

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0072-01  
Bill No.: Perfected SB 39  
Subject: Drugs and Controlled Substances; Department of Public Safety.  
Type: Original  
Date: April 16, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
General Revenue *	(\$121,152 to Unknown)	(\$186,725 to Unknown)	(\$188,892 to Unknown)
<b>Total Estimated Net Effect on General Revenue Fund *</b>	<b>(\$121,152 to UNKNOWN)</b>	<b>(\$186,725 TO UNKNOWN)</b>	<b>(\$188,892 TO UNKNOWN)</b>

**\* Partially subject to appropriation**

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
MoSMART Fund *	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on Other State Funds *</b>	<b>\$0 or UNKNOWN</b>	<b>\$0 or UNKNOWN</b>	<b>\$0 or UNKNOWN</b>

**\* Subject to appropriation**

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 13 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of the State Treasurer** assume this proposal would not fiscally impact their agency and defer to the Office of Administration for an estimate on state impact.

Officials from the **Shannon County Sheriff's Office** state they have received \$87,054 in calendar years 2001 - 2002 under the current MoSMART grant program.

Officials from the **Christian County Sheriff's Office** assume the proposal would result in losses to their agency of \$47,135 annually, which is the amount that they have applied for and been approved for in 2003.

Officials from the **Department of Public Safety (DPS) – Director's Office** assume the proposal creates a team called "MoSMART" within DPS. The team is made up of five members that shall be sheriffs. The DPS shall administer MoSMART, which shall consist of conducting audits, monitoring, programmatic assistance with grants, etc.

In order to perform the duties required by this legislation, DPS assumes the need for four additional FTE: one Program Manager (at \$44,444 per year) who would be responsible for

employees under this program as well as the general administration of the program; one Program ASSUMPTION (continued)

Representative I (at \$30,204 per year) to review applications for grants, assist in general program duties, and monitor programs as needed; one Accountant I (at \$30,204 per year) to assist in the review of applications for grants, assist grantees with financial aspects of having a grant with this money, and, as required by the proposed legislation, audit the MoSMART fund at the end of each fiscal year; and one Clerk Typist III (at \$23,184 per year) to provide clerical support for the staff of MoSMART and its members.

DPS also assumes the need for rental space for an offsite facility because the Director's office no longer has adequate space for additional employees. The DPS estimates the cost for this rental space to be \$12,880 per year, plus \$20,000 per year for renovations. DPS estimates the cost to be \$258,288 in FY 04, \$234,294 in FY 05, and \$238,804 in FY 06.

In response to a similar proposal from the 2002 session, DPS estimated the number of MoSMART funds applications filed annually will exceed 27. Based on this estimate, **Oversight** assumes the DPS will require 2 FTE (1 Program Specialist and 1 Clerk Typist III) to administer the MoSMART program. Salaries have been adjusted to more closely reflect actual starting salaries. Oversight assumes the 2 FTE would be housed within existing facilities. Therefore, no additional rent, renovation, janitorial, utility, or offsite computer expenses would be incurred. Oversight also assumes the staff for DPS would not be necessary without an appropriation to the MoSMART fund and that the estimated costs of DPS would be covered by this appropriation.

Oversight assumes, based on information received from the **Cape Girardeau County Sheriff**, that the current MoSMART program will be federally funded through December 31, 2003. Therefore, Oversight assumes the DPS would incur expenses for 6 months of FY 2004 and 12 months of FY 2005 & FY 2006. Officials from the Cape Girardeau County Sheriff's office also stated that they administer the current MoSMART program with two persons.

**Oversight** assumes SSA 1 does not alter the fiscal note for the proposal, since according to Subsection 650.350.4, moneys can be appropriated to MoSMART and credited to the fund.

Officials from the **Office of Administration** as well as Sheriffs from the following counties did not respond to our request for fiscal impact; **Jackson, St. Louis, Miller, Ripley, Crawford, Washington and Macon.**

Senate Amendment 1:

RAS:LR:OD (12/02)

In response to a similar proposal from this year, officials of the **Departments of Revenue**, and ASSUMPTION (continued)

**Economic Development- Public Service Commission and Public Counsel** assumed no fiscal impact.

In response to a similar proposal from this year, officials of the **Department of Public Safety** and the **Office of State Auditor** and **State Treasurer** assumed no fiscal impact.

In response to a similar proposal from this year, officials of the **Office of Secretary of State** assumed this proposal could require additional pages in the Missouri Register and the Code of State Regulations. Officials estimated costs of printing and publication at \$246 in FY 2004

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

In response to a similar proposal from this year, officials of the **Office of Administration** assumed two FTE's would be needed to establish grant guidelines and rules, review progress of county projects, meet with counties and establish standards, and decide on grantees. Staff would need to work with service providers, counties, other state agencies, and equipment providers to ensure a seamless and comprehensive Statewide 911 Emergency Network. Officials assume the need for 2 FTE, a Telcom . Analyst I and a Telcom. Analyst II. Officials estimate total salaries at \$15,058 for 10 months of FY 2004; \$61,739 in FY 2005; and \$63,282 in FY 2006. Fringe benefits would be \$6,094 in FY 2004, and \$24,986 in FY 2005, and \$25,610 in FY 2006. Officials assume no costs for equipment and expense.

**Oversight** assumes this proposal is enabling legislation to the extent that this proposal does not require, but would allow a City not within a county or a County's governing body to place on the ballot the provisions contained in this proposal. This proposal as written would have no fiscal impact, however, this fiscal note is written assuming counties would levy the tax provided for and would conduct the emergency services required.

In response to a similar proposal from this year, officials of the **Jefferson County Commission** assumed no fiscal impact.

Senate Amendment 2:

In response to a similar proposal from this year, officials from the **Department of Public Safety**  
ASSUMPTION (continued)

– **Missouri State Highway Patrol** assumed the proposed legislation would have no fiscal impact on their agency.

In response to a similar proposal from this year, officials from the **Office of State Courts Administrator (CTS)** anticipated an increase in the number of trials conducted. CTS would not anticipate a significant fiscal impact to the judiciary.

In response to a similar proposal from this year, officials from the **Office of Prosecution Services** assumed prosecutors could absorb the costs of the proposed legislation within existing resources.

In response to a similar proposal from this year, officials from the **Office of State Public Defender** assumed existing staff could provide representation for those few cases arising where indigent persons were charged with manufacturing a controlled substance within 2,000 feet of a school. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

In response to a similar proposal from this year, officials from the **Department of Corrections (DOC)** assumed the proposed legislation enhances manufacturing of a controlled substance by elevating the penalty to a class A (rather than a B) felony when the crime takes place within 2,000 feet of a school.

In FY02, DOC had 1,048 B felony cases of distribution, manufacturing or delivering of a controlled substance. The average sentence was 7.6 years. 588 of these cases received a 120-day sentence. The average time served was about 25% prior to release on parole or 1.9 years.

It is unknown how many of these crimes could have taken place within 2,000 feet of school. In FY02, DOC had 27 cases of drug distribution near a school. The average sentence was 11.8 years. 19 received a 120-day sentence. Time served is about 26.2% before release to parole or 3.1 years.

The difference in sentence averages would be a little over 4 years and the differences between releases would be 1.2 years. Impact would not be experienced by DOC on these trends until the average current time of 1.9 years had been served. Impact would not be felt until the 3rd year out

with an average of a little over 1 more year being served.

ASSUMPTION (continued)

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.

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 in operational cost either through incarceration (FY02 average of \$35.52 per inmate per day, or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender per day, or an annual cost of \$1,132 per offender).

At the time, the DOC was unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC, starting in FY06.

Senate Amendment 3:

In response to a similar proposal from this year, officials from the **Department of Agriculture, Department of Natural Resources, Department of Public Safety – Capitol Police, – Missouri State Water Patrol**, and the **– Missouri State Highway Patrol** assumed the proposed legislation would have no fiscal impact on their agencies.

In response to a similar proposal from this year, officials from the **Office of State Courts Administrator** assumed the proposed legislation would have no fiscal impact on the courts.

In response to a similar proposal from this year, officials from the **Office of Prosecution Services** assumed prosecutors could absorb the costs of the proposed legislation within existing ASSUMPTION (continued)

resources.

In response to a similar proposal from this year, officials from the **Office of State Public Defender** assumed existing staff could provide representation for those few cases arising where indigent persons were charged with unlawful release of anhydrous ammonia. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

In response to a similar proposal from this year, officials from the **Department of Corrections (DOC)** assumed the proposed legislation creates the crime of unlawful release of anhydrous ammonia and is punishable as a class B felony unless the result is serious injury or death and then it is a class A felony.

The average prison time served for a class B and A felony is 39.5 months and 92 months, respectively. Existing statute that is closest to this proposal (for review of data) is a class D felony for theft of anhydrous ammonia and those offenders serve an average of 30 months. In FY02, the DOC had 11 new admissions for this crime.

The DOC could not 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.

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,000 per year.

#### Senate Amendment 4:

**Oversight** assumes part of this amendment regarding making it a class A felony to manufacture a controlled substance within 2,000 feet of a school or on a bus is addressed with Senate Amendment 2. Oversight assumes the part of the amendment making it a class A felony to manufacture or produce a controlled substance in a residence where a child resides would result

in some additional cost to the Department of Corrections. Oversight assumes the potential additional costs to DOC would not be more than what is contained in the estimate provided by DOC for Senate Amendment 3 of (More than \$100,000) annually.

ASSUMPTION (continued)

Senate Amendment 5:

Due to time constraints to determine an estimated impact, officials from the **Department of Public Safety - Missouri Highway Patrol** state this amendment would result in an unknown positive fiscal impact.

The amendment is silent to what fund would receive these additional surcharge proceeds. Therefore, **Oversight** assumes the proceeds will be deposited into the General Revenue Fund and be earmarked and expended for the crime labs in Missouri, resulting a net zero fiscal impact for the General Revenue Fund.

**Senate Amendment 5 would increase Total State Revenues.**

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<b>GENERAL REVENUE FUND</b>			
<u>Transfer out</u> – to MoSMART Fund*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> to Office of Administration - SA 1			
Personal Service ( 2.0 ) FTE	(\$15,058)	(\$61,739)	(\$63,282)
Fringe Benefits	(\$6,094)	(\$24,986)	(\$25,610)
Equipment and Expense	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs</u> to OA	<u>(\$21,152)</u>	<u>(\$86,725)</u>	<u>(\$88,892)</u>
<u>Costs</u> – Department of Corrections - SA 2			
Incarceration/probation costs	<u>\$0</u>	<u>\$0</u>	(Less than <u>\$100,000</u> )

Costs – Department of Corrections - SA 3  
 (& SA4)



Incarceration/probation costs	(More than <u>\$100,000</u> )	(More than <u>\$100,000</u> )	(More than <u>\$100,000</u> )
<u>Income</u> - Missouri Highway Patrol - SA 5 \$150 surcharge for laboratory work on drug related offenses	Unknown	Unknown	Unknown
<u>Expenses</u> - Missouri Highway Patrol - SA 5 Expenditure of \$150 surcharge on crime laboratories	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$121,152 to Unknown)</u></b>	<b><u>(\$186,725 to Unknown)</u></b>	<b><u>(\$188,892 to Unknown)</u></b>

**\*Subject to Appropriations.**

#### **MoSMART FUND**

<u>Transfer in</u> – from General Revenue Fund*	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> – Department of Public Safety**			
Personal Service (2 FTE)	(\$24,477)	(\$50,178)	(\$51,432)
Fringe Benefits	(\$9,906)	(\$20,307)	(\$20,815)
Equipment and Expense	<u>(\$22,008)</u>	<u>(\$7,275)</u>	<u>(\$7,275)</u>
<u>Total Costs</u> – DPS	(\$56,391)	(\$77,760)	(\$79,522)
<u>Costs</u> – MoSMART			
Distribution to local law enforcement agencies***	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<b>ESTIMATED NET EFFECT ON MoSMART FUND</b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>
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**\*Subject to Appropriations.**

**\*\*Subject to Appropriations, shall be no less than one percent and not exceed two percent**

**of the Fund.**

**\*\*\*Subject to Appropriations, shall be at least fifty percent but not more than one hundred percent of the Fund annually.**

<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Income</u> to 911 Emergency Services Fund from tax on wireless phone users - SA 1	Unknown	Unknown	Unknown
<u>Costs</u> to 911 Emergency Services Fund for Providing Emergency Services - SA 1	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>Total Effect to Emergency Services Fund - SA 1</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>Income</u> - Law Enforcement Agencies	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
MoSMART funds			

<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENT</b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>
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FISCAL IMPACT - Small Business

Small businesses having wireless phones could pay a tax of up to \$ .50 per phone per month.  
 (SA1)

DESCRIPTION

This proposal creates the "Missouri Sheriff's Methamphetamine Relief Team" (MoSMART) housed in the Department of Public Safety. This team consists of five sheriffs who will serve a two-year term and elect a chairman.

The MoSMART Fund is created and is available on an application basis to law enforcement entities and task forces. Applications are evaluated based upon the level of funding designated for methamphetamine enforcement before 1997 and upon current need and circumstances.

Senate Amendment 1:

This amendment allows counties or St. Louis City to submit a tax to the voters that funds

DESCRIPTION (continued)

enhanced 911, also referred to as wireless 911 services. The governing body must choose one of two questions to submit to voters: (1) an extension of the wire line tax for 911 services to wireless services at the same rate; or (2) combine the taxes for wired and wireless into a flat tax of \$.50 per line per month.

Twenty percent of the taxes collected on wireless service will be deposited into the 911 Emergency Services Fund which is created. This percentage will be decreased to 10% when at least 60% of the counties with 75% of the population have passed a tax on wireless services. Then the percentage will be eliminated two years after 100% of the counties have passed a tax on wireless services. Moneys in the fund will be used for matching grants for the purpose of implementing a comprehensive statewide 911 system. These grants will be administered by the Office of Administration in consultation with the Department of Public Safety.

Only cities passing the tax will be eligible for grants and may not receive grants for longer than three years or which have an amount exceeding 5% of the total funds available. Grants may be made on a collective basis to counties entering inter-county agreements to provide services.

The act clarifies that taxes generated by either the wired line or wireless line tax may only be used for the provision of emergency telephone services and for no other purpose. The act also authorizes the State Auditor to perform audits to ensure moneys are being used in this manner.

The act expands the scope of the Advisory Committee for 911 Service Oversight to include oversight of implementation of enhanced 911 services. The Advisory Committee is also instructed to advise the Department of Public Safety and the Office of Administration regarding the matching grants from the 911 Emergency Services Fund.

Most provisions of the current statewide enhanced 911 tax are repealed by the act.

Senate Amendment 2:

The proposed legislation would make it a class A felony to manufacture a controlled substance near schools by unlawfully manufacturing a controlled substance within 2,000 feet of any school

or school bus. It is currently a class B felony to manufacture a controlled substance.

Senate Amendment 3:

The proposed legislation would create the crime of unlawful release of anhydrous ammonia, a class B felony, unless the release causes death or serious physical injury to any person, in which case it would be a class A felony.

DESCRIPTION (continued)

Senate Amendment 4:

The proposed amendment would make it a class A felony to manufacture or produce a controlled substance in a residence where a child resides or within 2,000 feet of any school or school bus. It is currently a class B felony to manufacture a controlled substance.

Senate Amendment 5:

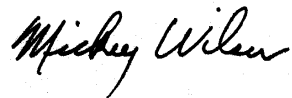
The proposed amendment states that any person who pleads guilty to or has been found guilty of any crime involving drug regulations that requires a laboratory test shall be assessed a \$150 surcharge for the reimbursement of the test.

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

SOURCES OF INFORMATION

Office of the State Treasurer  
Department of Public Safety  
Sheriff of Shannon County  
Sheriff of Christian County  
Sheriff of Cape Girardeau County  
Department of Agriculture  
Office of State Courts Administrator  
Department of Natural Resources  
Department of Corrections  
Office of Prosecution Services  
Office of State Public Defender  
Office of State Auditor  
Office of Secretary of State  
Office of Administration  
Department of Economic Development- Public Service Commission and Office of Public Counsel  
Department of Revenue  
Jefferson County Commission

**NOT RESPONDING:**        **Sheriffs of the counties of Jackson, St. Louis, Miller, Ripley, Crawford, Washington and Macon**



Mickey Wilson, CPA  
Director  
April 16, 2003