

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0457S.01I
 Bill No.: SB 246
 Subject: Estates, Wills and Trusts
 Type: Original
 Date: February 16, 2025

Bill Summary: This proposal establishes the Missouri Uniform Fiduciary Income and Principal Act, which modifies provisions relating to trust and estate administration.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Costs to OSCA to implement changes. Oversight also assumes the impact will be under \$250,000 annually.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§214.330, 469.399, 469.401, 469.402, 469.403, 469.404, 469.405, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.446, 469.447, 469.449, 469.451, 469.453, 469.455, 469.456, 469.457, 469.459, 469.462, 469.463, 469.464, 469.465, 469.467, 469.471, 469.473, 469.475, 469.477, 469.479, 469.481, 469.483, 469.485, & 469.487 - Missouri Uniform Fiduciary Income and Principal Act

In response to similar legislation from 2024, SB 1007, officials from the **Office of State Courts Administrator (OSCA)** stated 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 to (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 **Department of Commerce and Insurance (DCI)** believe the costs of this bill can be absorbed within DCI's current appropriations. However, should the cost be more than anticipated, the DCI would request an increase to DCI's FTE and/or appropriations, as appropriate, through the budget process.

Officials from the **Office of the State Treasurer** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Cost – OSCA – costs to implement</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act establishes the "Missouri Uniform Fiduciary Income and Principal Act" which applies to trusts and estates where Missouri is the principal place of administration and to property in Missouri that is subject to a life estate or other term interest and in which the interest of one or more persons will be succeeded by the interest of another.

This act provides requirements for fiduciaries when making an allocation or determination or exercising discretion pursuant to this act, including acting in good faith and administering the trust or estate impartially and in accordance with the terms of the trust and this act. Specifically, the fiduciary shall add a receipt and charge disbursement to principal. Additionally, the fiduciary may exercise the power to adjust, convert an income trust to a unitrust, change the percentage or method used to calculate a unitrust amount, or convert a unitrust to an income trust, if the fiduciary determines that such actions will assist the fiduciary to administer the trust or estate impartially.

The court shall not order a fiduciary to change a decision unless there was an abuse of discretion, upon which the court may order a remedy to place the beneficiaries in the positions as if there was not an abuse of discretion. A fiduciary may petition the court for instruction on whether a proposed fiduciary decision will result in an abuse of discretion. If the petition meets the requirements of this act, the beneficiaries have the burden to establish that a fiduciary decision will result in an abuse of discretion.

Additionally, this act modifies provisions relating to fiduciary determinations of net income upon the death of an individual resulting in the creation of an estate or trust or in the termination of an income interest in a trust, relating to rights of beneficiaries to receive a share of net income, relating to dates on which income interests begin, assets become subject to a trust, and fiduciary allocation of an income receipt or disbursement to principal, and relating to mandatory income interests and undistributed income.

As provided by this act, a fiduciary shall allocate as income any money received in an entity distribution, as defined in the act, and any tangible personal property of nominal value received from the entity. A fiduciary shall also allocate as principal certain moneys and other property received in an entity distribution. The act further provides factors for a fiduciary to determine or estimate that money received in an entity distribution is a capital distribution.

The fiduciary, instead of the trustee, shall also allocate to income amounts received as a distribution of income, including a unitrust distribution, from a trust or estate in which the fiduciary, instead of the trust, has an interest, other than an interest the fiduciary purchased in a trust that is an investment entity, and shall allocate to principal amounts received as a distribution of principal from the trust or estate. Furthermore, this act makes changes to the provisions relating to businesses or other activity conducted by a fiduciary if the fiduciary determines that it is in the interests of the beneficiaries to account separately.

Additionally, this act modifies provisions relating to allocations to principal by the fiduciary instead of the trustee, allocations of rental property income, allocations of amounts received as interest or from the sale, redemption, or other disposition on an obligation to pay money, and allocations of proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary. If a fiduciary, instead of a trustee, determines that an allocation between income and principal is insubstantial, the fiduciary may allocate the entire amount to principal. The act further modifies the factors for a fiduciary to presume an allocation is insubstantial. Such power may be exercised by a co-fiduciary or may be released or delegated as provided by law.

This act repeals provisions relating to the income allocation of payments characterized as distributions to the trustee and instead provides rules for separate funds, as defined in the act, and requirements of fiduciaries of marital trusts. Furthermore, this act modifies provisions relating to liquidating assets and the failure of a fiduciary to account for receipts from the interests in minerals, water, or other natural resources, from the sale of timber and related products, or for transactions in derivatives. This act also contains modifications to the provisions relating to marital deductions, including qualifications for such deductions, and allocations of receipts related to an asset-backed security to income. Specifically, a fiduciary shall allocate receipts related to a financial instrument or arrangement not addressed by this act.

This act modifies provisions relating to required income and principal disbursements by fiduciaries, rather than trustees, and transfers to principal of net cash receipts from a principal asset that is subject to depreciation. A fiduciary may transfer an appropriate amount from principal to income in an accounting period to reimburse income if the fiduciary makes or expects to make an income disbursement, as described in the act. The provision regarding transfer of an amount from income in an accounting period to reimburse principal or to provide a reserve for future principal disbursements is also modified.

Additionally, this act repeals the existing provision relating to adjustments between principal and income and provides that a fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries that arises from:

(1) An election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an income tax deduction;

- (2) An income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary; or
- (3) Ownership by the fiduciary of an interest in an entity, a part of whose taxable income, whether or not distributed, is includable in the taxable income of the fiduciary or a beneficiary.

A fiduciary may offset a charge to each beneficiary that benefits from a decrease in an income tax to reimburse the principal from which the increase in estate tax is paid by obtaining payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method.

This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, except for certain provisions relating to consumer disclosures, and does not authorize electronic delivery of certain notices.

Additionally, this act repeals existing provisions relating to unitrust amounts and establishes new provisions relating to unitrusts, which is defined as a trust for which net income is an amount computed by multiplying a determined value of a trust by a determined percentage. The conversion of an income trust to a unitrust and for the determination of the rate used to compute the unitrust amount is provided in this act.

Furthermore, this act provides for certain requirements for a unitrust policy. Specifically, the policy:

- (1) Shall provide the unitrust rate or method for determining such rate, the method for determining the applicable value of assets, and rules for the unitrust administration;
- (2) Shall provide the period used for the determination of the rate and value;
- (3) May provide standards for using fewer preceding periods if certain circumstances exist and prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates; and
- (4) May provide methods and standards for determining the timing of distributions, making distributions in cash or in kind, or correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount, or may provide other standards and rules to serve the interest of the beneficiaries.

This act also provides that if a trust qualifies for a special tax benefit or if a fiduciary is not an independent person, the unitrust rate shall not be less than three percent and no more than five percent and that only certain provisions of this act apply.

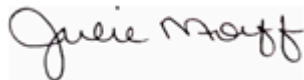
Finally, certain provisions relating to the statute of limitations on claims of a breach of trustee's duty to impartially administer a trust are repealed.

The provisions of this act apply to trusts and estates existing or created on or after August 28, 2025, except if expressly provided in the terms of the trust or by 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

Office of the State Courts Administrator
Department of Commerce and Insurance
Office of the State Treasurer



Julie Morff
Director
February 16, 2025



Jessica Harris
Assistant Director
February 16, 2025