joint Committee on Administrative Rules** state that the proposal is not anticipated to cause a fiscal impact to their agency beyond its current appropriation.

ASSUMPTION (continued)

Officials from **Department of Public Safety - Missouri Highway Patrol** assume the proposal will have no fiscal impact on their organization.

This proposal could increase **Total State Revenues**.

<u>FISCAL IMPACT - State Government</u>	FY 2018	FY 2019	FY 2020
GENERAL REVENUE			
<u>Income</u> - DOR - duplicate transaction fees (p. 12, 13)	\$0	\$0	Could be up to \$9,789,585
<u>Cost</u> - DOR			
Personal Services (p. 8)	\$0	(\$164,711)	(\$166,358)
Fringe Benefits	\$0	(\$59,359)	(\$59,849)
Equipment and Expense	\$0	(\$46,072)	\$0
Regional training expenses (p. 9)	\$0	\$0	(\$4,500)
OA-ITSD services (p. 9)	(\$325,458)	\$0	\$0
Document vendor cost (p. 9)	\$0	\$0	(\$28,000)
NAPHSIS annual subscription (p. 10)	(\$600)	(\$1,200)	(\$1,200)
Birth certificate verifications (p. 10)	\$0	\$0	(\$1,546,538 to \$2,576,764)
Passport one-time fee and annual verifications (p. 10)	(\$8,440)	\$0	(\$18,600 to \$31,000)
State-to-State one-time fee and annual verifications (p. 11)	(\$96,331)	(\$342,918)	(\$345,883)
Social Security verifications incr. (p.10)	\$0	\$0	(\$35,895)
Background checks (p. 11)	\$0	(\$68,510)	(\$30,950)
<u>Total Costs</u> - DOR	<u>(\$430,829)</u>	<u>(\$673,028)</u>	(\$2,237,773 to <u>\$3,280,399</u>)
FTE Change - DOR	0 FTE	6 FTE	6 FTE
ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>(\$430,829)</u>	<u>(\$682,770)</u>	(\$3,280,399) to <u>\$7,551,812</u>
Estimated Net FTE change for General Revenue Fund	0 FTE	6 FTE	6 FTE

FISCAL IMPACT - State Government FY 2018 FY 2019 FY 2020
 (continued)

FEDERAL FUNDS

<u>Loss</u> - DOR - Federal Highway funds potentially not received due to noncompliance	\$0 or <u>(\$33,000,000)</u>	\$0 or <u>(\$66,000,000)</u>	\$0 or <u>(\$66,000,000)</u>
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ESTIMATED NET EFFECT ON FEDERAL FUNDS	\$0 or <u>(\$33,000,000)</u>	\$0 or <u>(\$66,000,000)</u>	\$0 or <u>(\$66,000,000)</u>
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FISCAL IMPACT - Local Government FY 2018 FY 2019 FY 2020

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Contract license offices could see an increase in revenue up to \$6,526,390 due to increased processing fees with this proposal.

FISCAL DESCRIPTION

This proposal allows the Department of Revenue to amend procedures for applying for a driver's license or identification card in order to comply with the goals or standards of the federal REAL ID Act of 2005. This proposal requires the Department to inform applicants of the option of being issued a REAL ID driver's license or identification card or non-REAL ID driver's license or identification card. The Department shall issue a non-REAL ID driver's license or identification card to those individuals who object to being issued a REAL ID license or card.

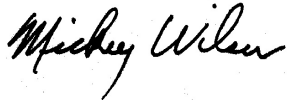
This act contains an emergency clause.

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

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Bill No. SCS for SB Nos. 37 & 244
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SOURCES OF INFORMATION

Department of Revenue
Department of Public Safety - Missouri Highway Patrol
Office of the Secretary of State
Joint Committee on Administrative Rules



Mickey Wilson, CPA
Director
January 30, 2017

Ross Strobe
Assistant Director
January 30, 2017