

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1466-02  
Bill No.: HCS for HB's 496, 615 & 623  
Subject: Crimes and Punishment; Drugs and Controlled Substances; Law Enforcement  
Officers and Agencies  
Type: Original  
Date: March 2, 2009

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Bill Summary: This legislation changes the scheduling of ephedrine, pseudoephedrine, and phenylpropanolamine to be Schedule III controlled substances.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
General Revenue	(More Than \$100,000)	(More Than \$100,000)	(More Than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More Than \$100,000)</b>	<b>(More Than \$100,000)</b>	<b>(More Than \$100,000)</b>

\* Savings and Losses of Less Than \$100,000 would net to \$0.  
Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
Conservation Fund	(Less Than \$100,000)	(Less Than \$100,000)	(Less Than \$100,000)
State School Moneys Fund*	\$0	\$0	\$0
Parks and Soil Fund	(Less Than \$100,000)	(Less Than \$100,000)	(Less Than \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Less Than \$200,000)</b>	<b>(Less Than \$200,000)</b>	<b>(Less Than \$200,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<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 FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Local Government</b>	<b>(Less Than \$100,000)</b>	<b>(Less Than \$100,000)</b>	<b>(Less Than \$100,000)</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

#### **Section 195.017:**

Officials from the **Missouri State Highway Patrol, Department of Public Safety** and the **Office of the State Courts Administrator** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the 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 SOS 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 that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 with the 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.

**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.

Officials from the **Department of Insurance, Financial Institutions & Professional Registration (DIFP)** state that having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), DIFP are of the opinion that this proposal in its present form has no fiscal impact to the Department.

Officials from the **Department of Health and Senior Services (DHSS)** states DHSS submitted two new decision items in our Fiscal Year 2010 Budget Request to allow for implementation of SB 724 (2008), which requires pharmacies to track information related to purchases of non-prescription pseudoephedrine products in an electronic logbook/database.

ASSUMPTION (continued)

If the proposed legislation passes, the products would no longer be available over-the-counter and there would not be a need to track the sale. The potential cost avoidance would be \$938,322 in the first year, as well as over \$500,000 in ongoing staff and maintenance costs to the system in subsequent years. Because funding for this tracking system has not been appropriated to the Department yet, DHSS assumes no fiscal impact as a result of this legislation.

**Oversight** assumes there is no fiscal impact. The two new decision items are currently not included in the Governor Recommendations FY10 budget.

Officials from the **Department of Revenue** assume the proposal would have no fiscal impact on their agency.

**Oversight** assumes a fiscal impact of (More Than \$100,000) could be realized. If the proposed legislation passes, there will no longer be sales tax collected on pseudoephedrine. If 4 million dollars worth of pseudoephedrine were sold in a year more than \$100,000 in sales tax would be lost (\$4,000,000 X 3%). The Conservation Fund, State School Moneys Fund and Parks & Soil Fund would have (Less Than \$100,000) fiscal impact (\$4M X .125%; \$4M X 1%; \$4M X .10%). Therefore, Oversight has included the General Revenue, Conservation, State School Moneys and Parks & Soil loss in the fiscal note.

Officials from the **Department of Corrections (DOC)** states adding to the list of controlled substances increases the chance of arrest and/or conviction due to the penalty provisions currently in state statute that refer back to possessing, manufacturing and trafficking those specific substances. The DOC cannot predict the number of new commitments which may result from the creation of the enhancement 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 direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each 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.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Loss</u> - Department of Revenue			
Sales Tax	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Costs</u> - Department of Corrections			
Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(More than \$100,000)</u></b>	<b><u>(More than \$100,000)</u></b>	<b><u>(More than \$100,000)</u></b>
<b>CONSERVATION FUND</b>			
<u>Loss</u> - Department of Revenue			
Sales Tax	(Less Than \$100,000)	(Less Than \$100,000)	(Less Than \$100,000)
<b>ESTIMATED NET EFFECT ON CONSERVATION FUND</b>	<b><u>(Less Than \$100,000)</u></b>	<b><u>(Less Than \$100,000)</u></b>	<b><u>(Less Than \$100,000)</u></b>
<b>STATE SCHOOL MONEYS FUND</b>			
<u>Savings</u> - Department of Revenue			
Reduced distributions to local school districts	Less Than \$100,000	Less Than \$100,000	Less Than \$100,000
<u>Loss</u> - Department of Revenue			
Sales Tax	(Less Than \$100,000)	(Less Than \$100,000)	(Less Than \$100,000)
<b>ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

## **PARKS AND SOIL FUND**

Loss - Department of Revenue  
Sales Tax

(Less Than  
\$100,000)

(Less Than  
\$100,000)

(Less Than  
\$100,000)

**ESTIMATED NET EFFECT ON  
 PARKS AND SOIL FUND**

**(Less Than**  
**\$100,000)**

**(Less Than**  
**\$100,000)**

**(Less Than**  
**\$100,000)**

FISCAL IMPACT - Local Government

FY 2010  
 (10 Mo.)

FY 2011

FY 2012

## **POLITICAL SUBDIVISIONS**

Loss - School Districts  
Reduced distributions from State  
School Moneys Fund

(Less Than  
\$100,000)

(Less Than  
\$100,000)

(Less Than  
\$100,000)

**ESTIMATED NET EFFECT ON  
 POLITICAL SUBDIVISIONS**

**(Less Than**  
**\$100,000)**

**(Less Than**  
**\$100,000)**

**(Less Than**  
**\$100,000)**

FISCAL IMPACT - Small Business

If the proposed legislation passes licensed pharmacies and dispensing practitioners would no longer need to maintain a log (written or electronic) of purchases and would not incur an indeterminate fiscal impact for purchasing electronic equipment, software, and related man-hours required in entering and transmitting data to the electronic log for methamphetamine purchases related to SB 724 (2008).

## FISCAL DESCRIPTION

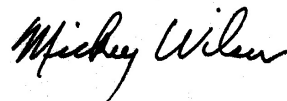
### **Section 195.017:**

The proposed legislation changes the controlled substance classification of all methamphetamine precursor drugs from Schedule IV and Schedule V to Schedule III. The classification change will require a physician's prescription to obtain any of these drugs. The legislation also repeals provisions regarding the logging and recording of the sales as well as the storing of these drugs behind the counter from public access.

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 Insurance, Financial Institutions and Professional Registration  
Department of Health and Senior Services  
Department of Public Safety  
Missouri State Highway Patrol  
Office of the Secretary of State  
Department of Revenue  
Office of the State Courts Administrator  
Department of Corrections



Mickey Wilson, CPA  
Director  
March 2, 2009