

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5726-05
Bill No.: HCS for HB 1854
Subject: Crimes and Punishment; Health Dept.; Health Care; Medicaid
Type: Original
Date: March 28, 2012

Bill Summary: Increases the surcharge for the brain injury fund and requires fifty percent of all moneys in the fund to be used for brain injury services under the MO HealthNet program upon the granting of a federal waiver.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Could exceed \$824,631)	(Unknown exceeding \$912,728)	(Unknown exceeding \$942,564)
Total Estimated Net Effect on General Revenue Fund	(Could exceed \$824,631)	(Unknown exceeding \$912,728)	(Unknown exceeding \$942,564)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Brain Injury Fund	\$1,875,000 or \$3,000,000	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$1,875,000 or \$3,000,000	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 22 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
UC Administration	\$0 or (51,000,000)	\$0 or (51,000,000)	\$0 or (51,000,000)
Wagner-Peyser Administration	\$0 or (\$18,000,000)	\$0 or (\$18,000,000)	\$0 or (\$18,000,000)
Federal Funds*	\$0	\$0	\$0
Total Estimated Net Effect on All Federal Funds	\$0 or (\$69,000,000)	\$0 or (\$69,000,000)	\$0 or (\$69,000,000)

* Income and expenses exceed \$4 million annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	1.5	1.5	1.5
Brain Injury	0	2.5	2.5
Federal	0.5	3	3
Total Estimated Net Effect on FTE	2	7	7

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Bill as a whole

Officials from the **Department of Agriculture, Department of Economic Development, Department of Mental Health, Missouri Department of Transportation, Department of Public Safety - Missouri Veterans Commission, Office of Prosecution Services, City of Columbia, City of Raytown, Linn State Technical College, Metropolitan Community College, Missouri Southern State University, Missouri State University, University of Central Missouri, Parkway School District and Special School District** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Higher Education (DHE)** state the proposal would have no direct, foreseeable fiscal impact on the DHE.

Officials from the **Missouri Senate (SEN)** state the proposal will either have no fiscal impact as it relates to the SEN or minimal costs that can be absorbed by present appropriations.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Office of the Governor (GOV)** do not anticipate the GOV will incur added costs as a result of this proposal. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect that additional funding would be required to meet these costs.** However, it is also recognized that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain within its core budget. **Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.**

ASSUMPTION (continued)

Officials from the **University of Missouri** state they are unable to estimate the fiscal impact of this proposal on their organization.

Section 34.450

Officials from the **Department of Natural Resources** do not anticipate a direct fiscal impact as a result of the proposed legislation.

Officials at the **Office of Administration (OA)** assume DPMM has determined that a Buyer III position is needed to oversee the fulfillment of the tasks stated in this proposal. This position will be responsible for:

Compiling and maintaining the list of products/services determined to be suitable for state agencies. Oversee the approval process for pricing the qualifying goods and services. Review bids, award, and renew contracts. Distribute the listing to the state purchasing officers.

Oversee the determination of the fair market price of all products and services offered for sale by qualifying vendors.

Officials at the **Department of Conservation (MDC)** assume based upon the MDC's experience with other mandatory no-bid purchasing requirements already in state law, for which pricing is set at "market value", and considering there could be an added 1% fee, over and above the cost of the goods and services purchased under the provisions of this proposed legislation, the MDC estimates the proposed legislation would have a negative fiscal impact on MDC funds greater than \$100,000 annually.

Officials at the **Department of Labor and Industrial Relations** assume there are many uncertainties in this proposal that prevent the Department from determining a fiscal impact. Therefore the Department is unable to estimate whether the proposal will result in a cost savings or additional cost.

Officials from the **Department of Elementary and Secondary Education (DESE)** state the fiscal impact of this proposal cannot be determined. It is the DESE's assumption that OA-Purchasing would award the contracts to these vendors. Then, it would be mandatory for the DESE and school districts to utilize those contracts. The DESE is already restricted to use of various contracts, so this additional restriction would be no different than current practice.

It cannot be determined at what price the bids will come in. If the prices are higher than with a vendor that is not disabled, the DESE and school districts will likely be spending more; however, this will not be know until OA does the bidding.

ASSUMPTION (continued)

Officials from the **Office of State Auditor (SAU)** state the proposal will have an unknown impact on the SAU. The proposal requires the SAU to investigate suspected violation of the eligibility criteria to participate in the AbilityOne program. However, the SAU is unable to audit nonprofit organizations.

Officials from the **City of Kansas City** state the legislation will have a fiscal impact on the City, but the cost is unknown. The fiscal impact on the City will depend on the cost differential of the prices offered by qualifying vendors under the statute versus the prices the City would pay after a solicitation. The quantity of items the City needs to purchase from the qualified vendors could also increase the cost.

In response to HB 1902, officials from **Missouri State University** assumed additional unknown costs from the following: Labor would be greater in searching for and evaluating disabled vendors and their specifications to ensure the purchase of like quality products. Contract administration could also be more labor intensive. Pricing might not be as competitive as pricing available from large volume contracts. Services from the vendor services might not be as extensive. Competition could also be restricted by promoting the utilization of a disabled vendor. Fees of up to one percent of the gross value of any contract awarded to a qualifying vendor under the provisions of this section shall be collected by the Office of Administration to cover the cost of administration of this section.

Officials from **Missouri Western State University** state the proposal could possibly impact their organization financially by not allowing them to go with the lowest and best bid if the vendor is not on the list of "qualified vendors" as described and by implementing a fee for administration of the section. The impact is unknown.

Sections 135.1150 and 135.1180

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year.

ASSUMPTION (continued)

DIFP will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Officials from the **Department of Elementary and Secondary Education (DESE)** state tax subsidies reduce the state's tax revenues and decrease the amount of money available for public schools and all public school students.

§135.1150 - Residential Treatment Agency Tax Credit

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal extends the Residential Treatment Agency credit from 2012 to 2016. This provision expands the types of taxpayers that are eligible for the credit. Because agencies are required to remit payments for the credits, this proposal has no direct impact on General and Total State Revenues.

Oversight assumes this proposal would prohibit the issuance of any further tax credits under this program after December 31, 2015. **Oversight** also assumes any income to the state from tax credits not issued and the taxes being collected would be outside the fiscal note period. Taxes would start being collected in FY 2016.

Section 135.1180 - Developmental Disability Care Provider Tax Credit

Officials from the **BAP** assume this provision creates a similar tax credit program for contributions made to Developmental Disability Care Providers. These agencies are required to submit payment to the state in amount equal to 50% of the donation, the equivalent amount of the tax credit. Therefore, this proposal will not impact General and Total State Revenues.

Officials at the **Department of Social Services (DOS)** assume this bill will create another tax credit for DOS to administer. The administration should be able to be accomplished with existing staff.

Officials at the **Department of Revenue (DOR)** assume this proposal creates the "Developmental Disability Care Provider Tax Credit Program." This tax credit is for all tax years beginning on or after January 1, 2012, taxpayers will be allowed a credit against the taxes due under Chapters 143, 147, or 148 excluding withholding tax in an amount equal to 50% of the

ASSUMPTION (continued)

amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability. The credit is not refundable and may be carried forward four years. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer.

DOR assumes DOR and ITSD-DOR will need to make processing changes to multiple processing systems. The Department will need to make forms changes. In addition, Personal Tax and Corporate tax will each need a Revenue Processing Technician (starting salary \$25,380) for every 4,000 tax credit redemptions. Total costs, including salaries, fringe benefits, equipment and supplies, and computer programming are estimated to be \$102,341 for FY 13; \$81,133 for FY 14; and \$81,984 for FY 15.

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

Oversight assumes that due to the limited number of individuals currently taking advantage of this program that DOR could absorb the duties of this proposal with existing staff.

Oversight assumes that section 135.1180.4(3) requires payment from the provider equal to the amount of the value of the tax credit. **Oversight** assumes that receipt of payment and the application of the tax credits could affect various state funds, so for the purpose of this note **Oversight** is showing all the payments and costs to general revenue. However, the overall result of this proposal is no impact to total state revenue.

Section 161.870

Officials from the **Department of Elementary and Secondary Education (DESE)** assume that in order to meet the requirements of the proposal, a number of group meetings must occur. Group members would include existing personnel and human resources available to DESE. In addition, group members would include representatives from state agencies, local advocacy groups and community members with valuable input regarding the needs of disabled students and individuals, or members of the general assembly. At this time, DESE cannot estimate the number and extent of such meetings and members; however, it appears likely that costs associated with such meetings could easily exceed \$100,000.

ASSUMPTION (continued)

DESE notes that most existing personnel and human resources available to DESE with valuable input regarding the needs of disabled students and individuals are federally funded people who are prohibited by federal law from implementing state objectives.

There would likely be one or more surveys for which questions must be developed and results must be analyzed. Additional costs would be incurred to write and edit the report. All of this must be completed by January 1, 2013 for a proposal that would presumably go into effect on August 28, 2012. These time constraints would leave approximately four months to carry out the requirements of the proposal.

Oversight assumes the proposal states the work group shall include existing personnel and human resources available to DESE. The project appears to be short term and **Oversight** assumes the work group duties can be accomplished with existing resources.

Officials from the **Department of Social Services - Children's Division** state this proposal will have no fiscal impact on the Children's Division. It can be presumed that DESE would consider requesting representation from the Department of Social Services - Children's Division when developing this work group. However, the Children's Division would not anticipate a fiscal impact to the division as a result of participation in this workgroup.

Section 208.152

Comprehensive Day Rehabilitation Services

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** state this legislation expands the Comprehensive Day Rehabilitation program to all adult participants. The services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan. The MO HealthNet Division (MHD) shall establish the definition and criteria for designation of a comprehensive day rehabilitation service facility, the benefit limitations and the payment mechanism utilizing the expertise of brain injury rehabilitation service providers and the Missouri Head Injury Advisory Council. The services must be provided in a community based facility and be authorized on tier levels based on the services the patient requires and the frequency of the services as guided by a qualified rehabilitation professional associated with a health care home.

In FY10 there was one individual under the age of 21 with claims filed under this program and that individual had no Comprehensive Day Rehabilitation claims in FY11. Therefore, to project costs if this program was expanded, the number of participants using the program in FY05 (when the program was available to all adults) and their costs were obtained. There were 89 adults in a

ASSUMPTION (continued)

category of assistance other than a category that is currently eligible for the program (under age 21, blind individuals, pregnant women or nursing home residents) who received services through the Comprehensive Day Rehabilitation program. The fee-for-service cost for their services in FY05 was \$526,728. It is assumed that about the same number of individuals would use the program if it were expanded. Therefore, the SFY05 cost was used as the base for estimating future costs. The rates for this program have not changed since 2005 so no inflation was applied to the costs from FY05 to FY12. A 3.6% inflation factor was applied to FY13 through FY15.

The cost to the fee-for-service program will be \$565,335 in the first full year of the program.

In addition, the MHD contracts with managed care health plans to provide medical assistance to individuals eligible under Section 208.151. The MHD assumes this legislation will apply to the managed care health plans. The total annual amount deducted from payments to the managed care health plans in FY06 (first year reductions were implemented) due to the reduction of eligibility for this service was \$10,125. Therefore, this figure was used as a base to estimate the cost to add this service back into the services offered to all adults. No inflation was added from FY05 to FY12. A 3.6% inflation factor was added to FY13 through FY15.

The cost to the managed care program will be \$35,868 in the first full year of the program. This cost consists of an estimated actuarial cost to further evaluate this program change, which would be no more than \$25,000 (50% GR/50% Federal), and an estimated \$10,868 in program costs.

The total cost to MHD in the first full year will be \$601,203 (\$565,335 + \$35,868). To calculate the FY13 cost, it is assumed that there would only be 10 months of the \$576,203 program cost and the full \$25,000 actuarial cost. The cost for FY14 will be \$576,203 (\$565,335 + \$10,868).

Since this proposal is subject to appropriations, the range would be zero to:

FY13 (10 months): Total \$505,169 (GR \$197,989/Federal \$307,180);
FY14 (12 months): Total \$576,203 (GR \$222,587/Federal \$353,616); and
FY15 (12 months): Total \$596,946 (GR \$230,600/Federal \$366,346).

Oversight assumes, for fiscal note purposes only, this proposal will be appropriated the necessary funding and has reflected the costs without the "\$0 to" range.

Medically Necessary Hearing Aids

Officials from the **DSS-MHD** state currently hearing aids and related covered services are offered to MO HealthNet participants who receive a full benefit package under a category of assistance for children, pregnant women, the blind or nursing facility residents. Covered services

ASSUMPTION (continued)

include audiological testing, hearing aids, ear molds, hearing aid fitting, hearing aid dispensing/evaluation, post-fitting evaluation, post-fitting adjustments, and hearing aid repairs. All hearing aids and related services must have prior approval except audiometric testing, post-fitting evaluation, post-fitting adjustment, and repairs to hearing aids no longer under warranty. The current prior approval process is paper-based and not electronic.

There would be a cost to the MHD to provide these services to participants who do not receive a full benefit package. Costs were obtained for fee-for-service participants who received hearing aids and related services in FY 05 and whom would be in a limited benefit category now. Since there have been no rate increases for these services since FY05, no inflation was applied for years FY05 through FY12. Costs for fee-for-service were inflated by 3.5% from FY13 through FY15.

Costs for fee-for-service participants:

FY13 (10mths):	Total \$1,218,268 (\$464,282 GR/\$753,986 Federal);
FY14:	Total \$1,513,089 (\$576,638 GR/\$936,451 Federal);
FY15:	Total \$1,566,047 (\$596,821 GR/\$969,226 Federal).

The MHD assumes this legislation will also apply to MO HealthNet Managed Care health plans. The estimated annual fiscal impact for adults enrolled in managed care would be \$46,060. In addition, there would be a first year cost for an actuarial study to determine the impact of this requirement on rate ranges to ensure actuarial soundness as required by the Centers for Medicare and Medicaid Services. The cost of the analysis will depend on the complexity of the analysis needed to address this program change. The cost of the study could be up to \$25,000 (\$12,500 GR). Total FY13 managed care cost would be unknown < \$63,383 (\$46,060 / 12 months * 10 months + \$25,000). Managed care costs were inflated by 3.6% for FY14 and FY15.

Cost for MO HealthNet Managed Care:

FY13 (10mths):	Unknown < \$63,383 (unknown < \$27,128 GR/\$36,255 Federal);
FY14:	\$47,719 (\$18,186 GR/\$29,533 Federal);
FY15:	\$49,436 (\$18,840 GR/\$30,596 Federal).

In addition, the proposal requires that a web-based prior authorization system is used to verify medical need. The hearing aid program currently uses a paper-based prior authorization system. MHD uses a web-based prior authorization system for other services but does not have the system prepared to accommodate the hearing aid program. Algorithms will need to be developed for the hearing aid program and that cost will occur only one time in the first year of the fiscal note. The cost is unknown but is anticipated to be under \$100,000.

HWC:LR:OD

ASSUMPTION (continued)

Cost for Web-based PA System:

FY13: Unknown < \$100,000 (unknown < \$50,000 GR);
FY14: \$0;
FY15: \$0.

Total Cost:

This legislation is subject to appropriation so the cost is stated as a range.

FY13: (10 months): Total \$0 to \$1,381,651 (GR \$0 to \$541,410);
FY14: Total \$0 to \$1,560,808 (GR \$0 to \$594,824);
FY15: Total \$0 to \$1,615,483 (GR \$0 to \$615,661).

Oversight assumes, for fiscal note purposes only, this proposal will be appropriated the necessary funding and has reflected the costs without the “\$0 to” range.

Section 209.202

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this provision changes the scope and increases the penalties relating to injury or death of a service dog. Penalties associated with this provision would increase total state revenues by an unknown amount.

Officials from the **Office of State Public Defender (SPD)** did not respond to **Oversight’s** request for a statement of fiscal impact. However, in response to HB 1413, officials from the SPD stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent clients are faced with the enhanced penalties for injuring, killing, or permits a dog that he or she owns to injure or to kill a service animal. The penalty is enhanced to a Class D felony.

SPD assumes while the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials at the **Department of Corrections (DOC)** assumes the penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for up to a class D felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

DOC states if additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.12 per offender, per day or an annual cost of \$1,869 per offender).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The DOC further assumes the low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence and the probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

Therefore, the DOC assumes supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Section 288.034

Officials at the **Department of Labor and Industrial Relations** assume the federal government and state governments are jointly responsible for administering the unemployment insurance (UI) system. State laws must meet certain federal requirements for the state agency to receive the administrative grants needed to operate its UI program and for employers to qualify for certain tax credits.

This proposal would not include in-home or community-based services performed by a provider contracted to provide such services for the clients of a county board for developmental disability services in the definition of employment. These services may be required to be covered if they are in an employment relationship under Federal law.

Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) requires, as a condition for employers in a state to receive credit against the Federal tax, that Unemployment Compensation be payable based on certain services. Specifically, Unemployment Compensation

ASSUMPTION (continued)

must be payable based on services excepted from the Federal definition of employment (1) solely by reason of being performed for state and local governmental entities or federally recognized Indian tribes described in Section 3306(c)(7), FUTA, or (2) solely by reason of being performed for the nonprofit organizations described in Section 3306(c)(8), FUTA.

In the event that the provider has the right of direction and control, and is a state or local governmental entity or nonprofit organization or Indian Tribe, the services must be covered under the state's unemployment compensation program.

Thus, this proposal raises a non-conformity issue with federal law. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately \$51 million in federal funds the state receives each year to administer the UI program and \$18 million in funds the Division of Workforce Development uses for Wagner-Peyser re-employment services.

The Federal Unemployment Tax Act (FUTA) imposes a 6.0% payroll tax on employers. Most employers do not actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if the proposed resolution causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%, or approximately an additional \$868 million per year.

In the event a provider is a regular for-profit employer, it would not be able to take credit against the FUTA tax for the excluded services and would be required to pay at the full 6.0% rate rather than the 0.6% rate applicable after the credit.

Oversight assumes it is unclear if the state will have a conformity issue and will show the loss of federal funds as \$0 or the potential loss of funds.

Section 304.028

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state this provision increases the surcharge on all criminal cases including county ordinance violations and state criminal and traffic law violations and infractions from \$2 to \$10 to the credit of the Brain Injury Fund. This proposal would increase Total State Revenues by an unknown amount and impact the Article X, Section 18(e) cap. The BAP defers to the Department of Health and Senior Services for an estimate of increased revenue.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation would allow a \$10 surcharge for the Brain Injury Fund to be assessed on all criminal and traffic cases, including infractions. Currently a \$2 surcharge is allowed.

In FY 11, \$596,566 was collected on this surcharge. The CTS anticipates the additional revenue from an increased \$10 surcharge would be approximately \$2,386,264, for a total in any given year of \$2,982,830.

Officials from the **Department of Health and Senior Services (DHSS)** state of the total revenues collected, \$1,875,000 (50% of \$3,750,000) would be used for the state match for the brain injury waiver and the remaining revenues of \$1,875,000 would be used by the Adult Brain Injury (ABI) Program. The waiver will not have any expenses in FY 13 because the waiver cannot be administered until the application is written and approved by the Centers for Medicare and Medicaid Services (CMS). The current DHSS ABI Program Manager would manage the waiver program. An additional 5 FTE would be required to implement and manage the brain injury waiver statewide, including 2 Public Health Nurses (\$40,212 each, annually) to provide service coordination and authorization of waiver services, statewide implementation, and home visits; 1 Health Program Representative (HPR) III (\$37,296 annually) and 1 HPR II (\$33,420 annually). The HPR III and HPR II would perform functions related to referral management, provider relations, prior authorization processing, quality assurance, performance management, data analysis, fiscal analysis and reporting; 1 Senior Office Support Assistant (\$24,576 annually) would support the program. All waiver services are calculated at a 40% state match/60% federal match. Administrative costs are calculated at 50% state match/50% federal match.

Oversight contacted CTS and DOH officials regarding the discrepancy between the income estimated for cases, including infractions, that would go to the Brain Injury Fund. CTS officials stated their information did not include municipal court cases and they were unable to obtain municipal court information. Based on CTS' response, **Oversight** assumes the difference between CTS' and DOH's revenue estimates to be the municipal court fees. **Oversight** will use the estimated income provided by DOH for this fiscal note.

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** state this proposal will create a new waiver. Each waiver generates the same amount of oversight requirements, which would require one full-time Program Development Specialist FTE for MHD. The activities this staff will have includes development of the waiver application, submission to the Centers for Medicare and Medicaid Services (CMS) of all applications, renewals and amendments to the waiver, tracking of data for all performance measures outlined in the waiver and ensuring the Department of Health and Senior Services (DHSS) is identifying

ASSUMPTION (continued)

problems and conducting proper remediation, quarterly quality assurance meetings, quarterly waiver record reviews, annual reporting of expenditures to CMS and compilation of evidence after the first 18 months of the waiver to show compliance with Home and Community Based Services assurances. Because the staff at DHSS who manage the Head Injury Fund are not familiar with the waiver process, much of the work will fall on MHD.

MHD assumes the proposal will have a fiscal impact for FY 13 of \$58,319 (\$29,160 GR/\$29,159 Federal funds; for FY 14 of \$61,092 (\$30,545 GR/\$30,547 Federal funds; and for FY 15 of \$61,756 (\$30,878 GR/\$30,878 Federal funds).

Based on discussions with DHSS and DSS personnel, **Oversight** assumes it may be possible for the federal waiver to allow moneys in the Brain Injury Fund to be used under the MO HealthNet program to be obtained during FY 13. As a result, **Oversight** is ranging available funds in the Brain Injury Fund from \$1,875,000 to \$3,000,000, to allow for the possibility of the granting of the waiver in FY 13.

This proposal will result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Income - Department of Social Services</u>			
Payment for tax credit filed with the application (§135.1180)	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
§34.450			
<u>Cost - Office of Administration</u>			
Personal Service	(\$34,760)	(\$42,129)	(\$42,550)
Fringe Benefits	(\$18,402)	(\$22,303)	(\$22,526)
Equipment and Expenses	<u>(\$2,910)</u>	<u>(\$340)</u>	<u>(\$349)</u>
Total <u>Cost</u> - Office of Administration	<u>(\$56,072)</u>	<u>(\$64,772)</u>	<u>(\$65,425)</u>
FTE Change - OA	1 FTE	1 FTE	1 FTE
 <u>Cost - Department of Social Services</u>			
Developmental disability tax credit (§135.1180)	(Unknown)	(Unknown)	(Unknown)
Comprehensive rehabilitation services program costs (§208.152)	(\$197,989)	(\$222,587)	(\$230,600)
Hearing aid program costs (§208.152)	(Less than \$541,410)	(\$594,824)	(\$615,661)
§304.028			
Personal service costs	(\$15,540)	(\$18,834)	(\$19,023)
Fringe benefits	(\$8,227)	(\$9,971)	(\$10,071)
Equipment and supplies	<u>(\$5,393)</u>	<u>(\$1,740)</u>	<u>(\$1,784)</u>
Total <u>Costs</u> - Department of Social Services	<u>(Could exceed \$768,559)</u>	<u>(Unknown exceeding \$847,956)</u>	<u>(Unknown exceeding \$877,139)</u>
FTE Change - Department of Social Services	0.5 FTE	0.5 FTE	0.5 FTE
 ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(Could exceed \$824,631)</u>	<u>(Unknown exceeding \$912,728)</u>	<u>(Unknown exceeding \$942,564)</u>
Estimated Net FTE Change on General Revenue Fund	1.5 FTE	1.5 FTE	1.5 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
BRAIN INJURY FUND			
§304.028			
<u>Income - DHHS</u>			
Increase in fine revenue	\$3,000,000	\$3,000,000	\$3,000,000
<u>Costs - DHHS</u>			
Personal services	\$0	(\$88,737)	(\$89,624)
Fringe benefits	\$0	(\$46,977)	(\$47,447)
Equipment and expense	\$0	(\$71,495)	(\$58,357)
ABI program services	\$0 or (\$1,125,000)	(\$1,125,000)	(\$1,125,000)
Brain Injury Waiver services	\$0	(\$1,667,791)	(\$1,679,572)
Total <u>Costs</u> - DHSS	<u>\$0 or</u> <u>(\$1,125,000)</u>	<u>(\$3,000,000)</u>	<u>(\$3,000,000)</u>
FTE Change - DHSS	0 FTE	2.5 FTE	2.5 FTE
ESTIMATED NET EFFECT ON BRAIN INJURY FUND			
	<u>\$1,875,000 or</u> <u>\$3,000,000</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on Brain Injury Fund	0 FTE	2.5 FTE	2.5 FTE
UC ADMINISTRATION FUND			
<u>Loss - UC Administration Fund</u> <u>(\$288.034)</u>			
Loss of federal funds	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>
ESTIMATED NET EFFECT ON UC ADMINISTRATION FUND			
	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>	<u>\$0 or</u> <u>(\$51,000,000)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
WAGNER-PEYSER ADMINISTRATION FUND			
<u>Loss - Wagner-Peyser Admin Fund</u> (\$288.034)			
Loss of federal funds	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>
ESTIMATED NET EFFECT ON WAGNER-PEYSER ADMINISTRATION FUND			
	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>	<u>\$0 or</u> <u>(\$18,000,000)</u>
FEDERAL FUNDS			
<u>Income - DHSS</u>			
Program reimbursement (§304.028)	\$0	\$2,708,896	\$2,714,786
<u>Income - Department of Social Services - MO HealthNet Division</u>			
Comprehensive rehabilitation services program reimbursements (§208.152)	\$307,180	\$353,616	\$366,346
Hearing aid program reimbursements (\$208.152)	Less than \$840,241	\$965,984	\$999,822
Program reimbursement (§304.028)	<u>\$29,159</u>	<u>\$30,547</u>	<u>\$30,878</u>
Total <u>Income</u> - Department of Social Services	<u>Less than</u> <u>\$1,176,580</u>	<u>\$1,350,147</u>	<u>\$1,397,046</u>
Total <u>Income</u> - All Departments	<u>Less than</u> <u>\$1,176,580</u>	<u>\$4,059,043</u>	<u>\$4,111,832</u>

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
FEDERAL FUNDS (continued)			
§304.028			
<u>Costs - DHSS</u>			
Personal service	\$0	(\$88,737)	(\$89,624)
Fringe benefits	\$0	(\$46,977)	(\$47,447)
Equipment and expense	\$0	(\$71,495)	(\$58,357)
Brain Injury Waiver services	<u>\$0</u>	<u>(\$2,501,687)</u>	<u>(\$2,519,358)</u>
Total <u>Costs</u> - DHSS	<u>\$0</u>	<u>(\$2,708,896)</u>	<u>(\$2,714,786)</u>
FTE Change - DHHS	0 FTE	2.5 FTE	2.5 FTE
 <u>Costs - Department of Social Services - MO HealthNet Division</u>			
Comprehensive rehabilitation services program expenditures (§208.152)	(\$307,180)	(\$353,616)	(\$366,346)
Hearing aid program expenditures (§208.152)	(Less than \$840,241)	(\$965,984)	(\$999,822)
§304.028			
Personal service costs	(\$15,540)	(\$18,835)	(\$19,023)
Fringe benefits	(\$8,227)	(\$9,971)	(\$10,071)
Equipment and supplies	<u>(\$5,392)</u>	<u>(\$1,741)</u>	<u>(\$1,784)</u>
Total <u>Costs</u> - DSS-MHD	<u>(\$29,159)</u>	<u>(\$30,547)</u>	<u>(\$30,878)</u>
FTE Change - DSS-MHD	0.5 FTE	0.5 FTE	0.5 FTE
 ESTIMATED NET EFFECT ON FEDERAL FUNDS			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on Federal Funds	0.5 FTE	3 FTE	3 FTE

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split 50/50 between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost - Local Political Subdivisions</u>			
Implementation of §34.450	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

§34.450 - Small businesses that had been competing for business with the State could be impacted.

§304.028 - The availability of more revenues to pay for services could positively impact small business health care providers.

FISCAL DESCRIPTION

§34.450 - This section of the proposal establishes provisions relating to the procurement of goods and services by state agencies with persons having significant mental or physical disabilities.

§§135.1150 and 135.1180 - Currently, a residential treatment agency is prohibited from applying for a residential treatment agency tax credit in an amount greater than 40% of the payments made by the Department of Social Services to the agency in the preceding 12 months for eligible donations made by taxpayers. This proposal allows an agency to apply for the credit in an amount equal to the total payments. The bill extends the expiration date of the tax credit program from August 28, 2012, to December 31, 2015.

The proposal also establishes the Developmental Disability Care Provider Tax Credit Program which authorizes a tax credit to a taxpayer for 50% of a donation to a developmental disability care provider that is used solely to provide direct care services to residents of the state with development disabilities. The credit is non-refundable, may be carried forward for four years, and is transferable.

FISCAL DESCRIPTION (continued)

§208.152 - Comprehensive Day Rehabilitation Services

Subject to appropriations, this proposal adds comprehensive day rehabilitation services beginning soon after trauma as part of a coordinated system of care for individuals with disabling impairments to the list of services covered under MO HealthNet benefits. Services must be provided in a community-based facility and be authorized on tier levels based on the services and frequency of services the patient requires as guided by a qualified rehabilitation professional associated with a health care home.

§208.152 - Medically Necessary Hearing Aids

Subject to appropriations, this proposal adds prescribed, medically necessary hearing aids to the list of covered services under the MO HealthNet Program. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards must be used to verify medical need.

§288.034 - This proposal modifies the definition of employment as it relates to employment security laws.

§304.028 - This proposal requires the Department of Health and Senior Services, in cooperation with the Department of Social Services, to seek waivers from the federal Department of Health and Human Services to allow moneys in the brain injury fund to be used under the MO HealthNet program to provide services.

This proposal also provides that in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws, including an infraction, there shall be assessed a surcharge of ten dollars. The surcharge collected shall be paid to the brain injury fund.

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

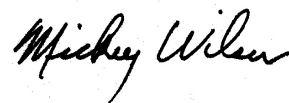
SOURCES OF INFORMATION

Department of Agriculture
Office of Administration -
 Division of Budget and Planning
 Division of Purchasing and Materials Management
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education

SOURCES OF INFORMATION (continued)

Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Missouri Department of Transportation
Department of Public Safety -
 Missouri Veterans Commission
Office of the Governor
Joint Committee on Administrative Rules
Missouri Department of Conservation
Office of Prosecution Services
Office of State Auditor
Missouri Senate
Office of Secretary of State
City of Columbia
City of Kansas City
City of Raytown
Linn State Technical College
Missouri Southern State University
Missouri State University
Missouri Western State University
University of Central Missouri
University of Missouri
Parkway School District
Special School District

**NOT RESPONDING: Office of Attorney General, Missouri House of Representatives,
Office of State Public Defender, and Office of State Treasurer**



Mickey Wilson, CPA
Director
March 28, 2012