

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0155H.12C  
Bill No.: HCS for SCS for SB 40  
Subject: Natural Resources, Department of; Waste - Hazardous; Air Quality;  
Environmental Protection  
Type: Original  
Date: May 6, 2021

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Bill Summary: This proposal modifies provisions relating to the Department of Natural Resources.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue*	Could exceed (\$110,611)	Could exceed (\$19,988)	Could exceed (\$20,487)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could exceed (\$110,611)</b>	<b>Could exceed (\$19,988)</b>	<b>Could exceed (\$20,487)</b>

\*Costs in FY 2022 may be higher if DNR is required to pay to acquire the Antioch Cemetery. The fiscal impact above assumes the cemetery is gifted to the state.

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Antioch Cemetery Fund*	\$0	\$0	\$0
Clean Water Permit Fees (0568)	(\$1,141,278)	(\$1,369,534)	(\$1,369,534)
Hazardous Waste Fund (0676)	(\$675,456)	(\$800,389)	(\$795,521)
Missouri Air Emission Inspection Fund (0267)	(\$847,688)	(\$1,016,045)	(\$1,014,853)
Natural Resources Protection Fund - Anhydrous Ammonia Risk Management Plan Subaccount	Could exceed \$68,751	Could exceed \$115,665	Could exceed \$113,784
Various State Funds**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>More than or Less than (\$2,595,671)</b>	<b>More than or Less than (\$3,070,303)</b>	<b>More than or Less than (\$3,066,124)</b>

\*Revenue and costs net to zero.

\*\*The state may pay higher utility cost if any prudently incurred costs incurred by a gas corporation to establish and maintain renewable gas equipment and facilities are recovered by means of an automatic adjustment clause.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Federal Highway Funds*	\$0	\$0 or (Up to \$26,000,000)	\$0 or (Up to \$52,000,000)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0 or (Up to \$26,000,000)</b>	<b>\$0 or (Up to \$52,000,000)</b>

\*If Missouri is determined to be non-compliant, federal highway funds could be sanctioned.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Hazardous Waste Fund (0676)	(3.41 FTE)	(3.41 FTE)	(3.41 FTE)
Missouri Air Emission Inspection Fund (0267)	(2 FTE)	(2 FTE)	(2 FTE)
Natural Resources Protection Fund	3 FTE	3 FTE	3 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>(2.41 FTE)</b>	<b>(2.41 FTE)</b>	<b>(2.41 FTE)</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Government</b>	<b>Less than \$19,500</b>	<b>Less than \$19,988</b>	<b>Less than \$20,487</b>

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

#### §204.569 – Sewer Districts

In response to a similar proposal from 2021 (SB 558), officials from the **Little Blue Valley Sewer District** assumed a direct impact on their ability to issue bonds for expansion of their sewer plant. The sewer district is a very small portion of the county and a vote in the county to allow for additional debt could have an adverse outcome. Due to the growth of the County in the area they serve, they are in need of expanding their sewer treatment plant. In order to complete the expansion, they need to issue debt. This gives them the ability to go directly to their customers for approval.

**Oversight** assumes this proposal modifies the provisions for subdistricts that are part of a common sewer district in certain counties (Jackson and Cass) to issue bonds for the subdistrict. This proposal changes the percentage of voters required to assent from 4/7<sup>th</sup> or 3/4<sup>th</sup> of the customers of the subdistrict as defined in §204.370. Oversight assumes §204.569 is codifying statute to reflect the same percentage as §204.370 and will have no direct fiscal impact.

In response to a similar proposal from 2021 (SB 558), officials from the **Office of the Secretary of State** and the **Joint Committee on Administrative Rules** each assumed the proposal would 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.

In response to a similar proposal from 2021 (SB 558), officials from the **Metropolitan St. Louis Sewer District** assumed the proposal would 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.

#### §253.387 – Antioch Cemetery

In response to a previous version, officials from the **Department of Natural Resources (DNR)** assumed the following regarding this proposal:

The proposal does not identify how the property of the Antioch Cemetery located at 2300 Antioch Road, Clinton, Missouri, is to be purchased. Therefore, the impact of acquiring the property is an unknown impact to the Department.

The proposal states the Department will make adequate provisions for the proper care, maintenance, and safekeeping of the property to be acquired by the Department of Natural Resources, Division of State Parks. In order for the Division of State Parks to care, maintain and keep the site safe, the Department would need to construct a parking lot and put fencing around the site at an estimated cost of \$64,100. Surveys, both for the site and National Register, would need to be completed, nomination to the National Register of Historic Places (if eligible), ground penetrating radar, additional staffing needs of a Maintenance Worker II to provide oversight of the care of the facility, signage, interpretive panels, and additional expense and equipment costs for maintenance and repair services such as contracted mowing, purchase of chemicals, gravel, roadway maintenance, parking area maintenance and tree maintenance for an estimated total of \$133,248 in FY 2022. The analysis was based on a comparable site within Missouri State Parks for the proper care, maintenance, and safekeeping of the proposed property.

The Department and the Division of States Parks does not have the funds appropriated or otherwise available to acquire by gift, for the acquisition of the Antioch Cemetery located at 2300 Antioch Road, Clinton, Missouri, and is therefore requesting the funding from General Revenue to acquire, provisions for proper care, maintenance, and safekeeping of the proposed property.

**Oversight** will assume the Department of Natural Resources will not be required to purchase the cemetery and will not reflect a cost for acquisition. In addition, upon discussion with the sponsor on a similar bill from 2020 and viewing the cemetery's layout, Oversight assumes DNR will not develop a parking lot, and therefore, will not reflect the estimated \$25,000 cost in the fiscal note.

Oversight has reflected the costs indicated by DNR under the General Revenue Fund, as the newly created "Antioch Cemetery Fund" may not have the funding needed for the initial work that needs to be done per DNR.

Oversight will also not reflect an additional .25 FTE in staffing needs. However, Oversight notes there may be additional bills that pass this year that require additional work (partial FTE) by DNR and cumulatively, DNR may need an additional full FTE in future budgets.

In response to a similar proposal from 2021 (HB 395), officials from the **Office of the State Treasurer** and **Office of Administration** each assumed the proposal would 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.

In response to a previous version, officials from the **Attorney General's Office** assumed the proposal would 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 for this agency.

**Oversight** will also reflect a savings to local political subdivisions of roughly \$19,000 annually if DNR either pays for or performs the maintenance and repair services instead of the City of Clinton and/or the cemetery board.

**Oversight** notes this proposal authorizes DNR to acquire the property. Oversight assumes DNR may choose not to acquire the property, in which case there will be no fiscal impact. However, Oversight will reflect in the fiscal note the impact of DNR acquiring the cemetery by gift in FY 2022.

#### §§260.373, 260.380 260.437, 260.475 & 260.520 – Hazardous Waste Provisions

In response to a previous version, officials from the **Department of Natural Resources (DNR)** assumed the following regarding this proposal:

#### Sections 260.373, 260.437, 260.520

The Department assumes that the proposed legislation will not affect the state’s ability to require generator reporting or to assess and collect fees.

#### §260.373.1(3)(a)

Removes the thresholds for determining generator status.

The Environmental Protection Agency (EPA) has different thresholds than Missouri for generator status. Negotiations took place that exempted the thresholds of generator status from the implemented “no stricter than” provision in a previous amendment to this statute. Removing this exemption will require the Department to remove the “or accumulate” portion of generator status from 10 CSR 25-3.260 Definitions, Modifications to Incorporations and confidential Business Information. This will change the structure of how Hazardous Waste Fees are calculated and the total amount collected.

#### **In-State Waste Fee**

#### Impact on the In-State Waste Fee: Approximately **\$140,000 per year**

Basis for calculation:

Any generator that reported generating 1.32 tons of hazardous waste in a reporting year or less is exempted. Any generator that exceeds that amount will have met the federal definition of being a Small Quantity Generator (SQG). Since many generators currently registered as SQGs due to the “or accumulate” provision do not ship waste every year, the numbers for the last two reporting years were considered.

FY2019 Reporting Year:

87 sites paid \$206.10 = \$ 17,930.70  
664 sites paid \$200.00 = \$132,800.00  
Total 2019 reduction = \$150,730.70

FY2020 Reporting Year\*:

68 sites paid \$206.10 = \$14,014.80  
538 sites paid \$200.00 = \$107,600.00  
Total 2020 reduction = \$121,614.80

Total 2 year reduction = \$272,345.50  
Average Annual Reduction = \$136,172.75 Round to **\$140,000**

\*Due to the 2020 pandemic, there are a greater than normal number of generators that have not yet filed reports. These revenue estimates will increase once reporting is final.

The impact to the Registration Renewal Fee will be a reduction of **\$42,350**.

Registration Renewal Fee

Sites Moving from LQG to SQG or CESQG

121 sites

LQG 121 sites @ \$500 = \$60,500

SQG or CESQG 121 sites @ \$150 = \$18,150

Resulting Reduction = \$42,350

**Total Fiscal Impact = \$182,350**

Please note that conditionally exempt small quantity generators (CESQGs) are invoiced for the renewal fee and are not required to pay it. The number of new CESQGs that will take advantage of that cannot be determined. This calculation assumes that all CESQGs that are invoiced for a renewal fee will pay it. Therefore, the impact on the renewal fee will be at least \$42,350, but will potentially be much higher.

**Total Fiscal Impact: Approximately \$182,350**

Other considerations:

There will also be an additional unquantifiable cost to the Department for the rulemaking process to amend or rescind the regulation to remove inconsistencies in the state regulation from the federal regulations such as, accumulation versus generation regulations, the use of Missouri Risk Based Corrective Action (MRBCA), the Brownfields/Voluntary Cleanup Program and certain aspects in the cleanup portion of the Underground Storage Tanks Program.

\$260,437.2

Removes the authority for the Department to promulgate rules that are stricter than or apply in any subject area not addressed by federal regulations.

The Department is concerned that with the strict application of this section, the Department would not be able to operate state programs that do not have equivalent federal statutory or regulatory authority such as the Brownfields/Voluntary Cleanup Program (BVCP). The BVCP offers entities an option to enter the program to conduct a risk-based cleanup. The entities pay an application fee, oversight costs, and a long-term monitoring fee. Loss of the program would remove these revenue streams.

The Department's three-year average from FY 2018 through FY 2020 for revenues from these revenue streams is **\$462,339** per year. These do not tie directly to cost recovery of expenditures due to timing of applications, receipt of long-term monitoring fees, and timing of invoices and related payments, and the allocation of program administrative costs. This amount was used consistently across the fiscal years (first year is pro-rated to calculate the fiscal impact).

Without the BVCP, the Department is assuming that it would not be eligible to apply for federal Brownfields cooperative agreements. The current 128A Brownfield grant application totaled \$1,000,000. The Department also assumes it would not be able to apply for future competitive grants under the federal 104k Brownfields funding. In FY 2021, the Department received \$300,000 in competitive grant funding.

A portion of the federal funding supports the Department's work related to sites that have been remediated but require oversight to monitor contamination left in place, including updating and operating of the ESTART online mapper. ESTART provides information on sites in the state where hazardous substances have been reported or released.

If the public information mapper is required by statute, some of the work funded under the federal funding will need to continue under state funding. The federal grant does include pass through funding used to conduct free assessments on suspected brownfield sites.

- Federal – The **\$1,000,000** and an estimated **9.59** FTE is based on the Department's most recent grant application under EPA's 128a Brownfields grant program for FY 2021. The federal impacts of loss of grant funding and cost avoidance were netted to \$0.
- Since funding under EPA's 104K Brownfields program is competitive and not available every year, the Department did not include this as an estimated revenue loss, but noted the amount received in FY 2021 for informational purposes.
- State VCP cost avoidance amounts are based on current program staff planning excluding federal funds utilizing current midpoint salary amounts. The Long- Term Stewardship activities, including federal portions, were retained in the HWF. The impact was estimated based on 3.41 FTE. The first year Hazardous Waste Fund (HWF) impacts were prorated for 10 months and total \$342,316.
- The federal 128A Brownfields grant is capped at \$1,000,000 so any COLA or inflationary impacts were added to the impact for the HWF.



- The federal 128A Brownfields grant impact is not prorated in the first year since the grant work plan commitments could not be met and the grant runs on the state fiscal year.

§§260.380 and 260.475

The provisions of the proposed legislation would revert to the fee structure effective with the passage of SB 577 in 2004. This would cause an annual loss of revenue for the Department estimated at **\$508,174**.

Hazardous Waste Generator Registration Renewal Fees Reduction =	\$266,750
In-State Hazardous Waste Fee Reduction =	\$191,857
Hazardous Waste Land Disposal Fee Reduction =	<u>\$49,567</u>
Total Reduction	<b>\$508,174</b>

**Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DNR. For simplicity, Oversight will not reflect the potential loss of federal grant funding as DNR has indicated the net effect will be \$0 after cost avoidance of FTE.

Oversight notes the Hazardous Waste Fund (0676) had a balance of \$10,247,4504 as of April 30, 2021.

In response to a previous version, officials from the **Department of Revenue** and **Department of Economic Development** each assumed the proposal would 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.

§386.895 – Renewable Natural Gas Program

In response to a similar proposal from 2021 (SB 141), officials from the **Department of Commerce and Insurance – Public Service Commission (PSC)** stated this legislation requires a rulemaking by the PSC in order to implement the provisions. Rulemakings generally result in an estimated cost of up to approximately \$4,700. The PSC is funded by an assessment on Commission-regulated public utilities pursuant to Section 386.370, RSMo, and not by any state general appropriations. Depending on the cumulative effect of all PSC affecting legislation passed in the current session and the associated increased costs associated with that legislation to the PSC, the PSC may need to request an increase in their appropriation authority and/or FTE allocation as appropriate through the budget process.

**Oversight** assumes the PSC is provided with core funding to handle a certain amount of activity each year. Oversight assumes the PSC could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, the PSC could request funding authority through the budget process.

In response to a similar proposal from 2021 (SB 141), officials from the **Office of Administration - Facilities Management, Design and Construction (FMDC)** assumed his bill requires the Public Service Commission to adopt by rule a renewable natural gas program for gas corporations.

It provides that any prudently incurred costs incurred by a gas corporation to establish and maintain renewable gas equipment and facilities shall be recovered by means of an automatic adjustment clause.

FMDC assumes that this bill will cause an increase in gas utility rates for state facilities. However, FMDC cannot determine the amount of any increase because it is unknown whether gas corporations would utilize this program or what amount of costs would be incurred by gas corporations and passed on to consumers in any given year. Therefore, the impact of this bill is \$0 to unknown.

For reference, FMDC's average annual expenditure for natural gas for the past three fiscal years is \$2,840,156; therefore, a one percent increase in gas prices would cost FMDC \$28,402 annually.

**Oversight** assumes this proposal allows the Public Service Commission to authorize a prudently incurred costs incurred by a gas corporation to be recovered by means of an automatic adjustment clause. Oversight assumes any additional adjustments will be recouped by various customer classes by rate increases.

**Oversight** assumes this proposal could increase utility costs for the Office of Administration as well as other state agencies and local governments. Since it is unknown how many additional amortizations will be authorized (if any), Oversight will reflect a range from \$0 (no utility will increase rates) to an unknown cost to the state and local political subdivisions for higher utility costs.

In response to a similar proposal from this year (SB 230), officials from the **Department of Natural Resources** and the **Department of Commerce and Insurance** each assumed the proposal would 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.

#### §§640.095 & 644.079 – Penalties Issued by DNR

In response to a previous version, officials from the **Department of Natural Resources** assumed the proposal would 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.

§§643.050, 643.245 & 266.355 – Anhydrous Ammonia Provisions

In response to a similar proposal from 2021 (HB 440), officials at the **Department of Natural Resources (DNR)** assumed the following regarding this proposal:

The proposed legislation would cost the Department approximately \$300,000 in staff time and workload. After consulting with the State of North Dakota (the only state agency that currently does this activity at the state level), the Department is basing workload on inspections of regulated facilities once every 4-5 years. Estimate of work with estimate of hours per year - Total 5,500:

- 50 inspections - 800 hours
- 50 compliance assistance visits - 250 hours
- 50 plan reviews - 400 hours
- Data management - 500 hours
- Compliance and enforcement - 500 hours
- Program management - 250 hours
- Rule development and request to EPA for delegation (first year only) - 500 hours
- Registration and fee collection - 800 hours
- Clerical and administrative duties - 1,500 hours

Based on the estimate above, the Department would need 3 additional FTE to accomplish this work.

- 1 Professional Engineer - \$58,080
- 1 Environmental Program Analyst - \$38,472
- 1 Lead Administrative Support Assistant - \$29,808

Environmental Program Analyst - This position would conduct the inspections, maintain the database and assist the public in complying with this regulation. In addition, this position would handle any relevant enforcement work that arose from this activity. The Department may choose to split this work among several different staff, 3/4 FTE performing inspections in three different areas of the state and the balance in the central office.

Professional Engineer - This position would include planning and support for the database and guidance/direction regarding enforcement cases. In addition, this position would be involved in ensuring the processing of licenses and fees is conducted in an appropriate fashion, and to resolve any issues that arise with licenses or fees.

Lead Administrative Support Assistant - This position would provide general support including processing reports, general correspondence, etc. In addition, this position could be responsible for processing licenses and fees.

Currently, the authority for enforcing the federal anhydrous ammonia regulations lies with the Environmental Protection Agency (EPA). The Department has spoken with EPA Region VII about requesting delegation, and they are open to that but the Department would still need to officially request and receive delegation for this work.

The Department of Natural Resources would need a new database to track the facilities, track the Risk Management Plans, store emergency contact information and track third party compliance evaluations and accidental releases. The database would also have to store compliance, enforcement, registration and licensing data. The ITSD estimate for this new database is 500 hours of work resulting in an estimate of **\$20,000**.

**Oversight** does not have any information to the contrary in regards to DNR's assumptions; therefore, Oversight will reflect DNR's costs for three additional FTE and OA-ITSD services on the fiscal note.

#### Revenue Impact

**DNR** noted the Missouri Department of Agriculture estimates 203 facilities would be required to pay the \$200 annual registration fee increasing the annual revenue by **\$40,600**.

Average annual tonnage estimates provided by the Missouri Fertilizer Program (March 2020) are 230,813 tons anhydrous ammonia sales. This would increase the annual revenue by **\$288,516**.

“Distributor” or “terminal agricultural facility” is not defined; therefore, it is not possible for the Department to estimate the amount of revenue the \$5,000 registration fee would generate

**Oversight** does not have any information to the contrary in regards to DNR's assumptions; therefore, Oversight will reflect DNR's estimated revenue on the fiscal note for the 203 estimated facilities that will pay the \$200 annual registration fee. Oversight will reflect an increase of \$288,516 in revenue for the tonnage fees. In addition, Oversight will reflect a \$0 (there are no distributors or terminal agricultural facilities in Missouri) or an “Unknown” increase in revenue (there are distributors or terminal agricultural facilities in Missouri that will have to pay the \$5,000 annual registration fee).

In response to a similar proposal from 2021 (HB 440), officials from the **Department of Agriculture** and **Office of the State Treasurer** each assumed the proposal would have no fiscal impact on their respective organizations.

**Oversight** notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

§643.310 – Emissions Inspections

In response to a previous version, officials at the **Department of Natural Resources (DNR)** assumed the following regarding this proposal:

The emissions inspection program is a federally-mandated program under the federally approved State Implementation Plan (SIP) for the current and historical St. Louis Ozone non-attainment area as found in 40 CFR Part 52. If requirements of the program are non-fulfilled, the Department risks losing the authority to implement and enforce federal regulations under the Clean Air Act (CAA) and/or sanctions for failing to meet federal SIP requirements.

If the emissions/inspection program is removed in whole or in part without the state following the required rule and SIP process, the Environmental Protection Agency (EPA) may implement one of the sanctions below as selected by the Administrator within 18 months. If the deficiency has not been corrected within six months, both types of sanctions shall apply.

1. Increased New Source Review Permitting offset ratio (affects air permittees in the area, making a permit harder to obtain.)
2. Federal Highway dollar sanctions.

Per CAA 179, these sanctions may only apply to the St. Louis area or may apply to any area of the state if EPA determines it is reasonable and appropriate.

The proposed legislation would result in lost revenue for DNR and potential loss of federal funding for Missouri. If the Department fails to fulfill the requirements of the SIP, it could affect their delegation under the federal Clean Air Act. If EPA finds us deficient in meeting their obligations under SIP, EPA could withdraw their delegation. In this event, sources would be required to obtain Clean Air Act permits from EPA and EPA would be the compliance/enforcement authority for Clean Air Act requirements. The Department would have authority for only the Missouri Air Conservation Law (Chapter 643 RSMo) causing confusion and duplication of authority.

Moreover, if the state does not enforce the Gateway Vehicle Inspection Program (GVIP), EPA as part of the federally approved SIP could still enforce it for Missouri. Additionally, if a source is knowingly in violation of an approved implementation plan during a period of federally assumed enforcement, the source may be subject to criminal penalties, 42 USC section 7413(c)(1), as well as civil or administrative enforcement, 42 USC section 7413(b). The CAA allows the court to award a "bounty" of up to \$10,000 penalty to an individual that leads to a criminal, civil, or administrative penalty, 42 USC section 7413(f).

Revenue Loss Assumption:

Fund 0267 Revenue for Air Emissions Reduction Fees (St. Charles County Inspections and Franklin and Jefferson County Inspections)

Average number of vehicles inspected in St. Charles County  $205,636 \times \$2.50 = \$514,090$   
Average number of vehicles inspected in Franklin and Jefferson County  $258,032 \times \$2.50 = \$645,080$

The Department is working toward removing Jefferson and Franklin counties from the program with a goal of mid-year 2022. Therefore, revenues from these counties will necessarily be removed in the program's budget (and will not be 'losses') once the Department has regulatory certainty on the timing and the outcome.

The Air Emissions Reduction fees fund various emissions activities required by the federal Clean Air Act. The GVIP has been a component of the plan to bring the St. Louis area into attainment. The St. Louis area plan includes more stringent air quality regulations and permitting measures than other areas of the state due to historical air quality issues. These requirements include gasoline vapor recovery, emissions inspection (GVIP), and stricter industrial regulations. The removal of the inspection maintenance program does not affect other current air quality requirements, though EPA would require additional efforts by existing staff to demonstrate the impact of the program's removal on the current and future air quality to avoid potential sanctions.

Elimination of the GVIP in St. Charles, Franklin and Jefferson Counties would likely result in the loss of approximately two Air Pollution Control Program staff located in St. Louis. The other staff (approximately 3 FTE) that conduct the remaining emissions activities and oversight for St. Charles County would need to be shifted from fund 0267 appropriations to other Department fee funds and eligible federal grants. Currently, there is not sufficient funding available from these fund sources to sustain these emissions activities on an on-going basis.

The Department has worked through the public process and through the Missouri Air Conservation Commission to make updates to outdated applicability of the GVIP. St. Louis' air quality has improved markedly over the last several years, such that Jefferson County and Franklin County (but for the Boles Township) are designated in attainment of the most recent national ozone air quality standard. However, the remainder of the counties subject to the GVIP (the Boles Township, St. Louis City, St. Louis County, and St. Charles County) are still in nonattainment of the national ozone air quality standard, and, in fact, are facing a "bump-up" in nonattainment area status. Based on the re-designations of Jefferson and Franklin Counties (and a demonstration that the Boles Township still may remove the program without a negative impact on air quality), the Department developed the demonstration to remove the GVIP from these two counties. In 2019, the Missouri Air Conservation Commission voted unanimously to submit a State Implementation Program revision to EPA for approval, demonstrating that the entirety of Jefferson and Franklin Counties no longer need to be subject to vehicle emissions inspection requirements based upon improved air quality in these counties. EPA is reviewing that submittal and, pending their approval of a rule amendment (10 CSR 10-5.381) and the finalization of a recent court action reevaluating the designation status of Jefferson County, the Department believes that EPA will move forward to act on this demonstration.

In the meantime, the Department has been evaluating vacancies and workload within the staff section in St. Louis that perform the on-the-ground support for the program. This Section historically consisted of 12 staff (3 managers, one administrative, and 7 technical staff), however as positions have been vacated, the Department did not fill these positions. The Department currently has five total positions filled (one manager, one administrative position, and three technical staff) in St. Louis with additional support in Jefferson City. The Department also has three current vacancies which have been reduced in the FY 2022 budget and 2 additional vacancies that the department is evaluating to fill or remove, based on the removal of Jefferson and Franklin counties from the GVIP. Based on the current program, these staff receive 40-60 telephone calls per day, along with multiple emails (and, when in the office, walk-in customers). The Section serves approximately 100,000 motorists per year that are required to obtain the required emissions test in order to register their vehicles, coordinates with the MSHP, DOR, and the state's contractor.

**Oversight** does not have any information to the contrary in regards to DNR's assumptions; therefore, Oversight will reflect DNR's loss of revenue because DNR is no longer completing emissions testing on vehicles in St. Charles, Franklin and Jefferson Counties and the savings associated with the elimination of two FTE on the fiscal note. Due to the uncertainty of the EPA's decision, Oversight will not assume Franklin County and Jefferson County, without this bill, will continue to be included in the GVIP program.

**Oversight** notes there was a \$1,861,183 balance in the Missouri Air Emission Inspection Fund (0267) as of December 31, 2020.

In response to a previous version, officials from the **Department of Revenue (DOR)** assumed the following regarding this proposal:

Administrative Impact

As the Department would no longer verify an emissions inspection for vehicle owners residing in St. Charles County, various department systems and procedures would need modifications to exclude the requirement of an emissions inspection for St Charles County.

FY 2022 – Motor Vehicle Bureau (MVB)

Associate Research/Data Analyst	230 hrs. @ \$18.50 per hr.	= \$4,255
Research/Data Analyst	53 hrs. @ \$23.09 per hr.	= \$1,224
Administrative Manager	9 hrs. @ \$21.57 per hr.	= \$ 194
Total		\$5,673

FY 2022 – Strategy and Communications Bureau

Research/Data Assistant	4 hrs. @ \$15.49 per hr.	= \$ 62
Associate Research/Data Analyst	13 hrs. @ \$18.50 per hr.	= \$ 241
Total		\$ 303

**Oversight** assumes DOR will use existing staff and will not hire additional FTE to conduct these activities; therefore, Oversight will not reflect the administrative costs DOR has indicated on the fiscal note.

**DOR** notes OA-ITSD services will be required at a cost of **\$15,081** in FY 2022 (158.75 hours x \$95 per hour).

**Oversight** does not have any information to the contrary in regards to DOR's assumptions; therefore, Oversight will reflect DOR's OA-ITSD costs on the fiscal note. Oversight assumes DOR may incur additional programming expense to include Franklin and Jefferson Counties.

In response to a similar proposal from 2021 (SB 156), officials from the **Missouri Department of Transportation** assumed if the federal government determines that Missouri is out of compliance with its approved State Improvement Plan (SIP), then federal highway funds could be withheld as punishment. The federal government has the authority to restrict any amount of funds at their discretion.

**Oversight** will range the fiscal impact of the potential loss of federal highway funds from \$0 (EPA does not withhold funding) to a loss of up to \$26 million in FY 2023 (first year Missouri found to be noncompliant with federal regulations) and a loss of up to \$52 million in FY 2024 (second year Missouri found to be noncompliant with federal regulations). This amount has been utilized by MoDOT and Oversight in other proposals that have potential federal funding withheld from non-compliance.

In response to a similar proposal from 2021 (SB 156), officials from the **Missouri Highway Patrol** and **Department of Elementary and Secondary Education** each assumed the proposal would 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.

#### §644.057 – Clean Water Provisions

In response to a previous version, officials from the **Department of Natural Resources (DNR)** assumed the following regarding this proposal:

The provisions of the proposed legislation would revert to the fee structure effective August 28, 2000. This would cause an annual loss of revenue for the Department estimated at \$1,369,534.

Each of the funds for which these impacted revenues are deposited into are experiencing solvency issues based on the current level of services. The reduction to Clean Water Permit Fees represent approximately 24% of the clean water permit fee revenue. Clean Water Permit Fees partially support clean water activities including, but not limited to permitting activities for various types of permits, compliance assistance, inspections, investigations, and enforcement activities. The reduction to Hazardous Waste Generator Fees represents 24% of this fee revenue.



Hazardous Waste Generator Fees provide match to federal funding and support hazardous waste management activities including but not limited to permitting, compliance assistance, inspections, investigations, and enforcement.

The reduction in fee revenue because of the proposed legislation could result in the loss of federal funding, due to the inability to make match on grants; a corresponding reduction in existing staff and expenditures; and a reduction in services, which would result in an environmental impact to Missouri's land and water resources and to citizens. The impacted fee funds are 5% of the Department's total revenue.

**Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DNR.

**DNR** also noted the proposed legislation would require modifications to the Department's Fee Tracking System. DNR is unable to determine costs at this time but noted system modifications would typically be supported by ITSD through Cost Allocation Fund (CAF) activities. If ITSD does not have staff on-board with the ability to make modifications in Access programming, ITSD may need to contract for this work. If ITSD CAF budget is not sufficient to cover these costs, the department may be asked to fund the modifications. If that were to occur, due to current state fee fund solvency issues, the department would need to request additional GR.

**Oversight** will not reflect these costs as DNR has indicated that OA-ITSD typically supports system modifications.

In response to a previous version, officials from the **Department of Revenue** assumed the proposal would 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.

#### Bill as a Whole:

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other local election authorities, St. Charles County, counties and sewer districts were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

#### Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal will not cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs.

However, they also recognize 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 their office can sustain with their core budget. Therefore, they reserve 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.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE FUND</b>			
<u>Cost - DOR - OA-ITSD services</u> (§643.310) p. 16	Could exceed (\$15,081)	\$0	\$0
<u>Cost - DNR - maintenance equipment</u> (mower, trailer, weed eater, blower, etc.) (§253.387) p.5	(\$19,500)	(\$19,988)	(\$20,487)
<u>Cost - DNR – fencing</u> (§253.387) p. 5	(\$39,100)	\$0	\$0
<u>Cost - DNR – survey</u> (§253.387) p. 5	(\$2,530)	\$0	\$0
<u>Cost - DNR - sign age</u> (§253.387) p. 5	(\$4,400)	\$0	\$0
<u>Cost - DNR - historic survey and radar</u> (§253.387) p. 5	(\$30,000)	\$0	\$0
<u>Cost - Office of Administration - Potential increase in electric utility costs</u> (§386.895) p. 10	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>Could exceed</b> <b><u>(\$110,611)</u></b>	<b>Could exceed</b> <b><u>(\$19,988)</u></b>	<b>Could exceed</b> <b><u>(\$20,487)</u></b>

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>ANTIOCH CEMETARY FUND</b>			
<u>Revenue</u> – gifts, bequests, donations, collections and/or appropriations (§253.387) p. 5	Unknown	Unknown	Unknown
<u>Cost</u> – maintenance of the cemetery (§253.387) p. 5	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON THE ANTIOCH CEMETARY FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>CLEAN WATER PERMIT FEES (0568)</b>			
<u>Loss</u> – DNR – reduction of fees (§644.057) p. 16	(\$1,141,278)	(\$1,369,534)	(\$1,369,534)
<b>ESTIMATED NET EFFECT ON THE CLEAN WATER PERMIT FEES</b>	<b><u>(\$1,141,278)</u></b>	<b><u>(\$1,369,534)</u></b>	<b><u>(\$1,369,534)</u></b>

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>MISSOURI AIR EMISSION INSPECTION FUND (0267)</b>			
<u>Savings</u> - DNR - loss of 2 FTE due to no longer requiring emissions inspections in St. Charles County (§643.310) p. 15	\$118,287	\$143,125	\$144,317
Total FTE Change - DNR	(2 FTE)	(2 FTE)	(2 FTE)
<u>Loss</u> - DNR - lost revenue due to no longer requiring emissions inspections in St. Charles, Jefferson, and Franklin Counties (§643.310) p. 15	<u>(\$965,975)</u>	<u>(\$1,159,170)</u>	<u>(\$1,159,170)</u>
<b>ESTIMATED NET EFFECT ON THE MISSOURI AIR EMISSION INSPECTION FUND</b>	<b><u>(\$847,688)</u></b>	<b><u>(\$1,016,045)</u></b>	<b><u>(\$1,014,853)</u></b>
Estimated Net FTE Change on the Missouri Air Emission Inspection Fund	(2 FTE)	(2 FTE)	(2 FTE)

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>HAZARDOUS WASTE FUND (0676)</b>			
<u>Savings</u> – DNR – 3.41 FTE no longer funded through the Voluntary Cleanup Program (§§260.373, 260.437 & 260.520) p. 8	\$285,263	\$352,474	\$357,342
<u>Loss</u> – DNR – reduced fees for voluntary cleanup program (§§260.373, 260.437 & 260.520) p. 8	(\$385,283)	(\$462,339)	(\$462,339)
<u>Loss</u> – DNR – reduced fees for hazardous waste generators (§§260.373, 260.437 & 260.520) p. 6-7	(\$151,958)	(\$182,350)	(\$182,350)
<u>Loss</u> – DNR – reduction of fees (§§260.380 and 260.475) p. 9	(\$423,478)	(\$508,174)	(\$508,174)
<b>ESTIMATED NET EFFECT ON THE HAZARDOUS WASTE FUND</b>	<b><u>(\$675,456)</u></b>	<b><u>(\$800,389)</u></b>	<b><u>(\$795,521)</u></b>
Estimated Net FTE Change to the Hazardous Waste Fund	(3.41 FTE)	(3.41 FTE)	(3.41 FTE)
<b>NATURAL RESOURCES PROTECTION FUND - ANHYDROUS AMMONIA RISK MANAGEMENT PLAN SUBACCOUNT</b>			

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<u>Revenue</u> - DNR - \$200 annual registration fees for agricultural retailers of anhydrous ammonia (§§643.050, 643.245 & 266.355) p. 12	\$33,833	\$40,600	\$40,600
<u>Revenue</u> - DNR - tonnage fees for agricultural retailers of anhydrous ammonia (§§643.050, 643.245 & 266.355) p. 12	\$240,430	\$288,516	\$288,516
<u>Revenue</u> - DNR - \$5,000 annual registration fees for distributors or terminal facilities (§§643.050, 643.245 & 266.355) p. 12	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> – DNR (§§643.050, 643.245 & 266.355) p. 11			
Personal Services	(\$105,300)	(\$127,624)	(\$128,900)
Fringe Benefits	(\$65,389)	(\$78,893)	(\$79,324)
Expense and Equipment	(\$14,823)	(\$6,934)	(\$7,108)
<u>Total Costs</u> – DNR	(\$185,512)	(\$213,451)	(\$215,332)
FTE Change – DNR	3 FTE	3 FTE	3 FTE
<u>Cost</u> - DNR - OA-ITSD services (§§643.050, 643.245 & 266.355) p. 12	<u>(\$20,000)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON THE NATURAL RESOURCES PROTECTION FUND - ANHYDROUS AMMONIA RISK MANAGEMENT PLAN SUBACCOUNT</b>	<b>Could exceed <u>\$68,751</u></b>	<b>Could exceed <u>\$115,665</u></b>	<b>Could exceed <u>\$113,784</u></b>

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>VARIOUS STATE FUNDS</b>			
<u>Cost</u> - Various State Agencies Potential increase in electric utility costs (§§386.895) p. 10	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS</b>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>FEDERAL HIGHWAY FUNDS</b>			
<u>Loss</u> - potential loss of federal highway funds if Missouri is found to be noncompliant (§643.310) p. 16	<u>\$0</u>	\$0 or (Up to <u>\$26,000,000</u> )	\$0 or (Up to <u>\$52,000,000</u> )
<b>ESTIMATED NET EFFECT ON FEDERAL HIGHWAY FUNDS</b>	<u>\$0</u>	\$0 or (Up to <u>\$26,000,000</u> )	\$0 or (Up to <u>\$52,000,000</u> )



<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Savings – annual maintenance of Antioch Cemetery now responsibility of DNR (§253.387) p. 5</u>	\$19,500	\$19,988	\$20,487
<u>Cost - Local Governments - Potential increase in electric utility costs (§§386.895) p. 10</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Less than \$19,500</u></b>	<b><u>Less than \$19,988</u></b>	<b><u>Less than \$20,487</u></b>

FISCAL IMPACT – Small Business

§386.895 - Small businesses could have an increase in utility cost because of this proposal.

§§643.050, 643.245 & 266.355 - Small agricultural retailers and/or users of anhydrous ammonia would be impacted by this proposal.

§§640.095 & 644.079 - Small businesses that pay these fees issued by DNR could have a positive fiscal impact because of this proposal.

§§260.380, 260.475 & 644.057 - Small businesses that pay these fees issued by DNR could have a positive fiscal impact because of this proposal.

§643.310 - This proposal could affect small businesses in St. Charles County, Jefferson County and Franklin County. Inspection stations would lose revenue, and small businesses that have vehicles would not have to pay for emission inspections.

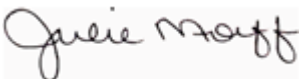
FISCAL DESCRIPTION

This act modifies provisions relating to the Department of Natural Resources.

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 Natural Resources  
Department of Revenue  
Department of Economic Development  
Office of Administration - Budget and Planning  
Attorney General's Office  
Office of the State Treasurer  
Office of Administration  
Missouri Highway Patrol  
Department of Elementary and Secondary Education  
Little Blue Valley Sewer District  
Office of the Secretary of State  
Joint Committee on Administrative Rules  
Metropolitan St. Louis Sewer District



Julie Morff  
Director  
May 6, 2021



Ross Strobe  
Assistant Director  
May 6, 2021