

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4931S.01I
 Bill No.: SB 1068
 Subject: Administrative Rules; Department of Economic Development; Economic Development; Boards, Commissions, Committees and Councils
 Type: Original
 Date: March 7, 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 in 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 gain 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, sanctioned, 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 confidentiality 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 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 in the fiscal note.

In response to a similar version of the bill (HB 2587), officials from the **Missouri Department of Conservation (MDC)** assumed 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

In response to a similar version of the bill (HB 2587), officials from **Attorney General’s Office (AGO)** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a zero impact in the fiscal note for the AGO.

Officials from the **Office of Administration – Administrative Hearing Commission**, the **Office of Administration – Director’s Office**, the **Missouri Department of Transportation**, the **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** and the **City of Springfield** both 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.

Rule Promulgation:

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 (p.4)			
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>
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.6,7)	\$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 act 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 act with the purpose of identifying state laws or regulations that could potentially be waived or suspended for participating businesses during a two-year 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)

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; and what risks might exist for consumers who use or purchase the innovative offering, as described in the act.

Upon approval of an application, a sandbox participant shall have twenty-four 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)

Prior to demonstrating an innovative offering, a sandbox participant shall disclose certain information to consumers, as described in the act. (Section 620.3925)

At least thirty days prior to the end of a participant's demonstration period, the participant shall notify the Regulatory Relief Office that it either intends to exit the Sandbox Program or that it seeks an extension. The Regulatory Relief Office may grant an extension not to exceed twelve months, and a participant may seek multiple extensions.

If a demonstration includes an innovative offering that requires ongoing services or duties beyond the two-year demonstration period, the participant may continue to demonstrate the offering, but shall be subject to all laws and regulations that were waived or suspended as part of the Sandbox Program.

A sandbox participant shall retain certain records for a period of two years after exiting the Sandbox Program.

The Regulatory Relief Office shall establish quarterly reporting requirements for each participant, and each participant shall notify the Regulatory Relief Office and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.

No later than thirty 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 thirty 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

Office of Administration – Budget & Planning

Office of Administration – Administrative Hearing Commission

Office of Administration

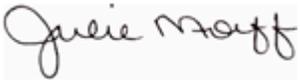
Missouri Department of Conservation

Department of Natural Resources

Department of Revenue

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Missouri Department of Transportation
Joint Committee on Administrative Rules
Office of the Secretary of State
City of Kansas City
City of Springfield



Julie Morff
Director
March 7, 2022



Ross Strobe
Assistant Director
March 7, 2022