

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3375S.02I
 Bill No.: SB 737
 Subject: Department of Commerce and Insurance; Banks and Financial Institutions
 Type: Original
 Date: January 21, 2024

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Division of Finance Fund (0550)	Unknown, Less than \$680,533	Unknown, Less than \$694,144	Unknown, Less than \$708,028
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown, Less than \$680,533	Unknown, Less than \$694,144	Unknown, Less than \$708,028

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
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 these 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 these sections would be repealed and replaced by Sections 361.900-361.1035. For the purposes of this estimate, DOF assumes all of the 171 entities currently licensed under 361.700-361.727 would convert their license to that which is authorized by Sections 361.900-361.1035.

Section 361.921

This section allows DOF to charge each money transmitter licensed under these sections for costs associated with their annual examinations. DOF assumes the commissioner will set licensure and renewal fees at a level to sustain the program without charging for licensee examinations.

Section 361.936

An Initial Application Fee and a License Fee set by the commissioner is required with the submission of an application for license. The fee would be set based on the cost to sustain operation of the licensure program. Licenses would be effective on the date of issuance by DOF and would expire on December 31 of each year. Annual renewal fees would be set by the commissioner based on the total operating expenses of the program.

Section 361.951

A fee set by the commissioner is required to accompany a request to acquire control of a licensee along with an application for acquisition. DOF estimates that 10%, or 9 such transactions would take place each year. The fee would be set at an amount sufficient to sustain operation of the program based on estimated operating costs.

Section 361.1026

This section authorizes the director to assess civil penalties for violations of 361.900-361.1035.

Revenue Loss

Since all 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 \$400 annually, resulting in a revenue loss of an estimated \$68,400.

Expense Estimate

Expense estimates include a 2% annual inflation rate.

Section 361.921.1(1)

DOF assumes 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 86 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 \$53.15 for a Senior Consumer Credit Examiner; \$19.91 per hour for an AOSA; and \$64.46 for the Supervisor of Consumer Credit. The personal service cost for each examination is estimated at \$2,339. Travel expenses are estimated at \$500 - \$2,500 per examination depending on the location of the licensee. For this estimate, the median of \$1,500 per exam was used.

Applications submitted pursuant to Section 361.936 would be reviewed by a Senior Consumer Credit Examiner, requiring an estimated 8 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 January 1 after of the date of original issuance. Because the number of money transmitters has been fairly stable, it is estimated that ten would opt not to renew their licenses in FYs 2026 and 2027, 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 9 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.

Sections 361.957 – 361.963

DOF assumes these sections require 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 \$11,261 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.

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 those currently licensed under Sections 361.700-361.727 would transition to these new licenses, DOF expects that 171 renewals will not be processed, saving an estimated \$68,400.

DOF assumes that this workload would be picked up by existing staff since repealed Sections 361.700-361.727 would eliminate some existing workload.

Because the commissioner determines the fees associated with licensures and renewals under 361.900-361.1035, DOF assumes the fees would be set at a level sufficient to sustain the operations of the program. Therefore, the net effect on the Division of Finance Fund (0550) would be \$0.

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

	FY 2025	FY 2026	FY 2027
Revenue – Money Transmitter Fees	\$680,533	\$694,144	\$708,028
Cost Avoidance	\$68,400	\$68,400	\$68,400
FTE Expense	(\$680,533)	(\$694,144)	(\$708,028)
Licensing Fees Loss	(\$68,400)	(\$68,400)	(\$68,400)

Total	\$0	\$0	\$0
--------------	------------	------------	------------

Oversight notes the cost related to the FTE expense provided by DOF is for existing staff and not additional FTE. Oversight assumes DOF will have some additional expense related to the proposal, however, Oversight also assumes DCI is provided with core funding to handle a certain amount of activity each year. Therefore, Oversight will reflect the fiscal estimate to the Division of Finance Fund (0550) as a net revenue of Unknown.

Officials from the **Department of Corrections (DOC)** assume this proposal creates new provisions relating to money transmission.

Section 361.981 requires an authorized delegate who holds money in trust for the benefit of a licensee to remit certain amounts of money. A class A misdemeanor is created when an authorized delegate knowingly fails to remit less than \$1000 of such money. A class E felony offense is created when a delegate knowingly fails to remit more than \$1000 of such money.

Misdemeanors fall outside the purview of DOC, and therefore there is no expected impact from that portion of the bill. 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 one new nonviolent class E felony.

For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, 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 2027.

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

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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

Section 361.1023 creates two new class E felonies, one for intentional misrepresentation and one for knowingly engaging in certain activities without a license and receiving more than \$500, and one new class A misdemeanor for knowingly engaging in certain activities without a license and receiving less than \$500.

Misdemeanors fall outside the purview of DOC, and therefore there is no expected impact from that portion of the bill. 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 two 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 2027.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	2	4	4	4	4	4	4	4	4	4
Parole	0	0	2	2	2	2	2	2	2	2
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	2	4	4	4	4	4	4	4	4	4
Field Population	4	8	14	14	14	14	14	14	14	14
Population Change	6	12	18	18	18	18	18	18	18	18

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 2027.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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 per the recently released National Public Defense Workload Study, the new charge contemplated by this changes to Sections 361.939, 361.984, and 361.1023 would take approximately twenty-two hours of SPD work for reasonably effective representation. If one hundred cases were filed under this section in a fiscal year, representation would result in a need for an additional attorney. Because the number of cases that will be filed under this statute is unknown, the exact additional number of attorneys necessary is unknown. Each case would also result in unknown increased costs in the need for core staff, travel and litigation expenses.

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

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

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 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE FUND			
<u>Cost – DOC</u> Incarceration Cost	(\$23,748)	(\$58,134)	(\$59,297)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(\$23,748)	(\$58,134)	(\$59,297)
DIVISION OF FINANCE FUND (0550)			

<u>Revenue</u> – DOF Application, Licensing & Acquisitions	\$680,533	\$694,144	\$708,028
<u>Savings</u> – DOF Processing Fees	\$68,400	\$68,400	\$68,400
<u>Cost</u> – DOF FTE additional workload	(Unknown)	(Unknown)	(Unknown)
<u>Loss</u> – DOF Transition to new licenses	(\$68,400)	(\$68,400)	(\$68,400)
ESTIMATED NET EFFECT TO THE DIVISION OF FINANCE FUND	<u>Unknown, Less than \$680,533</u>	<u>Unknown, Less than \$694,144</u>	<u>Unknown, Less than \$708,028</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

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 repeals the Sale of Checks Law and creates in its stead the "Money Transmission Modernization Act of 2024". The act regulates 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 responsible for administering this act.

LICENSURE OF MONEY TRANSMITTERS

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, as determined by the Director.

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

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

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, as determined by the Director.

REPORTING AND RECORDS

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

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.

ADMINISTRATIVE, CRIMINAL, AND CIVIL ENFORCEMENT MECHANISMS

The act allows the Director to suspend or revoke licenses and designations of authorized delegates under circumstances and using procedures as described in the act. The Director is also permitted to issue cease and desist orders and enter into consent decrees for the resolution of matters arising under this act.

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;

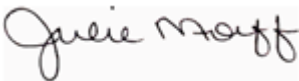
- A person that knowingly engages in an activity for which a license is required pursuant to this act without being licensed and who receives no more than \$500 in compensation within a 30-day period from this activity is guilty of a Class A misdemeanor.

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

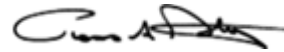
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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
Office of the State Courts Administrator



Julie Morff
Director
January 21, 2024



Ross Strobe
Assistant Director
January 21, 2024