

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2423S.02I
Bill No.: SB 633
Subject: Department of Commerce and Insurance; Banks and Financial Institutions
Type: Original
Date: May 1, 2023

Bill Summary: This proposal creates new provisions relating to money transmission.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	(\$23,748)	(\$58,134)	(\$59,297)
Total Estimated Net Effect on General Revenue	(\$23,748)	(\$58,134)	(\$59,297)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Division of Finance Fund	(\$112,936)	(\$206,674)	(\$210,690)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$112,936)	(\$206,674)	(\$210,690)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

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 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 361.800 – 361.840 – Money Transmitter

Officials from the **Department of Commerce and Insurance (DCI) – Division of Finance (DOF)** assume the following:

DOF assumes sections authorize the director of the Division of Finance to administer, interpret, and enforce Sections 361.800-361.840. It provides rulemaking authority for DOF and addresses confidentiality of information submitted by licensees and applicants. It further permits the director to enforce sections and regulations pertaining to money transmitters including the federal Bank Secrecy Act and the USA Patriot Act; and outlines required submissions by applicants for a money transmitter license.

All revenue and expenses would be deposited and deducted from the Division of Finance Fund (0550).

Revenue Estimate

Money transmitter companies are currently licensed under Sections 361.700-361.727. If passed as written, DOF would administer the programs side-by-side and licensees could use either method. For the purposes of this estimate, DOF assumes 75% (137) of the 182 entities currently licensed under 361.700-361.727 would convert their license to that which is authorized by Sections 361.800-361.840.

Section 361.808

Licensure and renewal fees will not be sufficient to support the activities of the Division in administration and enforcement of these sections, DOF would be required to charge each money transmitter licensed under these sections for costs associated with their annual examinations as authorized in Section 361.808.2. Revenue would be based on actual exam costs and would vary greatly.

Section 361.812

An Initial Application Fee of \$500 and a License Fee of \$1,000 are required with the submission of an application for license. The estimated 137 applicants in the first year would generate \$68,500 in Initial Application Fees and \$137,000 in License Fees for a total of \$205,500 in the first year. Licenses would be effective on the date of issuance by DOF and would expire on December 31 of each year. For FY 2025 and 2026, DOF assumes ten new applications and licenses would be processed, but because the number of money transmitters has been fairly stable, it is also assumed that ten would not renew. Therefore, Initial Application Fees and License Fees for new licenses would generate \$15,000; and license renewals, at \$100 each, would generate \$12,700.

Section 361.816

A fee of \$50 is required to accompany a request to acquire control of a licensee along with an application for acquisition. DOF estimates that 10%, or 14 such transactions would take place each year, generating \$700 annually.

Section 361.836

This section authorizes the director to assess civil penalties for violations of 361.800-361.840. DOF does not anticipate any violations will occur and therefore estimates revenue from these penalties at \$0.

Revenue Loss

Since an estimated 75% of those currently licensed under Sections 361.700-361.727 are assumed to transition to these new licenses, DOF expects a loss of revenue from renewals under 361.700-361.727. The fee for renewals is \$300 annually. If 137 chose not to renew, the resulting revenue loss is estimated at \$41,100 annually.

Expense Estimate

Expense estimates include a 2% annual inflation rate.

Section 361.808.4

This section authorizes examinations of licensees which would be conducted by a Senior Consumer Credit Examiner. Regular examinations would take place biennially, with half of the licensees examined each year. This would require an estimated sixty-nine examinations be performed each year. It is estimated that a Senior Consumer Credit Examiner would spend an average of forty hours to complete an examination. Completed examinations would be submitted to the central office of the Division for compilation and formatting by an Administrative Office Support Assistant (AOSA). Examinations would be reviewed and approved by the Supervisor of Consumer Credit, estimated to take three hours for each examination.

Based on the average salaries of \$43.63 for a Senior Consumer Credit Examiner; \$20.76 per hour for an AOSA; and \$56.47 for the Supervisor of Consumer Credit. The personal service cost for each examination is estimated at \$1,977. Travel expenses are estimated at \$500 - \$5,000 per examination depending on the location of the licensee. Each licensee would be required to reimburse the actual cost of the exam, thus the net cost of this section is \$0.

Applications submitted pursuant to Section 361.812 would be reviewed by a Senior Consumer Credit Examiner, requiring an estimated 12 hours each; the Supervisor of Consumer Credit would spend an average of 1 hour reviewing recommendations of the Senior Consumer Credit Examiner regarding licensure approval or denial. It would take an average of 1 hour for the AOSA to process the approval or denial of each application.

Renewal of licenses for money transmitters would be completed on an annual basis, beginning December 31 of the date of original issuance. DOF assumes the first set of licenses would expire

December 31, 2023. Because the number of money transmitters has been fairly stable, it is estimated that ten would opt not to renew their licenses in FYs 2025 and 2026, but would be replaced by new licensees. Renewal requests would be reviewed by a Senior Consumer Credit Examiner, taking an average of 6 hours each. Review of the recommendation for approval or denial would be handled by the Supervisor of Consumer Credit taking approximately one hour. The AOSA would then process the renewal license or denial at one hour per license.

Those entities seeking to acquire control of a money transmitter license are required to submit an application for acquisition. DOF assumes approximately 10% of licenses would have an acquisition application filed each year. For these fourteen applications, an average of eight hours would be required for review by a Senior Consumer Credit Examiner, one hour of review of the recommendation of approval or denial by the Supervisor of Consumer Credit, and one hour to process the approval or denial of the acquisition.

Section 361.820

This section requires money transmitters to submit several reports to the Division including financial statements, reports of condition, and special events that affect the licensee. DOF estimates it would take a Senior Consumer Credit Examiner six hours to review each report and the Supervisor of Consumer Credit an average of one hour each to address any concerns identified by the Examiner.

Fringe Benefits are estimated at the standard rate.

Supplies and expenses for employees assigned to this program are estimated at \$11,040 per FTE annually. Because the majority of Consumer Credit examination staff are telecommuters, rent and janitorial expenses would only be necessary for the AOSA and Supervisor positions, a total of 0.43 FTE.

DOF administrative support services, including general administration, training, human resources, accounting, budget, legal, and information technology services are covered in a 15% administrative overhead rate. This includes promulgation of rules and development of forms and websites to support these sections.

Cost Savings

Since an estimated 75% of those currently licensed under Sections 361.700-361.727 are assumed to transition to these new licenses, DOF expects that 137 renewals will not be processed, saving an estimated \$10,477 annually.

DOF assumes that this workload would be picked up by existing staff since there would be a reduction in the workload for Sections 361.700-361.727.

Listed below is a summary revenue and expenses expected by DCI-DOF as a result of this proposal.

Application & Licensing	FY 2024	FY 2025	FY 2026
Revenue	\$205,500	\$15,000	\$15,000
Expenses - PS	(\$82,308)	(\$6,128)	(\$6,251)
Expenses - EE	(\$19,963)	(\$1,748)	(\$1,771)
Total	\$103,229	\$7,124	\$6,979
Renewals			
Revenue	\$0	\$12,700	\$12,700
Expenses - PS	\$0	(\$43,915)	(\$44,794)
Expenses - EE	\$0	(\$12,334)	(\$12,690)
Total	\$0	(\$43,549)	(\$44,783)
Acquisitions			
Revenue	\$700	\$700	\$700
Expenses - PS	(\$5,968)	(\$6,087)	(\$6,209)
Expenses - EE	(\$1,447)	(\$1,736)	(\$1,759)
Total	(\$6,715)	(\$7,123)	(\$7,268)
Report Review			
Expenses - PS	(\$43,600)	(\$44,472)	(\$45,362)
Expenses - EE	(\$10,575)	(\$12,682)	(\$12,851)
Total	(\$54,175)	(\$57,155)	(\$58,212)
Examinations			
Revenue and Expenses will offset	\$0	\$0	\$0
Total Revenue	\$206,200	\$28,400	\$28,400
Total Personal Services	(\$131,876)	(\$100,603)	(\$102,615)
Total E&E	(\$31,986)	(\$28,500)	(\$29,070)
Total Fringe Benefits	(\$91,191)	(\$52,485)	(\$53,382)
Total Administrative Services	(\$33,460)	(\$22,863)	(\$23,400)
Renewals under 361.700-361.727			
Revenue (Loss)	(\$41,100)	(\$41,100)	(\$41,100)
Savings	\$10,477	\$10,477	\$10,477
Total Net Effect	(\$112,936)	(\$206,674)	(\$210,690)

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the fiscal estimate to the Division of Finance Fund (0550) as provided by DOF.

Officials from the **Department of Corrections (DOC)** assume this proposal creates new provisions relating to money transmission. Section 361.824 creates a class E felony offense when an authorized delegate who holds money in trust for the benefit of a licensee knowingly fails to remit more than \$1000 of such money.

Section 361.836 creates two new class E felony offenses. The first offense is when a person intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained pursuant to sections 361.800 to 361.840 or that intentionally makes a false entry or omits a material entry in such a record. The second offense is when a person knowingly engages in an activity for which a license is required pursuant to sections 361.800 to 361.840 without being licensed and who receives more than \$500 in compensation within a thirty day period from this activity.

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 three new nonviolent class E felonies.

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, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the Department is 6 additional offenders in prison and 21 additional offenders on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	3	6	6	6	6	6	6	6	6	6
Parole	0	0	3	3	3	3	3	3	3	3
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	3	6	6	6	6	6	6	6	6	6
Field Population	6	12	21	21	21	21	21	21	21	21
Population Change	9	18	27	27	27	27	27	27	27	27

* 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.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.024 per day or an annual cost of \$9,499 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$87.46 per day or an annual cost of \$31,921 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

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.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect estimate provided by DOC to the General Revenue Fund.

Officials from the **Office of the State Public Defender (SPD)** state the proposed legislation creates a new offense under section 361.284 which could result in additional cases eligible for SPD representation. The number of additional cases is unknown and as a result the fiscal impact is unknown.

Oversight notes in FY22 the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

Officials from the **Department of Public Safety - Missouri Highway Patrol** and the **Missouri Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Cost – DOC</u> Incarceration Cost	<u>(\$23,748)</u>	<u>(\$58,134)</u>	<u>(\$59,297)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$23,748)</u>	<u>(\$58,134)</u>	<u>(\$59,297)</u>
DIVISION OF FINANCE FUND (0550)			
<u>Revenue – DOF</u> Application, Licensing & Acquisitions	\$206,200	\$28,400	\$28,400
<u>Savings – DOF</u> Processing Fees	\$10,477	\$10,477	\$10,477
<u>Cost - DOF</u> Personal Service	<u>(\$131,876)</u>	<u>(\$100,603)</u>	<u>(\$102,615)</u>

Fringe Benefit	(\$91,191)	(\$52,485)	(\$53,382)
Equipment and Expense	(\$31,986)	(\$28,500)	(\$29,070)
Overhead Cost	(\$33,460)	(\$22,863)	(\$23,400)
Total Cost – DOF	(\$288,513)	(\$204,451)	(\$208,467)
Loss – DOF Transition to new licenses	(\$41,100)	(\$41,100)	(\$41,100)
ESTIMATED NET EFFECT TO THE DIVISION OF FINANCE FUND	(\$112,936)	(\$206,674)	(\$210,690)

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	\$0	\$0	\$0

FISCAL IMPACT – Small Business

A direct fiscal impact to small businesses that act as a money transmitter would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act creates new provisions of law regulating money transmission, defined as any of the following:

- Selling or issuing payment instruments to a person located in Missouri;
- Selling or issuing stored value to a person located in Missouri;
- Receiving money for transmission from a person located in Missouri; or
- Payroll processing services.

Money transmission does not include the provision solely of online or telecommunications services or network access.

The Director of the Division of Finance within the Department of Commerce and Insurance is charged with administering this act.

LICENSURE OF MONEY TRANSMITTERS (Section 361.812)

The act prohibits any person from engaging in the business of money transmission or advertising, soliciting, or holding itself out as providing money transmission unless the person has been licensed pursuant to this act. Licenses last for no more than one calendar year and are not transferable or assignable. Applications must be on forms required by the Director and shall be accompanied by an application fee of \$500 and a license fee of \$1,000.

Additionally, certain individuals in control of a licensee, seeking to control a licensee, and any key individual, as that term is defined in the act, are required to furnish background materials to the Director, including fingerprints, criminal background checks, and employment history, among other things listed in the act.

The Director is permitted to implement the licensure process in such a way as to make it consistent with other states and nationwide protocols, to the extent consistent with this act. The Director is additionally permitted to collaborate with the Nationwide Multistate Licensing System and Registry developed by the Conference of State Bank Supervisors (NMLS) as provided in the act.

CONFIDENTIALITY OF INFORMATION (Section 361.808)

The act provides that all information provided to the Director is considered confidential except basic identifying information of the licensee as detailed in the act. Exceptions are included with respect to disclosures to certain government agencies.

ACQUISITION OF CONTROL (Section 361.816)

Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Director prior to acquiring control. An application must be submitted in a form prescribed by the Director along with a fee of \$50.

REPORTING AND RECORDS (Section 361.820)

Each licensee is required to submit to the Director the following reports:

- A report of condition each calendar quarter;
- An audited financial statement prepared by an independent certified public accountant at the end of the fiscal year; and
- A report of authorized delegates at the end of each calendar quarter.

A licensee shall file a report with the Director within one business day if the licensee has reason to know of:

- The filing of a petition by or against the licensee under the federal United States Bankruptcy Code;
- The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors; or
- The commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed.

A licensee shall file a report with the Director within three business days if the licensee has reason to know of:

- A conviction of the licensee or of a key individual or person in control of the licensee for a felony; or
- A conviction of an authorized delegate for a felony.

A licensee shall maintain the following records, for determining its compliance with this act for at least three years:

- A record of each outstanding money transmission obligation sold;
- A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
- Bank statements and bank reconciliation records;
- Records of outstanding money transmission obligations;
- Records of each outstanding money transmission obligation paid within the three-year period;
- A list of the last known names and addresses of all of the licensee's authorized delegates; and
- Any other records the director reasonably requires by rule.

PRUDENTIAL STANDARDS (Section 361.832)

Licensees are required to maintain at all times a tangible net worth more than \$100,000, or 3% of total assets for the first \$100,000,000, 2% of additional assets between \$100,000,000 and \$1 billion, and 0.5% of additional assets over \$1 billion. Additionally, licensees shall maintain security consisting of a surety bond in an amount based on the licensee's average daily money transmission liability and tangible net worth.

The act establishes requirements for permissible investments of a licensee.

The act creates the following criminal penalties associated with money transmission:

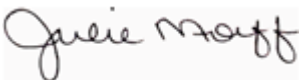
- A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained pursuant to this act or that intentionally makes a false entry or omits a material entry in such a record is guilty of a class E felony;
- A person that knowingly engages in an activity for which a license is required pursuant to this act without being licensed and who receives more than \$500 in compensation within a 30-day period from this activity is guilty of a class E felony;
- A person that knowingly engages in an activity for which a license is required pursuant to this act without being licensed and who receives no more than \$500 in compensation within a 30-day period from this activity is guilty of a class A misdemeanor.

The Director is also permitted to assess civil penalties not to exceed \$1,000 per day for each violation of this act.

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 Commerce and Insurance
Department of Corrections
Office of the State Public Defender
Department of Public Safety
Missouri Highway Patrol
Missouri Office of Prosecution Services



Julie Morff
Director
May 1, 2023



Ross Strope
Assistant Director
May 1, 2023