

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0723S.01I  
 Bill No.: SB 159  
 Subject: Department of Elementary and Secondary Education; Department of Higher Education and Workforce Development; Teachers; Education, Higher; Education, Elementary and Secondary  
 Type: Original  
 Date: March 27, 2023

Bill Summary: This proposal prohibits educational institutions from mandating COVID-19 vaccines or gene therapy treatments.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(\$5,666) to Unknown	(\$5,666) to Unknown	(\$5,666) to Unknown
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$5,666) to Unknown</b>	<b>(\$5,666) to Unknown</b>	<b>(\$5,666) to Unknown</b>

\*Oversight assumes the amount of fine revenue received by Department of Elementary and Secondary Education and Department of Economic Development (if any) would not reach the \$250,000 threshold.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
University & Community College Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

\*Potentially significant loss of federal funds depending upon rulings by the courts and actions taken by the federal government.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from **Department of Elementary and Secondary Education (DESE)** assume Section 161.581.3 requires the department to investigate reports of violations of this section, which may result in a form of cease-and-desist communication from the department. Such investigation would likely be absorbed with existing resources and FTE. Subpart (2) requires the department to assess a fine against any school employee who also holds a teaching certificate and permits the department to discipline the license under Chapter 168.

Based on this proposed language, the Office of Governmental Affairs estimates costs of less than \$100,000. These costs which will be dependent on the number of hearings the State Board receives, which include but are not limited to:

- Hearing officer time for hearing and drafting recommendations for the State Board.
- Administrative assistant time to schedule hearings, provide notice to parties and any settlement negotiations.
- Court reporter costs.

For cost explanation purposes, the average cost for a teacher discipline hearing is \$566.55/hearing:

- Average of 3 hours of hearing officer time x average of \$58.08/hour
- Average of 7 hours administrative assistant time x \$31.08/hour
- Average of \$174.75 in court reporter costs/hearing.

DESE estimates no more than 10 hearings per year for an annual cost of \$5,665.50.

Officials from the **Attorney General's Office, Department of Higher Education and Workforce Development, Department of Commerce and Insurance** and the **Office of Administration** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes this proposal creates a fine of up to \$5,000 for employees that violate sections in this proposal. Oversight notes this proposal does not specify what fund these fines would be credited to. For purposes of this fiscal note, Oversight assumes the fines would be deposited into General Revenue. Alternatively, the Office of Administration could create a fund administratively to keep these revenues separate. Oversight will show a range of impact for these fines of \$0 (no fines administered) to an unknown gain in revenue.

Officials from the **University of Missouri System** state, as no federal vaccination mandate is presently being enforced for contractors or as a condition for participation in Medicare/Medicaid, no fiscal impact is anticipated.

In response to a similar proposal, HB 1475 (2022), officials from the **University of Missouri System** stated, if the federal mandate is upheld by the courts and this proposal prohibits compliance with the federal mandate, the university would lose in excess of \$76 million of federal contracts. If the federal mandate is upheld as a condition of participation in Medicare and Medicaid and this bill prohibits compliance with the federal mandate, it could result in a loss of \$547.4 million annually. The proposed statute 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, Northwest Missouri State University** and **St. Charles Community College** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** will show a range of impact from \$0 (no mandate or not enforced) to a potential loss of federal funds for Universities due to non-compliance with a federal mandate.

Additionally, **Oversight** notes that this provision may prompt a cause of action against colleges, universities, and public schools for violations of this proposal. Oversight notes, in rare circumstances, universities and community colleges can access the state Legal Expense Fund. However, for purposes of this fiscal note, Oversight assumes colleges and universities will bear the cost of any litigation or judgment. Oversight will range the fiscal impact to colleges, universities and public schools from \$0 (does not increase litigation) to an unknown cost for damages and court costs.

**Oversight** received a limited number of responses from school districts, universities and colleges related to the fiscal impact of this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.



<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>FEDERAL FUNDS</b>			
<u>Loss</u> - potential loss of federal funds due to non-compliance with federal mandate - §173.581	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>PUBLIC SCHOOLS</b>			
<u>Costs</u> - civil action for damages and court costs - §161.581.3 (3)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON PUBLIC SCHOOLS</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

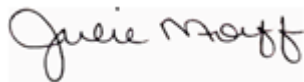
Beginning with the 2023-24 school or academic year, this act prohibits school districts, public schools, and institutions of higher education, as well as employees of such entities, from requiring any employee or student to receive a COVID-19 vaccine or gene therapy in order to be physically present at any events, premises, or facilities. Additionally, a vaccine may not be required as a condition for employment or for acceptance as a student. Testing for COVID-19 may not be done without written consent of the school employee, student, or, for a minor student, by all parents or guardians.

The Department of Elementary and Secondary Education and the Department of Higher Education and Workforce Development are required to investigate and report violations. Any employee who violates the provisions of the act shall be subject to a fine of up to \$5,000 and any license held by the employee issued by a department of the state may be suspended or revoked. The act authorizes a civil action against an individual who violates the provisions of this section for any physical, mental or emotional injury.

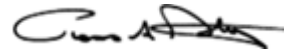
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Commerce and Insurance  
Department of Elementary and Secondary Education  
Department of Higher Education and Workforce Development  
Office of Administration  
University of Missouri System  
University of Central Missouri  
St. Charles Community College



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March 27, 2023



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