

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1422S.01I  
Bill No.: SB 198  
Subject: Federal - State Relations; General Assembly  
Type: Original  
Date: February 11, 2025

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Bill Summary: This proposal creates a process for nullification of federal actions.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
General Revenue*	(\$107,823)	(\$126,311)	(\$128,521)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$107,823)</b>	<b>(\$126,311)</b>	<b>(\$128,521)</b>

\*Cost to DMH for an attorney FTE.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

\*Oversight assumes the potential loss of federal funds as a result of nullification could result in a substantial unknown loss that could exceed \$250,000.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
General Revenue	1 FTE	1 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</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 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Local Government	\$0	\$0	\$0

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 1.045 – Restoring State Sovereignty Through Nullification Act

Officials from the **Department of Economic Development** assume the Missouri Housing Development Commission (MHDC) must follow the federal regulations and program requirements for all MHDC authorized federal programs. If MHDC does not follow the federal regulations and program requirements utilizing the U.S Department Housing and Urban Development (HUD) tools provided, MHDC cannot administer the funds. Federal programs currently administered by MHDC include:

- Federal Low-Income Housing Tax Credit (LIHTC)-\$184M,
- HOME-\$13.5M, HOME ARP-\$45M,
- National Housing Trust Fund (NHTF)-\$3M,
- Section 811 Project Based Rental Assistance (PRA)-\$1M,
- Project Based Section 8 Contract Administration (PBCA)- \$171M, and
- Emergency Solutions Grant-\$2.8M.

The combined federal amount exceeds \$420M annually. Any federal regulation or program requirement not followed compromises receipt of the federal funding for each respective program and could potentially result in federal recapture of funds already received.

The Missouri Department of Economic Development, in order to be a recipient of federal Department of Housing and Urban Development (HUD) funding for the Community Development Block Grant (CDBG) program, is required to follow all federal regulations, as identified at 24 CFR 570 (inclusive of all cross-referenced federal regulations) as well as the requirements of the Housing and Community Development Act of 1974. A failure to comply with these regulations, regardless of whether they have been nullified by an action of the Missouri legislature, could have unknown but significant impacts on program operations. Common actions by HUD, as a result of non-compliance with federal regulatory requirements, may include but is not limited to:

- Repayment, using non-federal funding sources, of any and all costs reimbursed under the program which are found to be non-compliant with federal regulations;
- Imposition of special conditions on future grant awards to DED that would increase the cost of administering the program and make compliance more difficult for local communities acting as DED's subrecipient;
- Significant findings of non-compliance by the State Auditor, HUD monitoring, or internal audit staff resulting in a higher risk rating for federal awards; and/or
- Future CDBG allocations failing to be awarded to the State, including approximately \$24M that is awarded annually to DED as well as any future disaster recovery allocations made available by Congress.

Officials from the **Department of Health and Senior Services** assume it is impossible to determine which federal actions (current or future) would be nullified. The receipt of federal funds could be impacted by the nullification of federal actions as outlined in the legislation. Therefore, the fiscal impact is a wide range and could result in the loss of federal funding.

Section 1.045 of the proposed legislation outlines the process of nullification of federal actions.

This legislation could result in the loss of federal funding, which was \$7,291,188,852 in Fiscal Year 2024, or it could have no impact at all. It is impossible to predict what presidential executive orders may be issued. To continue the current work level, the Department would require an increase in General Revenue to offset any loss in federal funds.

Officials from the **Department of Mental Health (DMH)** assume this proposal adds section 1.405, the Restoring State Sovereignty Through Nullification Act. It provides a number of ways the state may seek to nullify a federal action. To the extent this action may be taken relating to any federal laws which govern DMH expenditure of federal funds or other restrictions, article VI, section 2 of the United States Constitution designates federal law as supreme, making this proposal's invalidation of federal law or conflict with federal law vulnerable to litigation and potential loss of federal funds to support DMH programs and facilities. For example, if any federal laws are nullified in which a federal agency such as Centers for Medicare and Medicaid Services (CMS) directs DMH to enact a policy consistent with the federal law, DMH may be bound to comply with CMS in order to continue to receive Medicare/Medicaid funding, of which DMH receives up to \$2.6 billion annually.

Additionally, DMH would require an additional attorney in the office of general counsel to support discovery, depositions, and all other matters attendant to litigation. OGC may re-evaluate and revise its response if concerns arise in the future, or upon further review of later versions of this proposal. FTE salary is \$77,350 plus fringe benefits and associated expense and equipment costs.

In summary, this bill is projected to cost DMH \$107,823 in FY 2026, \$126,311 in FY 2027, and \$128,521 in FY 2028 in GR and \$2,671,238,139 each year for FY 2026, FY 2027, and FY 2028 in Federal funding.

**Oversight** will reflect DMH's estimated impact for an attorney FTE in the fiscal note.

Officials from the **Department of Corrections** assume the proposal creates a process of nullification of federal actions.

Section 1.045 creates a nullification process wherein any member of the general assembly can introduce a bill of nullification, or any court can render a finding or a holding of nullification of any federal action which includes federal law; federal agency rule, policy, or standard; an executive order; or an order or decision by a federal court.

This legislation could potentially have an impact on future capital improvement projects that are designed under the guidelines set by the EPA. It may result in cost avoidance related to staff certifications or construction projects that require additional or special processes. If some of the latest guidelines are not required, it could reduce the cost of the project. However, the actual impact is unknown at this time as it is unknown what current or future EPA regulations would be affected.

This legislation could also affect other areas of the department. The department complies with numerous federal regulations related to family medical leave, disability, pregnancy, military, labor standards, and complies with the prison rape elimination act, etc.

In some cases, the department's compliance with a federal rule allows them to receive grant funds or for the state to receive federal funds. There is an operational impact related to what action should be taken by a state agency after the rule has been promulgated while waiting for the General Assembly to review and make a decision on its applicability and enforcement. It is unknown the actual impact that could occur from this legislation.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal could create federal UI conformity or compliance issues if the General Assembly or a Court declares all or part of the Federal UI law or regulations void. Under Subsection 6(d), employees of the Division of Employment Security could not administer that portion of the UI system.

Each year, on October 31, the Secretary of Labor certifies the state unemployment insurance programs that conform and comply substantially with federal law. (26 U.S.C. § 3304.) If, and only if, a state's unemployment insurance program is certified to be in conformity with Federal requirements, employers within the state are eligible to receive a credit against their Federal Unemployment Tax Act (FUTA) taxes. (26 U.S.C. § 3302.)

Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri could lose approximately \$38.5 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri could lose approximately \$10.9 million in federal funds each year the Department of Higher Education and Workforce Development uses for Wagner-Peyser reemployment services.

The FUTA imposes a 6.0% payroll tax on employers. Most employers never actually pay the total 6.0% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. However, if this bill causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0%, or approximately an additional \$1.16 billion per year.

Officials from the **Department of Revenue** assume it is unknown if this legislation will impact the Department. The Department issues CDLs (Commercial Drivers Licenses), and Real ID licenses/ID's, both which are governed either partially or primarily through Federal Regulation. If either of these processes are nullified by this legislation, the State could risk the loss of Federal highway funding. The first year of noncompliance is approximately \$26 million, and the second and subsequent year of noncompliance is approximately \$52 million in Federal highway funding loss.

Officials from the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Department of Commerce and Insurance** assume the proposal will have an unknown fiscal impact contingent on potential future actions of the Federal Government or future state nullification of federal actions.

**Oversight** assumes it is impossible to determine which federal actions (current or future) would be nullified. The receipt of federal funds could be impacted by the nullification of federal actions as outlined in the proposal. This proposal could result in the loss of federal funding. Therefore, Oversight will reflect a range of impact of \$0 (no loss of federal funds) to an unknown loss that could be substantial.

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 **Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Natural Resources, Department of Public Safety - Director's Office, Department of Social Services, Office of the Governor, Missouri Department of Agriculture, Missouri Department of Conservation, Missouri Department of Transportation, Office of Administration, Missouri House of Representatives, and Missouri Senate** 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.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
<b>GENERAL REVENUE</b>			
<u>Costs – DMH</u>			
Personnel Service	(\$64,458)	(\$78,897)	(\$80,475)
Fringe Benefits	(\$38,995)	(\$47,414)	(\$48,046)
Expense & Equipment	(\$4,370)	\$0	\$0
<b>Total Costs – DMH p.4</b>	<b>(\$107,823)</b>	<b>(\$126,311)</b>	<b>(\$128,521)</b>
FTE Change	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0</u> <b>(\$107,823)</b></b>	<b><u>\$0</u> <b>(\$126,311)</b></b>	<b><u>\$0</u> <b>(\$128,521)</b></b>
Estimated Net FTE Change on General Revenue	1 FTE	1 FTE	1 FTE
<b>FEDERAL FUNDS</b>			
<u>Loss – nullification of the federal action</u>	\$0 or (Unknown, could be substantial)	\$0 or (Unknown, could be substantial)	\$0 or (Unknown, could be substantial)
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u> <b>(Unknown, could be substantial)</b></b>	<b><u>\$0</u> <b>(Unknown, could be substantial)</b></b>	<b><u>\$0</u> <b>(Unknown, could be substantial)</b></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

There are over 185,000 small businesses covered by Missouri’s unemployment insurance system. Changes to Missouri’s unemployment insurance laws have the potential to increase or

decrease the amount of unemployment taxes small businesses pay depending on the state's average unemployment rate.

In addition, if the DHSS were to either lose or not receive federal monies (grants) as a result of this proposal, small business with which the department contracts to provide public health services could have certain agreements either reduced or eliminated.

### FISCAL DESCRIPTION

This act creates the "Restoring State Sovereignty Through Nullification Act". The act declares that any federal action outside the enumerated powers set forth in the United States Constitution are in violation of the peace and safety of the people of Missouri and are void and must be resisted.

According to the act, the proper manner of resistance is a state action of nullification of the federal action and the act creates a process for the General Assembly or a court to nullify the federal action within the state of Missouri.

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

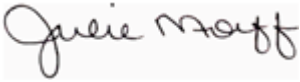
### SOURCES OF INFORMATION

Attorney General's Office  
Department of Commerce and Insurance  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Higher Education and Workforce Development  
Department of Health and Senior Services  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Public Safety – Director's Office  
Department of Social Services  
Office of the Governor  
Missouri Department of Agriculture  
Missouri Department of Conservation  
Missouri Department of Transportation  
Office of Administration



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Missouri House of Representatives  
Missouri Senate  
Office of the State Courts Administrator

A handwritten signature in cursive script that reads "Julie Morff". The signature is written in black ink on a light-colored background.

Julie Morff  
Director  
February 11, 2025

A handwritten signature in cursive script that reads "Jessica Harris". The signature is written in black ink on a light-colored background.

Jessica Harris  
Assistant Director  
February 11, 2025