

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1382S.02P
 Bill No.: Perfected SS for SB 160
 Subject: Higher Education; Religion
 Type: Original
 Date: March 4, 2025

Bill Summary: This proposal prohibits public institutions of higher learning from discriminating against religious, political, or ideological associations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight notes §173.1556.2 allows aggrieved persons to assert a violation or threatened violation as a claim in a judicial proceeding. Oversight assumes it is possible for lawsuits against state institutions paid from the Legal Expense Fund to reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Other State**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Transfers in and distributions net to zero.

** Oversight assumes it is possible for lawsuits against state institutions paid from the Legal Expense Fund to reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Federal Funds*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

* Oversight assumes it is possible for lawsuits against state institutions paid from the Legal Expense Fund to reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight assumes there could be a potential increase in claims against the community colleges which would increase litigation.

FISCAL ANALYSIS

ASSUMPTION

§§173.1555 and 173.1556 – Prohibits public institutions of higher education from discriminating against religious student associations or denying any benefit available to other student associations

Officials from the **Office of Administration** state §173.1555 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. This change will be subject to judicial construction; therefore, the cost impact to the state is unknown.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Higher Education and Workforce Development**, the **University of Missouri System**, and the **University of Central Missouri** 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.

In response to a previous version, officials from the **Northwest Missouri State University** assumed this proposal would have no fiscal impact on their organization.

In response to a previous version, officials from the **Office of the State Courts Administrator** assumed this proposal would have no fiscal impact on their organization.

Oversight notes responding colleges or universities have stated the proposal would not have a direct fiscal impact on their respective organizations. However, Oversight assumes there could be an impact from potential litigation. Oversight will show a range of impact of \$0 (no increase in claims) to an unknown cost to colleges and universities from an increase in claims that are submitted to the Legal Expense Fund for payment.

Oversight notes, based on data provided by the Office of Administration - Risk Management (OARM), there were no discrimination claims paid during FY 2024 or FY 2023. In FY 2021, there was approximately \$20,946 paid by the LEF in discrimination claims (4 discrimination

claims/\$20,946 = \$5,200 paid per claim). Based on the fact that no discrimination claims were paid during the prior two fiscal year, it is assumed the provisions of this proposal would have no fiscal impact. However, **Oversight** assumes this proposal could result in an increase in claims against colleges and universities which could impact the Legal Expense Fund. Oversight also assumes it is possible for lawsuits paid by the LEF to exceed \$250,000.

Table I: Payment data **by type** of claim in FY 2024

Type of Claim	Number of Claims	Cost of Claims
Motor Vehicle	135	\$1,066,558
Dangerous Condition of Property	16	\$113,397
Employment	109	\$11,518,389
Sunshine Law Violation	7	\$280,951
Declaratory Judgment	3	\$142,309
Civil Rights	7	\$70,557
Administrative Agency	1	\$88,324
Equitable Relief	8	\$274,289
Inmate	31	\$10,146,532
Unconstitutional State Statute	2	\$99,033
Civil Judicial Action	3	\$261,084
Statutory/Ballot Challenge	7	\$162,480
Class Action Lawsuit	1	\$134,246
Tort	20	\$370,429
Injunctive Relief	2	\$9,080
Amendment Violation	2	\$121,380
Writ of Prohibition	1	102,446
Attorney Fees	1	\$38,289
Medical Malpractice	8	\$997,360
STL & KC Police	1	\$1,000,000
Totals	365	\$26,997,132

Source - OARM

Oversight notes most LEF costs are reimbursed from the General Revenue Fund (GR). GR has paid for the majority of payments from the LEF since payments on LEF cases for agencies with

designated reimbursable funds have been relatively small. According to the OARM, broader budget authority to transfer from Federal and Other Funds beginning in FY 18 allowed for an increase of percentage of payments from Federal and Other Funds. Table II below shows LEF costs broken down for GR versus Federal Funds/Other Funds.

Table II: Legal Expense Fund payments from GR and Fed/Other

	GR	Fed/Other	Total	GR %	Fed/Other %
FY 15	\$9,197,461	\$661,555	\$9,859,016	93%	7%
FY 16	\$11,386,339	\$600,489	\$11,986,828	95%	5%
FY 17	\$19,983,784	\$4,217,582	\$24,201,366	83%	17%
FY 18	\$18,625,000	\$9,649,513	\$28,274,513	66%	34%
FY 19	\$23,542,940	\$692,718	\$24,234,953	97%	3%
FY 20	\$9,026,829	\$1,128,397	\$10,155,227	89%	11%
FY 21	\$5,427,292	\$446,485	\$5,873,777	92%	8%
FY 22	\$11,972,573	\$871,644	\$12,844,218	93%	7%
FY 23	\$24,409,567	\$535,699	\$24,945,265	98%	2%
FY 24	\$25,936,222	\$1,060,910	\$26,997,132	96%	4%
Total	\$159,508,007	\$19,864,992	\$179,372,295	89%	11%

Source: Office of Administration – Risk Management

Oversight notes the cost of any potential liability would be entirely dependent on the number of claims and circumstances of the claims filed; therefore the cost is ultimately unknown. Oversight will show a range of impact of \$0 (no increase in claims) to an unknown cost to the Legal Expense Fund with a corresponding transfer-out from General Revenue, Federal Funds or Other State Funds.

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 general listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

FISCAL IMPACT – State Government	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (§§173.1555 and 173.1556) p.5	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
OTHER STATE FUNDS			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (§§173.1555 and 173.1556) p.5	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> - from GR, Federal, and Other State Funds - potential increase in claims (§§173.1555 and 173.1556) p.5	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>	\$0 to <u>Unknown</u>
<u>Transfer Out</u> - payment of discrimination claims (§§173.1555 and 173.1556) p.5	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – State Government</u> (continued)	FY 2026 (10 Mo.)	FY 2027	FY 2028
COLLEGE AND UNIVERSITY FUNDS			
<u>Cost - Colleges and Universities -</u> Potential increase in claims (§§173.1555 and 173.1556) p.3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON COLLEGE AND UNIVERSITY FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
FEDERAL FUNDS			
<u>Cost - Potential increase in claims</u> (§§173.1555 and 173.1556) p.5	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
COMMUNITY COLLEGE FUNDS			
<u>Cost - Colleges and Universities -</u> Potential increase in claims (§§173.1555 and 173.1556) p.3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON COMMUNITY COLLEGE FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

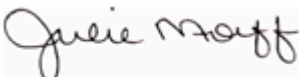
This act prohibits public institutions of higher learning, such as state colleges, community colleges, and technical schools, from taking adverse action against a student association because of the association's beliefs or the actions of its leaders. Specifically, these institutions shall not deny a belief-based student association, such as a political, ideological, or religious association, any benefits that are available to other student groups, including access to campus facilities and communication channels. A belief-based student association shall be responsible for defining its own mission, beliefs, and conduct standards. A belief-based student association may seek relief in a judicial or administrative proceeding against an institution that violates the provisions of the act.

The provisions of this act shall not apply to a belief-based student association if there is substantial evidence that such association's viewpoint or expression of the viewpoint would materially and substantially disrupt the educational environment or interfere with the rights of others, in accordance with the U.S. Supreme Court's decision in *Healy v. James* (1972).

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



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