

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4220H.01I
Bill No.: HB 1624
Subject: Employees - Employers; Health, Public
Type: Original
Date: January 24, 2022

Bill Summary: This proposal creates provisions relating to COVID-19 tests and vaccinations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight notes this proposal could possibly create exposure for the state government and/or local political subdivisions.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Colleges and Universities	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.

*LEF will net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Various Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*The potential “(Unknown)” fiscal impact to various state agencies could be quite substantial, depending upon decisions by the courts and actions taken by the federal government.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
All State and Federal	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on FTE	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Political Subdivisions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (OA)** assume this proposed legislation could create additional claims that could potentially be asserted against the state or other entities covered by the Legal Expense Fund. If such claims were successfully pursued, they could result in additional costs to the Legal Expense Fund. However, the amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs.

In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state Legal Expense Fund, Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified and individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Oversight notes officials from OA assume this provision may prompt causes of action against various state agencies throughout the state. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

Therefore, **Oversight** will assume the fiscal impact to the Legal Expense Fund will net to \$0 due to transfers in from the General Revenue, Federal Funds, Other State Funds for various state agencies to pay successful causes of action.

Officials from the **Department of Mental Health (DMH)** assume that due to the vulnerable population served in DMH congregate care inpatient settings, when DMH deems it necessary, all employees are required to test regardless of vaccination status. Regarding employer liability, this provision does not define how causation from immunization to injury will be traced. Further, the provision does not identify which entity is responsible for determining whether an injury was caused by an immunization, which could implicate workers compensation. Further clarification is needed in the proposed language to address these issues.

In addition, due to the uncertainty surrounding a federal vaccination mandate, the DMH cannot calculate a fiscal impact on the Department at this stage; therefore, the fiscal impact to the Department is unknown at this time.

Officials from the **Department of Health and Senior Services (DHSS)** note:

It is unknown if damages will be awarded related to vaccines, therefore DHSS has an unknown impact for the proposed legislation.

Officials from the DMH and DHSS both assume the proposal could have a potential direct fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect an Unknown impact to the General Revenue, Other, and Federal Funds in the fiscal note.

Officials from the **Missouri University System** assume the proposal would create a new potential source of liability for the University, however, it is not possible to identify a significant fiscal impact at this time.

Officials from the **University of Central Missouri** assume the proposal will have direct indeterminate fiscal impact due to uncertainty of application.

Oversight notes that this provision may prompt causes of action against the colleges and universities throughout Missouri for violations of this proposal. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

Therefore, **Oversight** will range the reduction to the Legal Expense Fund from \$0 (does not increase litigation costs) to an Unknown cost (increased claims) for the colleges and universities in the fiscal note.

Officials from the **Attorney General's Office, Office of Administration - (Administrative Hearing Commission and Budget and Planning), Department of Commerce and Insurance, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Natural Resources, Department of Corrections, Department of Labor and Industrial Relations, Department of Revenue, Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Office of the Director, Missouri Gaming Commission, Missouri Highway Patrol and State Emergency Management Agency), Missouri Department of Agriculture, Missouri Department of Conservation, Missouri Ethics Commission, Missouri Department of Transportation, MoDOT & Patrol Employees' Retirement System, Petroleum Storage Tank Insurance Fund, Office of the State Public Defender, Office of the Governor, Office of the State Auditor, Office of the State Treasurer, Missouri Senate, Missouri House of Representatives, Joint Committee On Education, Joint Committee on Public Employee Retirement, Legislative Research, Oversight Division, Missouri Lottery Commission, Missouri Consolidated Health Care Plan, Missouri Higher Education Loan Authority, Missouri State Employee's Retirement System, Office of the State Courts Administrator, State Tax Commission, and the Northwest Missouri State University** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **City of Kansas, City of Springfield, Phelps County Sheriff, Kansas City Police Department, Saint Louis County Police Department**, and the **Nodaway County Police Department** each assume the proposal will have no fiscal impact on their organizations.

Oversight notes that this provision may prompt cause of action against various political subdivisions throughout the Missouri for violations of this proposal. If the organizations is found liable, there may be additional payouts from local governments.

Therefore, **Oversight** will range the cost to political subdivisions from \$0 (does not increase litigation) to an Unknown cost (increased claims related to unlawful practices) for the various political subdivisions in the fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE			
<u>Cost – DOLIR – FTE necessary to process additional complaints various agencies (p.3)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (p.3)</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
OTHER STATE FUNDS			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (p.3)</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
FEDERAL FUNDS			
<u>Loss of Revenue DHSS – potential loss of Federal Funds (DRL) (p.3-4)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss of Revenue DMH – potential loss of some Federal Funds (p.4)</u>	(Unknown)	(Unknown)	(Unknown)

<u>Loss of Revenue</u> - University Missouri System – potential loss of Federal funds (p.4)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost</u> - Potential increase in LEF claims (p.3)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> - from GR, Federal, and Other State Funds Potential increase in claims	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer Out</u> - payment of discrimination claims	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES			
<u>Cost</u> - Colleges and Universities Potential increase in claims (p.3,4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<u>FISCAL IMPACT</u> – Local Government	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> Potential increase in claims	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

Small businesses servicing state agencies, colleges, universities, and political subdivisions will be required to comply with revised sections. If a small business fails to comply, they could be held liable for those actions as a result of this proposal.

FISCAL DESCRIPTION

This bill provides that an employer or government entity may not require weekly COVID-19 testing for employees, contractors, or students who are not vaccinated for COVID-19 unless they also require vaccinated employees, contractors, or students to undergo weekly testing. An employer or government entity may not consider COVID-19 vaccination status when determining whether to grant exemptions to or varying the interval of testing. Employers and government entities must pay for the cost of testing.

Any employer or government entity that requires employees, contractors, or students to undergo or prove receipt of vaccination against COVID-19 as a condition of employment, contract, or educational opportunity shall be liable for damages or injury arising from the vaccination. An employee, contractor, or student may bring action for damages or injury at any time. This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Office of Administration
Administrative Hearing Commission
Budget and Planning
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Natural Resources
Department of Corrections
Department of Revenue
Department of Public Safety
Division of Alcohol and Tobacco Control

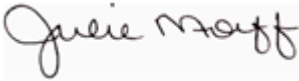
Capitol Police
Fire Safety
Office of the Director
Missouri Gaming Commission
Missouri Highway Patrol
State Emergency Management Agency
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri Department of Transportation
MoDOT & Patrol Employees' Retirement System
Office of Administration
Petroleum Storage Tank Insurance Fund
Office of the State Public Defender
Office of the Governor
Office of the State Auditor
Office of the State Treasurer
Missouri Senate
Missouri House of Representatives
Joint Committee on Education
Joint Committee on Public Employee Retirement
Legislative Research
Oversight Division
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Higher Education Loan Authority
Missouri State Employee's Retirement System
Office of the State Courts Administrator
State Tax Commission
Northwest Missouri State University
Missouri University System
University of Central Missouri
City of Springfield
Phelps County Sheriff
Kansas City Police Department
St. Louis County Police Department
Nodaway County Ambulance District

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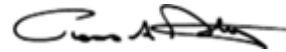
January 24, 2022

A handwritten signature in cursive script, reading "Julie Morff", written in black ink on a light-colored background.

Julie Morff

Director

January 24, 2022

A handwritten signature in cursive script, reading "Ross Strobe", written in black ink on a light-colored background.

Ross Strobe

Assistant Director

January 24, 2022