

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (14-SJR 36)**

Subject

Truly Agreed To and Finally Passed Senate Joint Resolution No. 36. (Received May 30, 2014)

Date

June 12, 2014

Description

This proposal would amend Article I of the Constitution of Missouri.

The amendment is to be voted on in August 2014.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Kirkwood**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Mark R. Reading provided information as an opponent of the resolution to the State Auditor's office.

Blake M. Lawrence provided information as an opponent of the resolution to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated the proposal states that the state is "obligated to uphold" and cannot "decline to protect" certain rights. They indicated significant litigation may ensue if this resolution requires their office to bring suit, particularly if it is required to represent individual Missourians. The costs are unknown.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the joint resolution.

Officials from the **Department of Higher Education** indicated there would be no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this Senate Joint Resolution is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated there is no fiscal impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact for their department.

Officials from the **Department of Revenue** indicated this Joint Resolution has no fiscal impact on their department. They do have the following comment:

The changes state that only persons with a "violent felony" conviction can have their right to bear arms infringed upon. Missouri statute does not define "violent felony."

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this joint resolution.

Officials from the **Department of Social Services** indicated this ballot proposal has no direct fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

SJR 36 amends Section 23 to Article I of the Missouri Constitution and is related to the right to keep and bear arms.

SJR 36 clarifies that citizens have the right to bear arms and ammunition and accessories, allows the right to bear arms in defense of family in addition to home, person and property, and eliminates the exception for concealed weapons. The state of Missouri must protect against the infringement of these rights and the General Assembly may enact laws to limit access to guns for convicted violent felons and those adjudicated to be a danger to self or others as a result of mental illness.

The SJR could impact their office through increased costs to the Legal Expense Fund. Section 23 states that the state is obligated to uphold and cannot decline to protect certain rights. This could result in litigation which would increase costs to the Legal Expense Fund significantly.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this Senate Joint Resolution has no fiscal impact to their agency.

Officials from the **Secretary of State's office** indicated they have determined there will be no fiscal impact to their office.

Officials from the **Office of the State Public Defender** indicated this new legislation will likely lead to legal challenges to various gun laws on behalf of public defender clients in the context of their criminal prosecutions, both in the trial and appellate courts the exact costs not able to be determined. There would be additional filing of writs and additional appeals, which would add public defender costs.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Kansas City** indicated:

Our local government estimates the fiscal impact of the above-referenced bill for fiscal years 2015, 2016 and 2017 to be as follows:

This legislation will have no fiscal impact on the revenues of the city.

This legislation will have no fiscal impact by providing any savings to the city.

If the voters adopt an amendment to Section 23 of Article I as proposed by this legislation there will be costs of an indeterminate amount to the city. The adoption of such proposed amendment would subject Kansas City firearms ordinances prohibiting the unlawful concealment or transportation of weapons to strict scrutiny and, because the proposed amendment states the right to bear arms is unalienable and deletes the current language regarding concealed weapons, would probably have the effect of abrogating all such ordinances. Such abrogation would occur quickly given the proposed amendment's commandment to the state to defend such amendment's proposed extended firearms' rights. The resulting increase in violence and mayhem following the abrogation of said Kansas City firearms ordinances will require Kansas City to increase the amount of money it expends on its police department, municipal courts and neighborhood programs.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **University of Missouri** indicated this Senate Joint Resolution will have no fiscal impact on their university.

Mark R. Reading provided the following information as an opponent of this resolution.

Fiscal Impact Information Submitted Pursuant to Section 23.140.2

The cost of the proposed amendment to the state for the next two fiscal years is substantial.

ESTIMATED NET EFFECT ON STATE FUNDS		
Fund Affected	FY 2015	FY 2016
General Revenue	(\$12,503,051)	(\$204,683,377)
Total Estimated Net Effect on All State Funds	(\$17,384,205)	(\$219,027,405)
ESTIMATED NET EFFECT ON LOCAL FUNDS		
Local Funds	(\$9,065,000)	(\$24,850,000)
Total Estimated Net Effect on All Local Funds	(\$9,065,000)	(\$24,850,000)

Fiscal Summary Recommendation

Based on the analysis of the measure provided in this fiscal impact statement the cost in FY 2016 to general revenue is \$219 million to unknown for direct costs to state agencies, reimbursements needed to local governments as the result of increased activities or the change in proportion in the activities or services required, and loss of revenue. Additional federal fund and other fund costs to the state add an additional \$14.3 million to unknown. Local government costs are estimated to be \$24.85 million to unknown including the loss of revenue.

"The cost to state or local government is between \$243.9 million and unknown depending upon substantial expected litigation related to the amendment."

Proposed Statement of Fiscal Impact submitted to the Missouri State Auditor's Office for SJR 36 passed by the General Assembly

Introduction

The Missouri General Assembly passed SJR 36 which would make changes to the Missouri Constitution (Article I, Section 23) regarding the right to bears arms provision. Missouri voters will vote on the proposed constitutional amendment in the August 2014 election.

Many states have passed laws affecting the possession and carrying of firearms over the past several years, including New York, Colorado, Connecticut, and Maryland.

In 2012, Louisiana passed a gun law constitutional amendment that is similar to SJR 36. Louisiana voters approved the change to their constitution (SB 303 Act 874) at the November 2012 election. The link below leads to the legislative approved version with the changes identified.

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=812575&n=SB303 Act 874>

The Louisiana amendment changed three things:

- provided that the right is fundamental and cannot be infringed
- eliminated a provision that indicated that the provision shall not prevent the passage of laws to prohibit the carrying of concealed weapons
- added a new provision that any restriction on this right shall be subject to judicial strict scrutiny

Missouri's SJR 36 is similar but goes further. If passed it will likely go further than any right to bear arms provision in the country. SJR 36 would alter the Missouri constitution by:

- adding the right to keep and bear ammuniton and accessories typical to the normal function of such arms
- adding "family" to the list of things that a person has a right to keep and bear arms to defend
- eliminating a provision that said the constitution "shall not justify the wearing of concealed weapons"
- adding that the rights guaranteed shall be unalienable
- adding that any restriction shall be subject to judicial strict scrutiny
- obligating the state of Missouri "to uphold these rights and . . . under no circumstances decline to protect against their infringement"
- adding a provision that nothing in the section shall be construed to prevent the legislature "from enacting general laws which limit the rights of convicted violent felons or those adjudicated by a court to be a danger to self or others as a result of a mental disorder or mental infirmity."

This fiscal analysis is focused on how and where SJR 36 costs will show up in the State of Missouri's budget and local government budgets. The analysis uses as a guide the experience of Louisiana in the 18 months since its enactment of a similar constitutional amendment. The analysis also explains the possible impact on the state and local government budgets of the additional, more far reaching provisions contained in the Missouri amendment. In addition, the analysis explains how Missouri's Hancock amendment may also affect the costs facing the state budget.

A simple internet search and a few phone calls made it clear that the opportunity to participate in estimating the cost of and providing a fiscal note for SJR 36 needs to at least go to the agencies listed below. The Oversight Division's fiscal note may be seriously deficient.

State agencies - all state agencies but particularly the Office of Administration, Public Safety, Conservation, Judiciary, Public Defender, Natural Resources, Elementary and Secondary Education, Higher Education, Economic Development, Corrections, and Mental Health.

County and local governments - particularly agencies involved in public safety (jails, sheriffs, prosecutors), local schools, public transportation, and tourism and convention bureaus.

Louisiana Experience

The Louisiana Legislative Fiscal Office did not prepare a fiscal note for Louisiana's 2012 constitutional amendment. However, news reports and articles from various organizations have noted that the passage of the Louisiana constitutional amendment led to a variety of lawsuits as lawyers, defendants, and prosecutors worked to determine the impact of the new provisions, imposing significant workload and related costs on the Louisiana government. Several lawsuits prompted by Louisiana's gun law amendment have already been litigated all the way to the Louisiana Supreme Court; many others are making their way through the state's lower courts, requiring significant time, effort, and expenditures by Louisiana's public defenders and district attorney's offices. The following web links provide information about the cases already adjudicated and others ongoing and expected. The implications of the Louisiana experience on possible Missouri budget costs is further discussed in the individual sections in this fiscal analysis.

First, as described in the link below, before the election in Louisiana, the District Attorney for Orleans Parish suggested that passage of the constitutional changes would result in costs and some unanticipated side effects. The prediction has proved prescient.

http://www.nola.com/opinions/index.ssf/2012/11/amendment_2_is_a_risky_idea_fo.html

Indeed, some of these unanticipated side effects have come to pass. Most alarmingly, a judge in Jefferson Parish's 24th Judicial District applied judicial strict scrutiny and held the state's prohibition on felons owning and using guns unconstitutional in a case involved two felons — a 27 year old with five felony narcotics convictions, and a 31 year old with a felony battery and marijuana distribution convictions — who were arrested in connection with a drive-by shooting of an 11-year-old boy. They were charged with murder and attempted murder, and with illegally possessing guns as felons. The judge threw out the felon-in-possession charges because of Louisiana's gun law amendment. As explained in the link that follows, the state Supreme Court is now hearing an appeal of the decision. But the case is illustrative of the potential costs of a provision like SJR 36.

http://www.nola.com/crime/index.ssf/2014/05/louisiana_supreme_court_consider_1.html

Similarly, a short article published in the Louisiana Law Review in April 2014 documents other significant litigation has already occurred in the 18 months since Louisiana voters approved their gun law amendment. The piece describes two time-consuming and costly lawsuits, which challenged the state's felon-in-possession law, its ban on juvenile gun possession, and its concealed carry law. As in Louisiana, if Missouri voters approved SJR 36, the state would almost inevitably bear the costs of defending lawsuits challenging similar laws in Missouri.

<http://lawreview.law.lsu.edu/2014/04/04/up-in-smoke-an-update-on-louisianas-right-to-bear-arms/>

Finally, an earlier, longer article published in the fall of 2013 by the Louisiana Law Review explains the types of legal cases that are arising as a result of the Louisiana's gun law amendment and its interaction with U.S. Supreme Court and other federal court decisions on the right to bear arms. Again, Missouri courts would be inundated with similar cases if SJR 36 passed, imposing serious costs on Missouri's public defenders, prosecutors, and judiciary that would ultimately be passed on to the state's taxpayers.

<http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=6438&context=lalrev>

Litigation Costs in Missouri

As explained above, the most immediate hit to the state budget if SJR passed would be litigation costs. Louisiana has experienced a burst of litigation as prosecutors, public defenders, civil and criminal lawyers test the limits of the gun law constitutional amendment. Such cases that Missouri should expect include, but are not limited to, challenges to the following provisions in Missouri law

- the prohibition on gun possession by fugitives;
- the prohibition on gun possession by children under the age of 18;
- the requirement that a person get a permit, a criminal background check, and firearms safety training before carrying a concealed, loaded gun in public;
- the restrictions on carrying guns in sensitive places such as K-12 schools, colleges and universities, bars, child care facilities, hospitals, police stations, jails, houses of worship, government buildings, stadiums, and amusement parks;
- the prohibition on gun possession by criminals convicted of nonviolent felonies; and
- the prohibition on gun possession by people habitually in an intoxicated or drugged condition.

In Louisiana, the first case affecting the workload of several public agencies was filed in Orleans Parish and challenged the state law prohibiting gun possession by convicted felons. Once this defense was used word quickly spread and dozens of similar motions were filed as other public defenders and criminal defense lawyers used the gun law amendment to challenge the constitutionality of Louisiana gun laws as they applied to their clients.

In Missouri this also likely to be one of the first places where there is an impact on the budgetary resources of the state. The budget for the Missouri Public Defender's Office has been a subject of serious concern and debate over the past ten years regarding its ability to properly defend clients given limited resources for high caseloads.

SJR 36 includes the following passage:

"the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement."

This obligation would be one of the most dramatic statements of the intent to pay any cost that would exist in the Missouri Constitution. The provision most like this statement in the current Missouri Constitution is in Article IV, Section 30 (b) that provides that funds for the Missouri Department of Transportation (MODOT) shall:

"stand appropriated without legislative action to be used and expended by the highways and transportation commission for the following purposes."

The language in SJR 36 therefore appears to ensure that the state would bear any expense to defend the right to bear arms (emphasis added). The language explicitly states that under "no circumstances" (emphasis added) can the state decline to protect those rights. In effect SJR 36 would create what is commonly referred to in the Missouri state budget as "E" appropriations for these costs. "E" or estimated appropriations allow Missouri state government agencies to pay whatever costs are incurred for the specific purpose for which they are provided. The "E" appropriations have been subject to debate between the Governor, legislature, and the courts over the years. Given the SJR 36 language, it is unclear whether an appropriation would be required or whether the funding would stand appropriated as is the MODOT funding. However, even if an appropriation would be required it appears that it would have to be unlimited since the state cannot decline to protect these rights. Presumably the inclusion of this language would be given significant weight by the General Assembly, the Governor's Office, the Missouri Attorney General's Office, the Missouri State Public Defender office, and the Missouri Supreme Court.

The litigation costs of the state would be borne by the Missouri State Public Defender office and the Attorney General's office. It should be expected that these costs would be highest during the first three to five years of the act as the state's laws and regulations are tested in the courts.

1. Public Defender - Under this constitutional provision it appears that the public defender would be required to pursue this defense to any and all applicable cases assigned to it. In addition, it is questionable whether the public defender could plead out a case regarding these rights. The Oversight Division did not ask the State Public Defender's Office for a fiscal analysis of SJR 36.
2. Attorney General's Office - The Oversight Division's fiscal note for SJR 36 indicates that the Attorney General's office said that "significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians." The Oversight Division assumes the cost would be \$0 to unknown since the extent of litigation is not determined. No additional effort seems to have been made Oversight Division to estimate these costs.

The language of the constitutional amendment clearly states that the state is obligated to defend the right to bear arms and under no circumstances refuse to do so. This is most likely directly targeted at the Attorney General's office. There are examples throughout the country where a state's Attorney General has refused to defend anti-gay marriage provisions. Missouri's Attorney General has discretion on which laws to defend and at times there have been differences between our Attorney General and members of the Missouri General Assembly regarding the choices made about the state's responsibilities. The new language takes that decision out of the hands of the Attorney General.

From a budget standpoint, the Attorney General's costs would be reflected in one of two places - the Attorney General's office budget or the state's Legal Expense Fund which is appropriated in the budget of the Office of Administration.

The Attorney General's budget handles the normal workload associated with the office. In addition, specialized funding has been provided for a Medicaid fraud unit to focus specifically on that priority task.

The state's Legal Expense Fund is appropriated to the Office of Administration. Historically, it has been used for a variety of purposes including expert witnesses, medical malpractice, legal conflicts, second injury litigation, desegregation litigation, tobacco litigation, and a variety of other uses. For FY 2015 the Missouri General Assembly has approved a budget for the Legal Expense Fund as shown below.

Section 5.125. There is transferred out of the State Treasury, chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo., to the State Legal Expense Fund

From General Revenue Fund.	\$6,000,000E
From Conservation Commission Fund.	130,000E
From Office of Administration Revolving Administrative Trust Fund.	17,435E
From Park Sales Tax Fund.	100,000E
From Soil and Water Sales Tax Fund.	10,000E
From State Highways and Transportation Department Fund.	<u>500,000E</u>
Total.	\$6,757,435

Please note that every funding source for the Legal Expense Fund has been given an "E" estimated authority which can be raised to whatever level necessary. Because of the flexibility and unlimited spending authority provided in this appropriation section it is assumed that this section would be the one most likely used to fulfill the requirements of SJR 36. Historically, the Office of Administration Division of General Services pays whatever bills are sent to it by the Attorney General's Office.

Under the provisions of SJR 36 it seems that there would likely be four types of cases affecting the litigation expenses of the Attorney General's Office

- Appellate cases - The Attorney General's office defends the state in federal courts. An example of this in a gun law case occurred recently when the Missouri Attorney General joined 21 other Attorneys General from across the nation to file a friend of the court brief in opposition to a New York law banning certain kinds of semi-automatic weapons. Joining these types of cases would presumably be mandatory for the Attorney General if SJR 36 passed, since decisions in the federal courts anywhere in the country could have an impact on the right to bear arms in Missouri. Such federal court decisions could conflict with new Missouri rights and under the new constitutional provisions of SJR 36 would have to be appealed to the U.S. Supreme Court.
- Federal cases - Changes to laws related to the right to bear arms in Kansas in 2013 resulted in a letter from the U.S. Attorney General to Kansas Governor Sam Brownback regarding the federal government's intention to continue to take all appropriate action, including litigation if necessary to enforce federal laws. The letter was dated just one day after the law went into effect. (See attachment 1) The State of Missouri should expect the same type of quick response to its laws and receipt of federal funds if SJR 36 passes. The fiscal note for the Kansas bill assumed that defending legal challenges to the law would cost \$100,000 to \$350,000 in FY 2014 and \$100,000 in FY 2015, the first two full years of implementation for the act. We should expect no less because SJR 36 is a constitutional amendment rather than a bill and it would enact the most expansive gun laws provision in the country.
- Cases for individual persons - The Attorney General's office said in its legislative fiscal note response that "significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians." The Attorney General's office could be required to defend cases that are substantially different than in the past.

For cases in which a defendant is indigent the court assigns the case to a State Public Defender. When the defendant is not indigent the defendant must bear the cost of the defense. Under the constitutional language of SJR 36, however, the state would be obligated to defend the new constitutional language and could in no circumstance refuse to do so. Non-indigent defendants may now have a constitutional right to be protected and defended by the state on their right to bear arms claims. In these non-indigent cases the local prosecutor will be working for conviction and the Attorney General's office would be acting in a similar role as the Public Defender does for indigent cases. The Attorney General's office would have to decide whether to create a separate unit within the office to handle the cases, negotiate a rate with one or more law firms or lawyers and pay the expense from the Legal Expense Fund, or allow private lawyers to bill the state for their costs and pay it from the Legal Expense Fund.

Normally, the Attorney General's office supports the work of the state's prosecutors. However, as the Attorney General's office begins to work to represent individual Missourians legal conflicts may arise. The Office of Administration's Legal Expense Fund is set up to deal with legal conflicts and could be used to do so in these instances.

- Civil cases - These cases would also be likely to occur, including claims by individuals that their rights were violated. One example would be an individual being barred from state owned buildings or leased facilities. These cases could also face local governments and would need to be addressed, likely at the state's cost.
- Review of past convictions - With passage of SJR 36, and the litigation that would occur as a result, case law will establish what is legal and possible in Missouri. A likely result

would be that things that were crimes in the past will no longer be crimes under the new constitution. A similar circumstance has occurred in Colorado, for example, where individuals are currently in prison or under state supervision for crimes related to possession of marijuana which are no longer crimes after Colorado passed marijuana decriminalization. The state should expect that such individuals would appeal for review of their case. This would likely result in costs for both the Attorney General's office and the Department of Corrections to review the case. In addition, the Department of Public Safety Missouri State Highway Patrol will have costs related to changing, expunging, and redacting criminal history records.

SJR 36 would require the defense of gun law claims and would give the Attorney General's office the resources necessary since under no circumstances can he refuse to defend those lawsuits. For a brief period when claims are yet to be filed it is expected that the Attorney General would temporarily shift resources from other functions to prepare for SJR 36 claims. Given the Attorney General's access to a FY 2015 Legal Expense Fund appropriation that is unlimited and a constitutional requirement that obligates him to defend those cases, it is assumed that he would quickly create a new internal unit to fully meet these new responsibilities while not diluting the other functions of the office.

For purposes of this fiscal analysis the table below has been prepared. The Attorney General's Office could request and receive funding for a gun laws litigation unit much like it has for its Medicaid fraud unit. The Medicaid fraud unit is budgeted for 28 FTE and \$2.8 million split between general revenue and federal funds. The gun law litigation unit would have to be funded from the state's general revenue fund since SJR 36 does not include provisions to fund the costs it requires from any other funding source. A minimal unit to deal with these cases would be expected to have a senior lawyer in charge with additional lawyers depending upon the extent of litigation. An additional Executive Assistant (clerical) would also be expected.

GUN LAW LITIGATION UNIT FOR ATTORNEY GENERAL'S OFFICE

	<u>FTE</u>	<u>Salary</u>	<u>Cost</u>	
Personal Services				
Assistant Attorney General	3.00	\$92,875	\$278,625	Salary assumed at average salary of Medicaid fraud unit for the same level of employees plus the half year 1% pay plan approved for FY 2015.
Investigator	1.00	\$30,801	\$30,801	
Legal Secretary	1.00	\$37,839	\$37,839	
subtotal personal services	5.00		\$347,265	
Expense and Equipment				
	<u>Count</u>	<u>Rate</u>	<u>Cost</u>	
Travel - in-state			\$10,706	One trip per month for 3 people for 2 days - hotel (\$105/night), meals (\$30/day), mileage (\$0.26/mile, 240 mile round trip)
Travel - out-of-state			\$4,962	5 trips of 3 days by 2 people - hotel (\$125/night), meals (\$30/day), mileage (\$0.26/mile, 240 mile trip to Lambert Airport)
Supplies	5	\$345	\$1,725	From FY 2015 OA Budget and Planning budget instructions page 48.
Computer equipment	5	\$696	\$3,480	
Office equipment	5	\$2,384	\$11,920	

Professional Services	200	\$150	\$30,000	Expert witnesses, additional outside legal services. 200 hours times \$150/hr rate paid for medical malpractice
Miscellaneous			\$2,500	Publications and other expenses
subtotal Expense and Equipment			\$65,293	
Fringe benefits		RATE % OF PERSONAL SERVICES		All rates per Office of Administration, Division of Budget and Planning
Social Security		7.65%	\$26,566	
Retirement - MOSERS		16.97%	\$58,931	
Long-term disability - MOSERS		0.50%	\$1,736	
Basic Life Insurance (Actives) - MOSERS		0.32%	\$1,111	
Basic Life Insurance (Retirees) - MOSERS		0.12%	\$399	
Medical Insurance (Actives) - MOSERS		22.70%	\$78,829	
Medical Insurance (Retirees) - MOSERS		4.30%	\$14,932	
Unemployment Compensation		0.16%	\$556	
Workers Compensation		1.58%	\$5,487	
Deferred Compensation		1.62%	\$5,626	
OPEB		2.21%	\$7,675	
subtotal fringe benefits			\$201,848	
GRAND TOTAL			\$614,406	
Legal Expense rate			\$150	Medical Malpractice rate used in Legal Expense Fund expenditures. This is a low rate. Final rate for bear arms cases would be negotiated by the Attorney General's office
Hours equivalent if funded entirely from Legal Defense Fund			4,096	

The Missouri State Highway Patrol website allows a user to query the Uniform Crime Reporting series on criminal arrest statistics (see link below). Using this source the table below has been prepared showing the number of weapons arrests for the last three years where full year data is available - 2011, 2012, and 2013. There have been almost 10,000 arrests on weapons charges over the past three years, an average of 3,327 per year. This is the starting universe for possible assignment to the Public Defender or the Attorney General's office. The UCR statistics only provide a summary and do not contain information to break down the totals into specific types or categories to determine which of these offenses is most likely to be litigated as a result of SJR 36. To further break down the arrests into the various weapons categories would require contacting each individual law enforcement agency according to the CJIS section of the Missouri Highway Patrol.

[http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data and statistics ucr query backup.html](http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data%20and%20statistics%20ucr%20query%20backup.html)

**UNIFORM CRIME REPORTING
WEAPONS CHARGES**

<u>Year</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>
2011	3,198	264	3,462
2012	3,036	325	3,361
2013	2,910	247	3,157
Total last 3 years	9,144	836	9,980
Average for past 3 years	3,048	279	3,327

Additional data has been requested of the Department of Corrections to identify the number of cases coming to their agency for prison, 120 day shock, and probation by the various weapons categories. However, that data is not yet available at the time of the submission of this fiscal analysis.

Department of Corrections and Department of Public Safety

As noted above in the discussion of costs possibly facing the Attorney General's office, the Department of Corrections is likely to be asked to review cases to identify instances where someone was placed under its supervision (prison, 120 day shock, or probation) for things that were crimes in the past that will no longer be crimes under the new constitution. Presumably, a priority would be given to those individuals currently under the supervision of the department. A data request has been submitted to the Department of Corrections to identify the number of cases coming to their agency for prison, 120 day shock, and probation by the various weapons categories. However, that data is not yet available at the time of the submission of this fiscal analysis.

A review of this nature would require at least the following tasks:

- identification using the department's data system of all individuals placed under the supervision of the Department of Corrections. There are over 50 different charge codes for weapons offenses. The analysis should identify those currently under supervision and perhaps be able to identify the weapons offenses most likely needing review
- pulling all files of such individuals by a clerical staff
- review of the files by an investigator or other trained employee
- review of the relevant files by a Probation and Parole officer, a department lawyer, and a lawyer from the Attorney General's office
- submission of the file to the Parole Board, if appropriate, for consideration
- preparing a written report or response as necessary for the Parole Board, circuit court judges, and for the defendant's attorney
- submission of the file and a recommendation to the Governor's office as necessary for possible commutation of the sentence
- submitting all necessary forms with the Judiciary and the Missouri State Highway Patrol to ensure that criminal history records are updated
- updating all criminal records for any changes

In addition, costs in criminal case reimbursements to the counties and the City of St. Louis may increase as the result of passage and implementation of SJR 36. The budget for this reimbursement is included in the budget of the Department of Corrections. This is discussed in more detail in the section on local costs.

In preparing the legislative fiscal note the Oversight Division did not ask the Department of Corrections to review its possible costs. The two issues explained above were therefore not considered.

Office of Administration and other state agencies

The Office of Administration is responsible for providing central management, administration, and policy direction to the state agencies for state buildings and leased properties. According to the Office of Administration there are 3.7 million sq. ft. of state owned space and 8 million sq. ft. of institutional space. The Office of Administration estimates that there are 3,200 state-owned buildings/sites. In addition, the Office of Administration provides procurement, contract management, and coordination for 520 lease contracts totaling 3.2 million square feet of leased space statewide. The Office of Administration and other agencies may face the following items of additional cost as a result of SJR 36. The Office of Administration was not one of the four agencies asked to review SJR 36. Thus, their possible costs or concerns were not addressed in the legislative fiscal note.

1. Posting of notices - The Office of Administration is responsible for ensuring that appropriate notices are posted in state owned and leased property on whether firearms are allowed to be carried into and possessed in these buildings. If SJR 36 passed and as litigation occurred as a result that further refines the limits, or lack thereof, of the right to possess firearms in buildings the Office of Administration would be required to post the most current directive. In addition, outreach notices, e-mails, newsletters, and other means would be used to inform state employees of the requirements. Failure to do so would result in litigation by someone barred from a building inappropriately or by a state employee for actions taken while uninformed of any new requirements. Such notices would need to be posted at multiple entrances at each site.

The cost of just one printing and posting of such a notice to be printed for state owned and leased facilities and preparing the outreach documents for the state's approximately 57,000 employees is estimated at \$37,200.

OA NOTIFICATION COSTS

Number of state owned sites/buildings	3,200
Number of state lease contracts	520
Total notices	3,720
Cost of printing new rules and also notifying all of approximately 57,000 state employees of the rules	\$10
Total cost	\$37,200

2. Security - SJR 36 would require that the state "shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement." Defending these rights through litigation has already been examined in this fiscal analysis. However, it is also clear that the Prosecuting Attorneys in Jackson County and St. Louis City (see attachment 2) informed the General Assembly that SJR 36 could ultimately have deadly unintended consequences such as:
 - allowing convicted gang members and drug dealers to carry deadly weapons on our streets
 - allowing domestic violence defendants to continue to possess deadly weapons despite evidence that they pose a threat to the life of their victims

- allowing those that wish to do our children harm the right to carry deadly weapons into our schools

SJR 36 would delete the phrase "but this shall not justify the wearing of concealed weapons" from the current constitutional language. Louisiana deleted similar language about the wearing of concealed weapons. Litigation in Louisiana has already explored whether the deletion of this phrase meant that no regulation of concealed weapons is allowed.

SJR 36 on the other hand would add the language below. One question that would likely be explored is whether by establishing only two instances where the right to bear arms is limited that these are the only two that are allowed at all. If so, some may argue that Missouri could conceivably become a conceal carry state with no permit required.

"Nothing in this section shall be construed to prevent the general assembly from enacting general laws which limit the rights of convicted violent felons or those adjudicated by a court to be a danger to self or others as result of a mental disorder or mental infirmity."

At least part of the prosecuting attorney's argument is that SJR 36 and the case law it would create may result in fewer legal regulations against the right to bear arms. Any deterrent effect of those laws might be increasingly whittled away. If the general public and local elected officials believe that the effect of the changes related to SJR 36 subject the public to increased jeopardy then additional security staff may be required in a variety of instances. State government officials may want and need more security personnel at:

- State Schools for the Severely Handicapped
- higher education institutions
- courthouses
- state office buildings
- correctional institutions
- mental health facilities
- state leased property housing state workers
- and any other state facility

The Office of Administration reports that there are about 3,200 state sites/buildings and 520 state leases. This number does not include sites for the Missouri Department of Transportation, the Department of Natural Resources, the Department of Conservation, or higher education institutions. The cost to hire additional security officers for half of these facilities would be \$114.6 million general revenue.

OA SECURITY COSTS

Number of state owned sites/buildings	3,200
Number of state leases	520
subtotal possible sites for security officer	3,720
Discount % for those buildings with officers already or where the state would decide to do without a security officer	50%
State sites needing security officers	1,860
Salary of Capitol Police Officer (based on mid-point of salary for Capitol Police Officer in Jefferson City)	\$38,958
Fringe-benefit costs (58.13%) per officer	\$22,646
Cost of officer plus fringe	\$61,604
Cost for new security officers	\$114,583,971

In addition, the Office of Administration and the Department of Public Safety Capitol Police are responsible for security at the State Capitol. After the attacks of 9/11 in 2001 additional security officers and equipment were installed at the State Capitol. The \$1.1 million general revenue cost to the budget at the time are shown in the following table.

CAPITOL BUILDING SECURITY INCREASES AFTER 9/11

FY 2002 supplemental costs	\$202,500
FY 2003 costs for Public Safety	\$909,894
Total	\$1,112,394

Those costs included two additional Capitol Police Officers and funding for equipment. Additional costs for improvements were made by the Office of Administration at the time but the cost for those are not available from current online documents. The cost to reestablish the posts and operations at the State Capitol are estimated at \$609,509 general revenue as shown in the following table.

COST TO REESTABLISH SECURITY AT STATE CAPITOL

	<u>FTE</u>	<u>Salary</u>	<u>Cost</u>	
<u>Personal Services</u>				
Capitol Police Officer	2.00	\$38,958	\$77,916	Salary assumed at mid-point of range
<u>Expense and Equipment</u>				
One-time equipment and improvements.			\$486,304	Based on same cost from FY 2003 with no inflation or changes in requirements or the increased costs of updated technologies. Does not include Office of Administration possible costs for facility improvements.
<u>Fringe benefits</u>				
Social Security		7.65%	\$5,961	All rates per Office of Administration, Division of Budget and Planning
Retirement - MOSERS		16.97%	\$13,222	
Long-term disability - MOSERS		0.50%	\$390	
Basic Life Insurance (Actives) - MOSERS		0.32%	\$249	
Basic Life Insurance (Retirees) - MOSERS		0.12%	\$90	
Medical Insurance (Actives) - MOSERS		22.70%	\$17,687	
Medical Insurance (Retirees) - MOSERS		4.30%	\$3,350	
Unemployment Compensation		0.16%	\$125	
Workers Compensation		1.58%	\$1,231	
Deferred Compensation		1.62%	\$1,262	
OPEB		2.21%	\$1,722	
subtotal fringe benefits			\$45,289	
GRAND TOTAL			\$609,509	

3. Insurance costs - The state self-insures its state owned facilities. However, for leased facilities the cost of liability and other insurance is embedded in the rate that is charged to the state in the lease agreement. Should landlords become increasingly concerned about the liability costs of housing state employees in their buildings the cost of leasing space would increase. The Office of Administration Division of Facilities Management, Design and Construction is responsible for bidding the state property leases. Leases are not all bid in the same year and the term of the lease can vary by the type of property and the state's anticipated need for that kind of space. Therefore, the full impact of any uncertainty about what can be carried into a leased property would be a concern for the state's landlords. Changes in the state's laws and their interpretation will need to be communicated by the Office of Administration to the landlords. The Office of Administration may need to modify contracts with the landlords depending upon the type of change made in the state's laws and interpretation of those laws. This fiscal analysis does not calculate the cost of notifying the landlords or changing contracts though that is likely to be required. The issue of insurance costs is further explicated in the section on local schools below explaining the difficulty faced by local Kansas schools in obtaining liability insurance at any rate due to changes in that state's gun laws. The table below shows the budget amounts by fund included for leased properties for FY 2015, a total of \$108.8 million. It assumes that the price of the state's leases will increase \$3.3 million which is three percent as a result of the uncertainty and requirements of SJR 36.

**FY 2015 TAFP APPROPRIATION TOTAL FOR HB 2013
FOR LEASED PROPERTIES**

<u>Fund</u>	<u>Amount</u>	<u>3% increase due to uncertainty of SJR 36</u>
General Revenue	\$76,683,090	\$2,300,493
Federal Funds	\$18,606,615	\$558,198
Other Funds	\$13,502,006	\$405,060
Total	\$108,791,711	\$3,263,751

Local Costs

SJR 36 has the possibility of requiring a variety of new costs of county and local governments. It would be wise if all of them kept good financial and other tracking documents to ensure that they are prepared to request reimbursement for any new or increased cost. Missouri's constitutional Hancock Amendment (Article X, Sections 1 to 24) establishes limits on revenue collection and expenses. Article X, Section 21 prohibits the state from reducing the state financed proportion of any existing activity or service. In addition, that section also requires the state to pay for any new service or activity. This analysis only identifies and discusses three such possible costs outlined below.

The legislative fiscal note identifies three sources of information - Attorney General, Secretary of State, Department of Public Safety. When contacted the Oversight Division also indicated that the request was sent to the Highway Patrol as well. The Oversight Division indicated by phone that no other agencies were given the opportunity to review the bill. The Oversight Division did not send the bill out to any local government agency for review even though that is done frequently for legislation considered by the General Assembly. The possible costs and concerns of local governments were therefore not considered in the legislative fiscal note.

1. Jail costs - Counties and the City of St. Louis are reimbursed for certain costs incurred in the prosecution and incarceration of indigent defendants in criminal cases. In addition, counties or county sheriff's offices are paid for costs of transporting prisoners and the costs of serving extradition warrants. Funding for this duty is located in the budget of the Department of Corrections. The state budget passed by the General Assembly for FY 2015 includes \$43.3 million to pay these costs compared to the FY 2014 appropriation of \$38.1 million. The FY 2014 rate paid is \$19.58 per offender per day. The rate had been as high as \$22 per day until the appropriation was reduced by \$5 million during the recent recession and state budget difficulties. The FY 2015 rate should be closer to \$22 assuming that the Governor does not veto or withhold from the appropriation.

The counties, the City of St. Louis, and the Missouri Association of Counties have complained for many years that the rate paid is substantially less than it costs them to provide these services. This is due to a variety of costs according to the counties including substantial medical costs expended. However, the documentation of the costs associated with these activities were not documented very well at the time the Hancock Amendment passed in 1980. Therefore, it has not been possible for them to demonstrate the increased cost or the increased proportion of those costs under the Hancock Amendment and improve or lock in a reimbursement at a higher level. It would behoove the counties and the City of St. Louis to document their current costs and track all expenditures related to increased jail costs and other activities related to changes related to SJR 36. Under the Hancock Amendment any new activities may be required to be reimbursed at 100% of the cost and any increased cost above the current proportion paid by the state could also be claimed.

One example of such cost occurred in Louisiana. As noted earlier, Orleans Parish faced the first wave of claims after the passage of its right to bear arms amendment. In the first case that came before the district court the judge ruled that the entire firearms statute challenged was unconstitutional given the new constitutional amendment. Under Louisiana law since the case invalidated the entire law as unconstitutional the case went directly to the Louisiana Supreme Court and bypassed the Appellate Court. Pending the appeal of the first case the district court judge postponed ruling on all of the other similar cases. The result was that some individuals remained in Orleans Parish Prison for months while the appeal was pending. In Missouri such a case would go through the appellate level. However, SJR 36 and its resulting case law and meeting those requirements may be considered a new duty that has been assigned to the counties. Given the frustration of the counties and the City of St. Louis about criminal cost reimbursements over the years at the very least SJR 36 may allow them to begin increasing their reimbursements for well documented new duties.

2. Security - SJR 36 requires that the state "shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement." Defending these rights through litigation has already been examined in this fiscal analysis. However, it is also clear that the Prosecuting Attorneys in Jackson County and St. Louis City (see attachment 2) informed the General Assembly that SJR 36 may ultimately have deadly unintended consequences such as:
 - allowing convicted gang members and drug dealers to carry deadly weapons on our streets
 - allowing domestic violence defendants to continue to possess deadly weapons despite evidence that they pose a threat to the life of their victims
 - allowing those that wish to do our children harm the right to carry deadly weapons into our schools

SJR 36 deletes the phrase "but this shall not justify the wearing of concealed weapons" from the current constitutional language. Louisiana deleted similar language about the wearing of concealed weapons. Litigation in Louisiana has already explored whether the deletion of this phrase meant that no regulation of concealed weapons is allowed.

SJR 36 on the other hand adds the language below. One question that will likely be explored is whether by establishing only two instances where the right to bear arms is limited that these are the only two that are allowed at all. If so, some may argue that Missouri could conceivably become a conceal carry state with no permit required.

"Nothing in this section shall be construed to prevent the general assembly from enacting general laws which limit the rights of convicted violent felons or those adjudicated by a court to be a danger to self or others as result of a mental disorder or mental infirmity."

At least part of the prosecuting attorney's argument is that SJR 36 and the case law it creates may result in fewer legal regulations against the right to bear arms. Any deterrent effect of those laws may be increasingly whittled away. If the general public and local elected officials believe that the effect of the changes related to SJR 36 subject the public to increased jeopardy then additional security staff may be required in a variety of instances. Local officials may want and need more security personnel at:

- at K-12 schools
- higher education institutions
- courthouses
- public libraries
- transit facilities
- on buses or light rail similar to air marshals now on the nation's planes
- health clinics
- polling stations during elections
- and any other public facility

If the local entities properly document their costs before enactment of SJR 36 and show that the increased costs are related to changes that were necessary or prudent in amount or proportion then they may have a right to a Hancock Amendment reimbursement. In addition, any costs related to posting the firearms security requirements of these facilities is a new duty and may be a reimbursable cost.

3. Elementary and Secondary Education - K-12 security and insurance

Public schools are a particular concern for communities. The shootings at Newtown and Columbine among others have led to a widespread debate about how, or whether, public schools should have additional protection. In the State of Kansas in response to a new law the publication Business Insurance reported that the largest insurer of Kansas public school districts, Des Moines, Iowa-based EMC Insurance Cos. said it would not insure districts that allow employees to carry guns on school property (web link below). The company justified this decision based on the increased liability risk it saw being created. Missouri school districts would face the same risk. School districts need liability insurance. Should Missouri school districts find an insurance company willing to offer such insurance the additional cost may be reimbursable by the state.

<http://www.businessinsurance.com/article/20130728/NEWS06/307289980>

Given that it is possible the districts could find it difficult to find such insurance it is more likely that the solution to greater protection would be the hiring of school resource officers - an officer from the local police or sheriff's department assigned to each school. According to the Missouri Department of Elementary and Secondary Education there are 2,362 public schools in the state. The Department of Elementary and Secondary Education did not have information readily available on the number of school resource officers currently in the

schools. The following table assumes that half of these buildings either have school resource officers or the school district will decide not to hire such an officer to place in their schools. The cost to hire a school resource officer for half the schools would be \$53.8 million and may be a reimbursable cost of the constitutional amendment.

SCHOOL RESOURCE OFFICERS

# of schools statewide according to the Department of Elementary and Secondary Education	2,362
Discount % for those buildings with officers already or where district would decide to do without a school resource officer	50%
School buildings needing resource officers	1,181
Salary of School Resource officer (based on mid-point of salary for Police Officer II in Jefferson City but no fringe benefits)	\$45,528
Cost for new school resource officers	\$53,768,568

Loss of Federal Funds when state law, policies, or actions conflict with federal law

The state of Missouri receives a large amount of federal funds for law enforcement for various federal programs through the Missouri Department of Public Safety. In addition, the Missouri Department of Conservation receives federal funds for its activities through a fund share program which allows it to receive a portion of federal funds collected as a result of taxes and fees on sporting, hunting, and other activities. The Department of Conservation gets federal funds based on its proportion of state license fees compared to the other states. The Missouri Department of Conservation reported that it collected about \$25 million (see table below) as a result of a federal revenue sharing program related to the licenses it sells. The federal money is deposited into its dedicated fund. In preparing the legislative fiscal note the Oversight Division did not ask the Department of Conservation to review its possible costs or concerns. Thus, their issues were not considered.

FY13 Apportionment

Missouri Wildlife Restoration (Pittman-Robertson Act) - total includes Hunter Education funding shown separately below	\$14,113,497
Missouri Sport Fish Restoration (Dingell-Johnson Act)	\$8,306,550
Missouri Basic Hunter Education (Section 4)	\$2,799,343
Missouri Enhanced Hunter Education (Section 10)	\$219,081
Total	\$25,438,471

A requirement of all federal funds is that the state be in compliance with federal law. In some cases, such as when the federal government wanted to force states to move to the .08 level of intoxication for DWI cases, the federal government explicitly identifies actions it needs if funding is to continue. Each federal funds program contains some certification or acknowledgement that the federal requirements have been met, the funds and program has been audited, and usually a report on changes that should be noted.

SJR 36 and the case law it creates may result in instances where Missouri case law on the right to bear arms is in conflict with the federal program requirements. These instances are most likely to impact federal funding programs coming into the Department of Public Safety and the Department of Conservation. Some federal funding also goes directly to local governments and may also be at risk.

Changes to laws related to the right to bear arms in Kansas in 2013 resulted in a letter from the U.S. Attorney General to Kansas Governor Sam Brownback regarding the federal government's intention to continue to take all appropriate action, including litigation if necessary to enforce federal laws. The letter was dated just one day after the law went into effect. (See attachment 1) The State of Missouri should expect the same type of quick response to its laws and receipt of federal funds.

In addition, state policies or actions resulting from SJR 36 and its implementation may also conflict with federal laws or policies. SJR states that "under no circumstances decline to protect against their infringement." Earlier in this fiscal analysis the cost of complying with this requirement for the state of Missouri was discussed. But this is also an actionable item for the Missouri Highway Patrol, the Department of Conservation agents, the Department of Natural Resources park rangers, and other law enforcement entities. To comply with the Missouri Constitution these organizations and entities may have to refuse to participate in some activities that they have historically conducted. This may include joint activities with the federal government, activities that the federal government has devolved down to the state, or that are the state's responsibility but are relied upon by the federal government. Failure to participate in these activities may result in specific federal funds or categories of funds being lost.

Tourism

As discussed elsewhere in this fiscal analysis, SJR 36 would likely go further than any constitutional gun law provision in the nation. Substantial litigation over the next several years would determine the impact. The prosecutors from Jackson County and St. Louis City (attachment 2) indicate that serious public safety concerns would arise.

As multi-victim shootings occur regularly throughout the country a number of national businesses have either instituted or are considering policies regarding possession of weapons in their business establishments - Starbucks, Chipotle, Chili's, Wendy's, Jack in the Box, Applebee's, and others. The concern of these businesses is that the appearance of firearms in a business place creates an atmosphere that is intimidating or uncomfortable. At some point these and other businesses may become concerned about expanding or doing business in Missouri. In addition, tourism boycotts or travel advisories may be recommended by interest groups or other nations.

In addition, safety concerns are also considered by travelers. The Missouri Division of Tourism publishes an Annual Report each year showing that tourism is an integral part of the Missouri economy. For FY 2013 the Division of Tourism reported that tourism generated an estimated direct and indirect economic impacts totaling \$14.6 billion and about 285,000 jobs. The division estimated that in FY 2013 tourism generated \$1.2 billion in local and state tax revenues and a total of \$2.1 billion including federal tax revenues.

The following table shows the expenditures in 17 tourism-related SIC codes in the state for FY 2013. Four counties generated more than half of all such expenditures (51.1%) in FY 2013.

	Expenditures in 17 Tourism-Related SIC Codes				Average annual growth FY 2010-FY2013
	FY 2010	FY 2011	FY 2012	FY 2013	
St. Louis City	\$1,084,887,029	\$1,098,338,427	\$1,282,816,202	\$1,251,165,243	
St. Louis County	\$2,060,297,259	\$2,115,616,143	\$2,223,501,856	\$2,286,445,977	
Jackson County	\$1,464,685,298	\$1,535,192,221	\$1,646,958,776	\$1,676,347,223	
Taney County	\$422,473,155	\$435,603,464	\$436,294,268	\$438,424,888	
subtotal major counties	\$5,032,342,741	\$5,184,750,255	\$5,589,571,102	\$5,652,383,331	3.95%
Remainder of State	\$4,918,146,034	\$5,066,814,939	\$5,333,175,594	\$5,410,484,400	3.23%
GRAND TOTAL	\$9,950,488,775	\$10,251,565,194	\$10,922,746,696	\$11,062,867,731	3.60%

In addition, in times of controversy groups sometimes recommend boycotts of economic activity. Early this year the state of Arizona faced rising boycott pressure from groups due to the passage of an anti-gay rights measure passed by its legislature. Businesses both inside and outside the state indicated that they would be severely impacted by the loss of economic activity as a result of the boycotts and anticipated substantial loss of tourism revenues. The Arizona Governor vetoed the bill in February 2014 and indicated that this loss of economic activity was a major reason for the veto.

Major groups also have formed in the United States that are concerned with the growing divergence and hardening of opinions related to guns. One strategy that may be raised is the possibility of recommended boycotts and travel advisories for the state of Missouri. Such an effort would not have to dramatically reduce tourism to have a major effect on spending and therefore revenue collections. The table below assumes the average annual growth since FY 2014 in tourism related SIC codes to project expenditure levels through FY 2017. Should boycotts and travel advisories simply cut the rate of growth by just one percent the level of expenditures would be \$478 million lower in FY 2015 and \$658 million lower in FY 2017. Using the Missouri Department of Tourism's estimate that tourism spending provided \$1.2 billion in state and local tax collections a reduction of \$658 million in the growth of tourism revenues would lead to about \$71 million in revenue growth for state and local governments that would not occur.

In preparing the legislative fiscal note the Oversight Division did not ask the Department of Economic Development, Division of Tourism to review its possible costs. Nor did the Oversight Division send a fiscal note review request for SJR 36 to any of the convention and tourism bureaus in the state. Thus, their issues were not considered in the legislative fiscal note.

Expenditures in 17 Tourism-Related SIC Codes			
	Estimated expenditures if future years based on Average Annual growth from FY 2010 to FY 2013		
FY 2014	\$5,875,597,967	\$5,624,146,361	\$11,499,744,328
FY 2015	\$6,107,627,429	\$5,846,245,909	\$11,953,873,338
FY 2016	\$6,348,819,817	\$6,077,116,248	\$12,425,936,065
FY 2017	\$6,599,536,979	\$6,317,103,738	\$12,916,640,717
	Estimated expenditures if future years based on Average Annual growth cut by one percent due to boycotts or reduced tourism		
FY 2014	\$5,819,074,134	\$5,531,210,852	\$11,350,284,986
FY 2015	\$5,990,680,708	\$5,654,631,125	\$11,645,311,833
FY 2016	\$6,167,348,021	\$5,780,805,327	\$11,948,153,348
FY 2017	\$6,349,225,317	\$5,909,794,908	\$12,259,020,225
	Difference in estimated expenditures if future years based on Average Annual growth cut by 1% due to boycotts or reduced tourism		
FY 2014	(\$56,523,833)	(\$92,935,509)	(\$149,459,342)
FY 2015	(\$116,946,721)	(\$191,614,784)	(\$308,561,505)
FY 2016	(\$181,471,796)	(\$296,310,921)	(\$477,782,716)
FY 2017	(\$250,311,662)	(\$407,308,830)	(\$657,620,492)

Oversight Division's fiscal note

The fiscal note available for SJR 36 was published by the General Assembly on May 27, 2014 for the Truly Agreed and Finally Passed version of Senate Committee Substitute (SCS). The legislative fiscal note identifies three sources of information. When contacted the Oversight Division also indicated that the request was sent to the Highway Patrol as well. The Oversight Division indicated by phone that no other agencies were given the opportunity to review the bill. The Oversight Division did not ask any local government to review SJR 36 even though that is done frequently for bills being considered by the General Assembly. Nor were higher education institutions asked to review SJR 36 according to the Oversight Division.

In the published fiscal note the Office of the Secretary of State does not anticipate a cost unless there is a special election called which would require them to reimburse local election officials for the cost of the election. Given that the Governor has placed the measure on the August primary ballot therefore any cost to the Secretary of State's office has been eliminated. The Department of Public Safety responded that they did not anticipate a cost. The Attorney General's Office, according to the Oversight Division, indicated that "the proposal states that the state is 'obligated to uphold' and cannot 'decline to protect' certain rights. Significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians." The published fiscal note indicates that based on these three responses the Oversight Division had a cost of \$0 or unknown.

Summary of costs and lost revenues

The following table has been prepared to summarize the costs identified in this fiscal analysis. The following estimates in the bullets below show state and local costs for FY 2016 of \$243.9 million to unknown.

General revenue costs associated with state agencies is estimated to be \$204.7 million to unknown including:

- \$118.1 million in direct agency costs
- \$53.8 million in costs reimbursable to local governments as the result of increased activities or the change in proportion in the activities or services required
- \$32.8 million in lost revenue

Federal fund costs directly associated with state agencies is estimated to be \$558,198 to unknown.

Other state fund costs are estimated to be \$13.8 million to unknown including:

- \$405,060 directly associated with state agencies
- \$13.4 million in lost revenue

Local costs are estimated to be \$24.9 million to unknown through the loss of revenue to local governments

**SUMMARY OF COSTS TO STATE AND LOCAL GOVERNMENTS
SJR 36 - RIGHT TO BEAR ARMS**

Agency/item	FY 2015	FY 2016	Comments
GENERAL REVENUE COSTS			
State government costs			
Attorney General	(\$512,005)	(\$614,406)	Litigation costs estimated for 10 months in operation in FY 2015 based upon August 2014 vote.
Missouri Public Defender costs	unknown	unknown	
Department of Corrections	unknown	unknown	
Missouri State Highway Patrol	unknown	unknown	
Office of Administration - printing notices and notifications	(\$37,200)	(\$37,200)	Assume one printing each year as interpretation of SJR 36 is updated through court decisions
Office of Administration security costs		(\$114,583,971)	For state-owned buildings/sites and leases
Office of Administration - State Capitol building costs		(\$609,509)	
Office of Administration - leasing costs	unknown	(\$2,300,493)	
subtotal General Revenue costs	(\$549,205)	(\$118,145,579)	
FEDERAL FUND COSTS			
Office of Administration - leasing costs		(\$558,198)	
Loss of federal funds due to conflicts with federal laws or program rules/regulations	unknown	unknown	For Department of Public Safety and the Department of Conservation
subtotal Federal Fund costs		(\$558,198)	
OTHER STATE FUND COSTS			
Office of Administration - leasing costs		(\$405,060)	
subtotal Other State Fund costs		(\$405,060)	

<u>Local government costs</u>			
Costs in criminal cases	unknown	unknown	All may be reimbursable by the state as a new activity or change in the proportion of activities that are required per Article X, Section 21.
Security at public facilities and services	unknown	unknown	All may be reimbursable by the state as a new activity or change in the proportion of activities that are required per Article X, Section 21.
K-12 school security		(\$53,768,568)	Cost assumed in FY 2016 due to time needed to obtain agreements with local law enforcement to supply school resource officers. All may be reimbursable by the state as a new activity or change in the proportion of activities that are required per Article X, Section 21.
subtotal local government costs		(\$53,768,568)	
<u>Revenue losses to state and local government</u>			
Tourism-related revenue losses			Tourism-related revenues slowing in growth due to boycotts and travel advisories
State - GR	(\$11,953,846)	(\$32,769,231)	Assume breakout by sales tax of 6.5% statewide (3% GR, 1.225% Other State funds, 2.5% local)
State - Other funds	(\$4,881,154)	(\$13,380,769)	
Local	(\$9,065,000)	(\$24,850,000)	
subtotal revenue losses	(\$25,900,000)	(\$71,000,000)	Assumed six month of loss in FY 2015 since vote takes place in August 2014 near the end of the tourism season.
GRAND TOTAL	(\$26,449,205)	(\$243,877,405)	

Conclusion

The Oversight Division of the General Assembly prepared and the General Assembly approved a fiscal note for SJR 36 that was woefully inadequate. The fiscal note only includes the response of four agencies. There is no evidence that any local government was contacted. There is no evidence that other states were contacted despite the fact that Louisiana passed a very similar constitutional amendment in 2012.

The fiscal analysis submitted in this document has provided information, references, and documentation about the impact of Louisiana's gun law amendment in the first 18 months after its approval by the voters. The fiscal analysis has identified substantial litigation costs and requirements faced by the state through its agencies. In addition, the fiscal analysis has identified possible processing costs that would be faced the Department of Corrections and the Department of Public Safety as a result of SJR 36's passage and the ensuing case law that will result from its implementation. The Office of Administration would face costs related to the notices required in state buildings and notifying approximately 57,000 state employees. The Office of Administration would also have to address security issues in state-owned and leased facilities. In addition, the Office of Administration also could face increased costs for leasing space for state government.

The Oversight Division's fiscal note had no cost recognized or considered for local governments. In fact the Oversight Division indicated that no local government was sent a request to review SJR 36 though that occurs frequently for bills being considered by the General Assembly. However, SJR 36 would likely result in new duties in several instances that are reimbursable by the state in accordance with Article X of the Missouri Constitution. These costs include such things as increasing costs in county jails and the security of a wide range of local public buildings and services. K-12 schools also can face building security costs and insurance liability issues as a result of the act.

This fiscal analysis also provides information about the possible loss of federal funds as a result of the implementation and case law following approval of SJR 36 which would likely result in state laws, regulations, or practices that are in conflict with federal law. The Oversight Division did not explore this concern at all in its fiscal note.

In addition, there is the possibility of the loss of revenue to both the state and local governments should SJR 36 be passed. Tourist boycotts and travel advisories by interested groups or other nations could slow tourism spending and would result in slower growth in revenue than would be the case if SJR 36 does not pass.

Certainly the State Auditor's Office needs to reach out to more agencies and local governments than was done by the Oversight Division. A \$0 fiscal note is unconscionable.

ATTACHMENTS

1. Letter from U.S. Attorney General to Kansas Governor Sam Brownback dated April 26, 2013
2. Letter from Jackson County Prosecuting Attorney and St. Louis City Circuit Attorney dated April 30, 2014 to Missouri House of Representatives Speaker Timothy Jones

ATTACHMENT 1



Office of the Attorney General
Washington, D.C. 20530

April 26, 2013

Governor Sam Brownback
Capitol, 300 SW 10th Avenue
Suite 2415
Topeka, KS 66612-1590

Dear Governor Brownback:

I am writing in connection with Senate Bill Number 102 ("S.B. 102"), which, as you know, was recently enacted by the State of Kansas and which became effective on April 25, 2013.

Among its other provisions, S.B. 102 criminalizes the enforcement of federal law with respect to the types of firearms, firearm accessories, and ammunition described in the statute. The law purports to nullify certain federal firearms requirements and to authorize the State of Kansas to charge and convict federal officers for performing their law enforcement duties.

In purporting to override federal law and to criminalize the official acts of federal officers, S.B. 102 directly conflicts with federal law and is therefore unconstitutional. Federal officers who are responsible for enforcing federal laws and regulations in order to maintain public safety cannot be forced to choose between the risk of a criminal prosecution by a state and the continued performance of their federal duties. Under the Supremacy Clause of the United States Constitution, Kansas may not prevent federal employees and officials from carrying out their official responsibilities. And a state certainly may not criminalize the exercise of federal responsibilities. Because S.B. 102 conflicts with federal firearms laws and regulations, federal law supersedes this new statute; all provisions of federal laws and their implementing regulations therefore continue to apply.

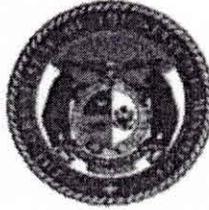
I am writing to inform you that federal law enforcement agencies, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the United States Attorney's Office for the District of Kansas, will continue to execute their duties to enforce all federal firearms laws and regulations. Moreover, the United States will take all appropriate action, including litigation if necessary, to prevent the State of Kansas from interfering with the activities of federal officials enforcing federal law.

Please contact me if you wish to discuss this matter further.

Sincerely,

Eric H. Holder, Jr.
Attorney General

ATTACHMENT 2



April 30, 2014

The Honorable Timothy Jones
Missouri House of Representatives
201 West Capitol Avenue, Room 308
Jefferson City, Missouri 65101

Dear Representative Jones:

The Missouri General Assembly is on the verge of passing a Resolution that will place the safety and security of the citizens of Missouri in jeopardy. At first glance Senate Joint Resolution 36 appears to be an innocuously worded Resolution. However, we believe that it may ultimately have deadly unintended consequences. They include:

1. Allowing convicted gang members and drug dealers to carry deadly weapons on our streets
2. Allowing domestic violence defendants to continue to possess deadly weapons despite evidence that they pose a threat to the life of their victims
3. Allowing those that wish to do our children harm the right to carry deadly weapons into our schools

No one can ensure the citizens of Missouri that these changes to our Constitution will not create these unintended consequences. Ultimately, Judges of this state will interpret these new words added to the Constitution and they will have to determine the impact and meaning of this resolution.

The Constitution and laws of our State already protect the hunter, the lawful citizen, and those acting in self-defense. This Resolution provides them no new protection. Unfortunately the only ones that stand to benefit from this new language are gang members, drug dealers, domestic abusers, and other criminals.

On behalf of the citizens of our communities, please stand on the side of public safety and common-sense and refuse to engage in this potentially deadly political theatre. Please vote No on Senate Joint Resolution 36.

Respectfully,

Handwritten signature of Jean Peters Baker in cursive.

Jean Peters Baker
Prosecuting Attorney
Jackson County

Handwritten signature of Jennifer M. Joyce in cursive.

Jennifer M. Joyce
Circuit Attorney
City of St. Louis

cc: The Honorable Kurt Schaefer

Blake M. Lawrence provided the following information as an opponent of this resolution.

Fiscal Impact Information Submitted Pursuant to Section 23.140.2

The cost of the proposed amendment to the state for the next two fiscal years is substantial.

ESTIMATED NET EFFECT ON STATE FUNDS		
Fund Affected	FY 2015	FY 2016
General Revenue	Unknown	unknown
Total Estimated Net Effect on All State Funds	unknown	unknown
ESTIMATED NET EFFECT ON LOCAL FUNDS		
Local Funds	unknown	unknown
Total Estimated Net Effect on All Local Funds	unknown	unknown

Fiscal Summary Recommendation

Based on the analysis of the measure provided in this fiscal impact statement the cost in FY 2016 to general revenue is substantial to unknown for litigation costs for the Attorney General, the Public Defender, the courts, the Department of Public Safety, and the Department of Corrections.

“The cost to state or local government is between unknown depending upon substantial expected litigation related to the amendment.”

Proposed Statement of Fiscal Impact submitted to the Missouri State Auditor's Office for SJR 36 passed by the General Assembly

Introduction

The analysis below provides information relevant to the fiscal costs associated with SJR 36 passed by the Missouri General Assembly that will be voted on by Missouri voters in August 2014. The analysis includes information on the arrests and sentences for weapons offenses that will be affected by litigation following passage of SJR 36 by voters. In addition, a fiscal note from the State of New Mexico is included for a bill considered in 2013 that illuminates the problems that would be faced by the Attorney General's office and the Public Defender's Office in New Mexico should expansive gun laws be passed. These same issues will manifest themselves to an even greater degree in Missouri upon passage of SJR 36 because it is a constitutional amendment rather than a bill and the language obligates the state to defend these rights in all circumstances.

Scope of problem

SJR 36 includes the following language.

"the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement."

The language of the constitutional amendment clearly states that the state is obligated to defend the right to bear arms and under no circumstances refuse to do so. The litigation costs of the state would be borne by the Missouri State Public Defender office and the Attorney General's office. These costs would likely be highest during the first three to five years of the act as the state's laws and regulations are tested in the courts. The litigation costs include state criminal cases, appeals within the state courts, appeals in federal courts, federal cases involving gun laws in other states, and civil cases.

A similar constitutional amendment passed in Louisiana in 2012 resulted in a surge of cases being litigated in the courts as lawyers, defendants, and prosecutors worked through cases to clarify the significance and impact of the new constitutional provisions. Information on the types of cases that have arisen, or are expected in the future, is included in the following two links.

<http://lawreview.law.lsu.edu/2014/04/04/up-in-smoke-an-update-on-louisianas-right-to-bear-arms/>

<http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=6438&context=lalrev>

With regard to Missouri criminal cases, the Uniform Crime Statistics are available by using the website of the Missouri State Highway Patrol at the following link.

http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data_and_statistics_ucr_query_backup.html

For the last three years where full year data is available - 2011, 2012, and 2013 - there have been almost 10,000 arrests on weapons charges - about 3,300 per year. These are the criminal cases that can be assigned to the Public Defender or the Attorney General's office. The UCR statistics only provide a summary and do not contain information to break down the totals into specific types or categories to determine which of these offenses is most likely to be litigated as a result of SJR 36. To further break down the arrests into the various weapons categories would require contacting each individual law enforcement agency according to the CJIS section of the Missouri Highway Patrol.

**UNIFORM CRIME REPORTING
WEAPONS CHARGES**

<u>Year</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>
2011	3,198	264	3,462
2012	3,036	325	3,361
2013	2,910	247	3,157
Total last 3 years	9,144	836	9,980
Average for past 3 years	3,048	279	3,327

However, some information is available on the number of people with weapons offenses that have been sentenced and assigned to the Department of Corrections. The Missouri Sentencing Advisory Commission provides a variety of reports and other materials on its website. Included in the Commission's reports is the Missouri Sentencing Advisory Commission - User Guide 2012-2013 published in April 2013 that can be found at the following link.

<http://www.mosac.mo.gov/file.jsp?id=45394>

Pages 85-87 of the guide provide information on the weapons offenses sentenced from 2007 to 2012. That information is reproduced, in part, below. During that six year period a total of 7,920 weapons offenses were sentenced, or about 1,320 per year. The 32 separate charge codes for the weapons offenses are provided as is the state statutory reference. The table below shows the percentage of sentences of probation, shock, and prison.

WEAPONS OFFENSES SENTENCED 2007 - 2012						
Charge code	Offense description	RSMo. Charge code statute	Count	Sentence disposition		
				% probation	% shk/trk	% prison
31010	Armed criminal action	571.015	136	7%	1%	92%
31015	Unlawful use of weapon motivated by discrimination	557.035	36	92%	0%	8%
31016	Leaving the scene of a shooting - prior offender	577.068	3	100%	0%	0%
31020	Unlawful use of weapon (subsec 1-4)	571.030	6,182	82%	5%	13%
31040	Unlawful transfer of weapon to felon, fugitive, addict or incompetent person	571.060	32	88%	6%	6%
31057	Fraudulent purchase of a firearm	571.063	0	0	0%	0%
31065	Unlawful possession of a firearm	571.070	525	47%	10%	44%
31070	Unlawful possession of a concealable firearm	571.070	62	58%	6%	35%
31075	Knowingly possess explosive, incendiary or poisonous substance/material with purpose to possess, manufacture or sell an explosive weapon	571.020	17	82%	12%	6%
31080	Unlawful possession, transport, manufacture, repair or sale of illegal weapons	571.020	213	76%	7%	17%

31127	Carry loaded firearm/weapon into any school, onto school bus, onto premise of school sanctioned activity	571.030	35	100%	0%	0%
31135	Unlawful possession of an explosive weapon	571.072	0	0%	0%	0%
31140	Placing bomb or explosive at or near bus or terminal	578.310	0	0	0%	0
31145	Discharge a firearm or weapon at railroad train or rail-mounted equipment	389.653	0	0%	0%	0%
31147	Discharge/shoot firearm at or from motor vehicle at person, motor vehicle, or building/habitable structure - persistent offender	571.030	13	62%	31%	8%
31149	Discharge/shoot firearm at or from motor vehicle at person, motor vehicle, or building/habitable structure - prior offender	571.030	6	50%	33%	17%
31150	Discharging firearm, hurling missile at, into, or upon bus	578.310	1	100%	0%	0%
31151	Discharge/shoot firearm at or from motor vehicle, shoot at person, another motor vehicle, or bldg/habitable structure - physical injury/death	571.030	12	42%	0%	58%
31152	Discharge/shoot firearm at or from motor vehicle, shoot at person, another motor vehicle, or bldg/habitable structure - 1st offense	571.030	104	61%	13%	27%
31153	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - physical injury or death	571.030	1	0%	0%	100%
31154	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - 1st offense	571.030	5	0%	20%	80%
31155	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - persistent offender	571.030	0	0%	0%	0%
31156	Aiding or abetting a person discharging or shooting a firearm at/from a motor vehicle - prior offender	571.030	0	0%	0%	0%
31160	Threatening to place bomb or explosive at or near bus or terminal	578.310	1	0%	100%	0%
31162	Possession/discharge loaded firearm/projectile weapon while intoxicated	571.030	380	89%	4%	7%
31163	Unlawful use of loaded firearm/projectile weapon by intoxicated person (subsection 5)	571.030	33	91%	3%	6%
31168	Possession and concealment of a dangerous or deadly weapon a bus	578.305	0	0%	0%	0%
31170	Possession of weapon, explosive or hazardous material on a bus or in terminal	578.320	1	0%	0%	100%

31180	Delivery or possession of weapon at a correctional facility	217.360	17	0%	0%	100%
31182	Deliver/attempt to deliver/poss/deposit/conceal gun/knife/weapon/other at correctional facility, city/co jail or private prison/jail	217.360	74	12%	3%	85%
31195	Delivery or possession of weapon at county/private jail	221.111	30	37%	10%	53%
31200	Possession or use of metal penetrating bullet during commission of crime	571.150	1	100%	0%	0%
Total count			7,920			

As noted in the Louisiana law review articles provided above, the impact of its constitutional changes are still being worked out in the courts. The number of cases that must be defended by the Missouri Attorney General and the Public Defender are likely a subset of the weapons offenses numbers shown above. The charge codes 31020, 31040, 31057, 31065, 31070, 31080, and 31127 deal with possession, purchase, or use of a weapon. Those codes include over 7,000 sentences to the Department of Corrections. The code 31020 includes four subsections and is the biggest sentence code that would need to be further delineated and investigated as to whether SJR 36 will affect these prosecutions.

The Oversight Division of the General Assembly sent SJR 36 to the Attorney General's office for review. The legislative fiscal note response indicates that the Attorney General explained that "significant litigation may ensue if this requires the AGO to bring suit, particularly if it is required to represent individual Missourians."

For criminal cases the Attorney General's office could be required to defend cases that are substantially different than in the past. The Attorney General should expect, and likely does expect given the legislative fiscal note response, to defend individual cases. Those cases would include non-indigent defendants with a constitutional right to be defended by the state for lawsuits related to the right to bear arms. No guidance is provided in SJR 36 other than that the state is obligated to defend such cases and cannot refuse.

The Attorney General's office will need to defend these lawsuits with a unit within his office or through expenditures from the Legal Defense Fund in the budget of the Office of Administration.

New Mexico fiscal note

The New Mexico legislature considered HB 114 in its 2013 session. The gun nullification bill can be found at the following link.

<http://www.nmlegis.gov/Sessions/13%20Regular/bills/house/HB0114.pdf>

In the first section of the gun nullification bill the following language was included:

"The Attorney General may defend a resident of New Mexico who is prosecuted by the United States government for violation of a federal law relating to the manufacture, sale, transfer or possession of a firearm or firearm accessory or of ammunition owned or manufactured and retained exclusively within the borders of New Mexico."

The legislative fiscal note identifies a variety of issues and problems that will be faced by the Attorney General's office, the district attorneys, and the public defenders in the following link.

<http://www.nmlegis.gov/sessions/13%20Regular/firs/HB0114.PDF>

Attorney General's response and issues reported in fiscal note:

- bill could result in an increase in criminal matters filed in courts of jurisdiction. Also possible under SJR 36.
- could result in additional investigative tasks to be conducted by state and local law enforcement personnel. Also possible under SJR 36.
- identifies State of Montana law being litigated in federal courts as example of costs. Federal litigation is also possible under SJR 36.
- there is no standard stated on which cases to defend and no information on such fundamental matters on whether the Attorney General should be paid for handling the defense or cover the costs related to the defense. This is important to the determination of costs for SJR 36 because it simply says that under no circumstances may the state refuse to defend these rights. But with over 3,300 arrests for weapons offenses each year the Attorney General's office or someone is going to have to decide which of the arrests fit within the definition requiring a defense and who is going to provide the defense. This may take many court cases to determine.
- the Attorney General could be position to be on both sides of a case. Also, possible under SJR 36.

Administrative office of District Attorney's response:

- virtually certain to invite litigation from the federal government and other interested parties. Also possible under SJR 36.
- would result in expenses for the Attorney General if he takes on the defense of a person. Also possible under SJR 36.
- there are new categories of crimes that could increase the caseloads of the district attorneys. Additional cases also possible under SJR 36.

Courts response:

- impact will be proportional to the increased enforcement cases under the law, commenced cases, and any constitutionally-based challenges. Also possible under SJR 36.
- there will be a cost to document, update, and distribute information about changes. Also possible under SJR 36.

Public Defender's response:

- any increase in the number of prosecutions will bring a concomitant need for an increase in indigent funding. Also possible under SJR 36 because under no circumstances can the state refuse to provide a defense.

Public Safety response:

- its law enforcement program has a number of agreements with various federal law enforcement agencies that could be affected. Also possible under SJR 36.

Many of these responses also discuss the federal preemption issue and possible federal lawsuits that will result. Also possible under SJR 36.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education, the Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Kirkwood, the City of Mexico, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, Linn State Technical College, Metropolitan Community College, and St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities should have no direct costs or savings from this proposal. However, the proposal's passage will likely lead to increased litigation and criminal justice related costs. The total potential costs are unknown, but could be significant.