

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3858S.01I
 Bill No.: SB 1125
 Subject: Department of Higher Education and Workforce Development; Education, Higher; Minorities; Employees - Employers
 Type: Original
 Date: April 15, 2024

Bill Summary: This proposal prohibits public institutions of postsecondary education from requiring the submission of diversity, equity, and inclusion statements.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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)

*Potential unknown costs to colleges and universities due to possible litigation. It is assumed costs could reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	0	0	0

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 2025	FY 2026	FY 2027
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§173.2176 – Prohibits public institutions of postsecondary education from requiring submission of DEI statements

Officials from the **Office of Administration (OA)** state this provision has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging violation of this provision against a public institution of postsecondary education or a state employee in connection with their official duties on behalf of the state or against another person covered by the LEF, due to the addition of an enforceable right under this section. This provision also waives sovereign immunity. This change will be subject to judicial construction; therefore, the cost impact to the state is unknown.

Officials from **Northwest Missouri State University** state it appears this bill would cause a conflict for the University in following state and federal antidiscrimination laws thereby resulting in an increase in legal costs.

Officials from the **University of Central Missouri** state the proposal would have an indeterminate fiscal impact on their organization.

Oversight notes that this provision may prompt a cause of action against colleges and universities for violations of this proposal. Oversight notes, in some 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. It is further assumed costs could possibly reach the \$250,000 threshold.

Officials from the **Department of Higher Education and Workforce Development**, the **Department of Labor and Industrial Relations**, the **University of Missouri System**, **Missouri State University** and **Office of the State Courts Administrator** 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 Attorney General's Office did not respond to **Oversight's** request for a statement of fiscal impact.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other colleges and universities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
COLLEGES AND UNIVERSITIES			
<u>Costs</u> – Civil action for damages and court costs (§173.2176.4)	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)	<u>\$0 or</u> (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act prohibits state colleges and universities from enforcing a "discriminatory ideology", defined in the act as an ideology that promotes the differential treatment of any individual or group of individuals based on immutable characteristics of race, color, religion, sex, gender, ethnicity, national origin, or ancestry.

Under the act, public institutions of postsecondary education shall not require any applicant, student, employee, or contractor to submit a diversity, equity, and inclusion statement. Public institutions of postsecondary education are further prohibited from giving preferential consideration in admissions or employment on the basis of an individual's or entity's submission of an unsolicited statement relating to a discriminatory ideology.

The provisions of the act shall not be construed to restrict academic research or coursework, nor shall the act be construed to prevent an institution from requiring an applicant to discuss the content of such applicant's research or artistic creations.

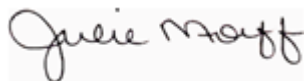
An applicant, employee, student, or contractor who is compelled to submit a diversity, equity, and inclusion statement or who is adversely affected by a violation of the act's prohibition on preferential consideration may pursue an action for injunctive or declaratory relief. An injunction granted under the provisions of the act may include an order requiring the institution to take certain actions relating to student admissions or the employment and tenure of staff members.

An employee who violates the provisions of the act shall, upon the first violation, be placed on unpaid leave for the next academic year and be ineligible for employment at any other institution in the state during such unpaid leave. Upon an employee's second violation of the act, the employee shall be terminated from employment and shall be ineligible for employment at any institution in the state for at least five years.

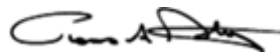
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Higher Education and Workforce Development
Department of Labor and Industrial Relations
Office of Administration
University of Missouri System
Missouri State University
Northwest Missouri State University
University of Central Missouri
Office of the State Courts Administrator



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April 15, 2024



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