

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4416H.011
 Bill No.: HB 2587
 Subject: Economic Development; Department of Economic Development; Business and
 Commerce
 Type: Original
 Date: February 23, 2022

Bill Summary: This proposal establishes the “Regulatory Sandbox Act.”

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund*	Unknown to Could Exceed (\$201,053)	Unknown to Could Exceed (\$235,092)	Unknown to Could Exceed (\$239,202)
Total Estimated Net Effect on General Revenue	Unknown to Could Exceed (\$201,053)	Unknown to Could Exceed (\$235,092)	Unknown to Could Exceed (\$239,202)

*Oversight notes that this proposal provides for waiving of regulations (depending upon sandbox participants) potentially resulting in a loss to general revenue, various state funds, and to local political subdivisions. Additionally, this proposal will require certain FTE that could potentially result in an impact to the General Revenue. Lastly, the positive amount shown represents payment for application fees (\$5,000) which must be paid on order to participate in the Sandbox program.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Various State Funds	\$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.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

- 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 Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning** note:

An applicant shall remit to the regulatory relief office an application fee of five thousand dollars per application for each innovative offering. It is not specified in the bill where this money will be deposited, therefore B&P assumes it will be GR. This will have an unknown positive impact on GR and TSR.

This bill would also provide that during the demonstration period, a sandbox participant shall not be subject to the enforcement of state laws or regulations identified in the written agreement between the regulatory relief office and the sandbox participant. There is not enough information on what laws or regulations may be waived or what impact the waiver will have on TSR.

Oversight notes that an applicant shall remit to the regulatory relief office an application fee of five thousand dollars per application for each innovative offering. Therefore, Oversight will reflect a potential positive fiscal impact on State Funds for this application fee.

Oversight, for the purpose of this fiscal note, retrieved average patent filings in the State of Missouri to estimate how many entrepreneurs would potentially be participating in this pool. According to the [U.S. Patent and Trademark Office](#) – Patent Technology Monitoring Data (PTMT) there were on average 868 patents filed by Missourians annually between FY 2000 to FY 2015.

Oversight notes that the proposal assesses a \$5,000 fee that must be paid in order to participate in this program. Oversight assumes that the fee structure could potentially result in additional revenue of \$4.33M (\$5,000 x 868 potential innovative entrepreneurs). Therefore, for purpose of this fiscal note, **Oversight** will reflect a positive unknown amount to the General Revenue Fund

Oversight assumes that the fee paid to participate will be remitted to the GR, for purpose of this fiscal note, and as shown above the amounts collected could potentially exceed \$250,000.

Officials from the **Department of Revenue (DOR)** note:

The proposal would create a new government entity, the “regulatory relief office,” which may enter into agreements to essentially waive the requirements of Missouri’s statutes and regulations on certain participating businesses. The proposal directs the regulatory relief office to consult with applicable agencies, including concerning whether the applicable agency has previously investigated, sanctions, or pursued legal action against the applicant. The proposed legislation prohibits these agreements from exempting an applicant “from any income, property, or sales tax liability unless such applicant otherwise qualifies for an exemption from such tax.”

Should a participant in this program, be allowed to not pay taxes this will impact state revenue and DOR. DOR has numerous other tax types besides the income tax and sales tax exempted under this proposal. Examples include, withholding tax, tire and battery fee taxes, use taxes and more that do not appear protected under this proposal. Additionally, this regulatory relief office is given authority to waive state law and regulations. DOR is concerned this would result in filing deadlines being moved or changed for some filers and not others or payments being waived.

Additionally, this proposal requires the agencies to provide information on DOR's relationships with a participating business to the regulatory relief office. Some of this information is currently protected under DOR's confidentially laws.

At this time, DOR is unable to estimate a fiscal impact from this proposal. DOR could possibly need additional FTE to work with the regulatory relief office depending on the number of participants, as well as have losses to revenue if participants are allowed to not pay taxes.

Oversight notes DOR assumes the proposal would allow for selected companies, who participate in the Sandbox program, to receive relief from various taxes which would have an effect on General Revenues and Other State Funds. Additionally, the DOR assumes the need for additional FTE to ensure compliance with this proposal. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a potential (\$0 or) unknown negative impact to the General Revenue and Other State Funds, as a result of reduction in a various tax revenues and potential FTE's costs, in the fiscal note.

Officials from the **Department of Economic Development (DED)** assume the proposal states that the regulatory relief office will be administered by a sandbox program director. DED has estimated personal service costs by taking a mid-range salary of a typical Program Director (Designated Principal Assistant) at DED who oversees an office but does not supervise staff. DED also believes additional review (e.g., reviews of state laws) would require a legal counsel FTE. If DED determines that additional staff are needed to administer the sandbox program, DED will request additional FTE through the normal budget process.

Oversight notes that DED assumes the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect an unknown cost for the DED's FTE's in the fiscal note.

Officials from the **Missouri Department of Conservation (MDC)** assume the proposal will have an unknown fiscal impact on their organization and could potentially affect MDC funds.

Oversight notes that the Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution, thus MDC's sales taxes are constitutional mandates.

Additionally, **Oversight** notes the Park, Soil, and Water Sales Tax funds are derived from the one-tenth of one percent sales and use tax pursuant to Article IV Section 47 (a) thus DNR's sales taxes are constitutional mandates. Therefore, Oversight will reflect the fiscal impact estimates for DNR's funds. Therefore, **Oversight** will reflect the MDC's and DNR's fiscal impact estimates in the fiscal note.

Officials from the **Department of Commerce and Insurance (DCI)** assume the proposal, specifically Sections 620.3900 - 620.3930 would have an unknown impact to DCI depending on the number of businesses and individuals that would request to participate in the Sandbox Program.

Oversight notes that DCI assumes this proposal would have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a negative unknown impact to various state funds in the fiscal note.

Oversight notes that there are few examples of various agency costs in similar Sandbox proposals filed in the States of Utah, Ohio, Nebraska, Nevada, and the Arizona. Each fiscal note addresses the difficulty of projecting any costs associated with the proposals. However, recent fiscal note submitted to the Nebraska Legislature for consideration of similar bill LB 1127 ([Nebraska Sandbox proposal - 2022](#)) from various agencies claiming costs associated with the proposal, are provided in the [Table 1](#).

Oversight notes that the Missouri Sandbox proposal requires, among other duties, the Administrator to:

- Act as a Liaison between private businesses and agencies of the State
- Consult with each affected agency
- Establish Program to enable a person to obtain legal protections
- Review State Laws
- Create a framework for analyzing the risk level of the health, safety, and financial well-being of consumers
- Propose and enter into reciprocity agreements
- Enter into agreements with or adopt best practices of corresponding federal regulatory agencies and other states
- Create and maintain the Department's website
- Create and submit annual reports to the governor and general assembly

Oversight notes that there are many other duties required from the Sandbox Office under this proposal. Therefore, it is probable that the agencies tasked with the regulatory implementation of this program, such as DOR or DED, will need additional FTEs in order to provide the regulatory framework and compliance procedures for this Act.

Oversight notes that Missouri population is at least 3 times greater (6.6M – Missouri population / 1.94M – Nebraska Population) than that of Nebraska, thus the costs could potentially reach a

higher level of expenditure in Missouri. Therefore, for purpose of this fiscal note, **Oversight** will note an unknown negative impact to the General Revenue and Other State Funds, which could potentially exceed \$250,000 in various FTE and forgone tax revenue costs to various state funds in the fiscal note.

Table 1.

AGENCY	FY 2023	FY 2024
Department of Economic Development	\$ 520,380.00	\$ 641,930.00
Department of Banking and Finance	\$ 223,025.00	\$ 215,325.00
Board of Engineers and Architects	\$ 3,300.00	\$ 3,300.00
Department of Environment and Energy	\$ 202,371.00	\$ 202,371.00
Department of Agriculture	\$ 77,500.00	\$ 77,500.00
Liquor Control Commission NFI NFI	No Fiscal Impact	No Fiscal Impact
Motor Vehicle Industry Licensing Board No discernable impact No discernable impact	No Discernable impact	No Discernable impact
Nebraska State Electrical Division Indeterminable Indeterminable	Indeterminable	Indeterminable
Board of Barber Examiners Indeterminable Indeterminable	Indeterminable	Indeterminable
Attorney General NFI NFI	No Fiscal Impact	No Fiscal Impact
Nebraska Real Estate Commission Negligible to significant Negligible to significant	Negligible to Significant	Negligible to Significant
Supreme Court NFI NFI	No Fiscal Impact	No Fiscal Impact
Department of Labor NFI NFI	No Fiscal Impact	No Fiscal Impact
Department of Administrative Services	\$ 71,200.00	\$ 77,000.00
Department of Insurance	\$ 168,900.00	\$ 173,317.00
Total	\$ 1,127,776.00	\$ 1,217,426.00
FTE total	9.5	10.5

Officials from the **Attorney General’s Office, Office of Administration – Administrative Hearing Commission, Office of Administration – Director’s Office, Missouri Department of Transportation, Department of Natural Resources,** and the **Office of the State Auditor** each assume the proposal will have no fiscal impact on their 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, City of O’Fallon, City of Springfield,** and the **City of Claycomo** each assume this proposal would not have a direct 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 local political subdivisions.

Oversight notes each county and city assess sales or use tax on the sale of goods in Missouri. The tax remitted to a various local political subdivisions serves the local political subdivision needs. DOR assume the companies could receive relief from various taxes. This could have an effect on the local political subdivisions. Therefore, **Oversight** will note a potential unknown negative impact to the local political subdivision funds in the fiscal note, depending upon sandbox participants and applications.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes SOS is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes SOS could absorb the costs related to this proposal. Therefore, Oversight will reflect zero fiscal impact on the fiscal note for above agency.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Revenue Gain</u> – \$5,000 Fee Paid to participate in the program (p.3) §620.3915.2	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost</u> – Reduction in Revenues – various tax not paid (p.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost</u> – DOR– FTE necessary to comply with the proposal (p.5)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> – DED FTE			
Personnel Service	(\$118,757)	(\$145,358)	(\$148,265)
Fringe Benefits	(\$64,469)	(\$78,318)	(\$79,293)
Expense & Equipment	(\$17,827)	(\$11,416)	(\$11,644)
<u>Total Costs</u> -	<u>(\$201,053)</u>	<u>(\$235,092)</u>	<u>(\$239,202)</u>
FTE Change	2 FTE	2 FTE	2 FTE
NET EFFECT ON THE GENERAL REVENUE FUND	<u>Unknown to Could exceed (\$201,053)</u>	<u>Unknown to Could Exceed (\$235,092)</u>	<u>Unknown to Could Exceed (\$239,202)</u>
<u>FISCAL IMPACT – State Government (continued)</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
OTHER STATE FUNDS			
<u>Loss of Revenues</u> - to various State Funds – various tax not paid (p.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
NET EFFECT ON THE OTHER STATE FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Loss of Revenues</u> - to various local funds –various tax not paid (p.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT – Small Business

Small businesses, who will participate in the Sandbox program, will be able to receive potential tax reductions resulting in revenue gains.

FISCAL DESCRIPTION

This bill establishes the "Regulatory Sandbox Act", which creates the Regulatory Relief Office within the Department of Economic Development. The Regulatory Relief Office shall administer the provisions of the bill with the purpose of identifying state laws or regulations that could potentially be waived or suspended for participating businesses during a 24 month period in which the participating business demonstrates an innovative product offering to consumers.

The Regulatory Relief Office shall maintain a web page on the Department's website that invites residents and businesses to make suggestions regarding laws and regulations that could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state (Section 620.3905, RSMo).

The Regulatory Relief Office shall be responsible for evaluating and approving or denying applications to participate in the Sandbox Program. An applicant shall submit an application along with a \$5,000 application fee to the Regulatory Relief Office, which shall include contact information and a description of the innovative offering to be demonstrated, including statements regarding how the innovative offering is subject to licensing, legal prohibition, or other authorization requirements outside of the Sandbox Program; each law or regulation that the applicant seeks to have waived or suspended while participating in the Sandbox Program; how the innovative offering would benefit consumers; what risks might exist for consumers who use or purchase the innovative offering; and other required information, as described in the bill.

No later than five business days after the day on which a completed application is received by the Regulatory Relief Office, the Office shall review the application and refer the application to each applicable agency, as defined in the bill that regulates the applicant's business. No later than 30 days after the day on which an applicable agency receives a completed application for review, the applicable agency shall provide a written report to the Sandbox Program director with the

applicable agency's findings, including any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against, and a recommendation to the Regulatory Relief Office that the applicant either be admitted or denied entrance into the Sandbox Program. An applicable agency may deny an application for reasons described in the bill. The Regulatory Relief Office shall not approve any application denied by an applicable agency (Section 620.3915).

Upon the receipt of a report from all applicable agencies, the Regulatory Relief Office shall provide the application and associated reports to the "General Regulatory Sandbox Program Advisory Committee", which is created by the bill. The Advisory Committee shall be composed of eight members, as described in the bill including one member of the House of Representatives appointed by the Speaker, one member of the Senate appointed by the President Pro Tem and three members of the public or an institution of higher education appointed one each by the Governor, the President Pro Tem, and the Speaker. The Advisory Committee shall advise and make recommendations to the Regulatory Relief Office on whether to approve applications to the Sandbox Program, and may meet at its own discretion to override a decision of the Regulatory Relief Office on the admission or denial of an applicant to the Sandbox Program, provided such override is decided with a majority vote of the members of the Advisory Committee, and further provided that such vote shall be taken within 10 business days of the Regulatory Relief Office's decision. Meetings of the Advisory Committee shall not be considered public meetings for the purposes of the Sunshine Law (Section 620.3910).

Upon approval of an application, a Sandbox participant shall have 24 months after the day on which its application was approved to demonstrate the innovative offering described in the Sandbox participant's application. During such period, the Sandbox participant shall be exempt from the laws and regulations outlined in an agreement entered into with the Regulatory Relief Office. Innovative offerings shall only be available to consumers who are residents of this state, and no law or regulation shall be waived or suspended if such waiver or suspension would prevent a consumer from seeking restitution in the event that the consumer is harmed. A Sandbox participant shall not be subject to prosecution or administrative penalty for a violation of any law or regulation that is waived or suspended during the duration of the participant's demonstration period (Section 620.3920).

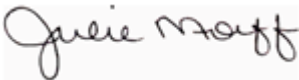
No later than 30 days after a Sandbox participant exits the Sandbox Program, such participant shall submit a written report describing an overview of the demonstration. No later than 30 days after receiving such report, an applicable agency shall provide a written report to the Regulatory Relief Office that describes any statutory or regulatory reform the applicable agency recommends (Section 620.3930).

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

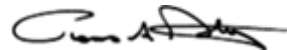
SOURCES OF INFORMATION

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Attorney General's Office
Office of Administration – Budget & Planning
Office of Administration – Administrative Hearing Commission
Office of Administration
Missouri Department of Conservation
Department of Natural Resources
Department of Revenue
Missouri Department of Transportation
Joint Committee on Administrative Rules
Office of the Secretary of State
City of Kansas City
City of O'Fallon
City of Springfield
City of Claycomo



Julie Morff
Director
February 23, 2022



Ross Strobe
Assistant Director
February 23, 2022