

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3126H.01I
 Bill No.: HB 1960
 Subject: Business And Commerce
 Type: Original
 Date: January 9, 2024

Bill Summary: This proposal establishes the Regulatory Sandbox Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund*	Unknown to Could Exceed (\$223,337)	Unknown to Could Exceed (\$260,254)	Unknown to Could Exceed (\$264,836)
Total Estimated Net Effect on General Revenue	Unknown to Could Exceed (\$223,337)	Unknown to Could Exceed (\$260,254)	Unknown to Could Exceed (\$264,836)

*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 would require DOR & DED FTE that would impact the General Revenue Fund. Lastly, the positive amount shown represents payment for application fees (\$300) which must be paid on order to participate in the Sandbox program.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 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
General Revenue Fund	Could Exceed 2 FTE	Could Exceed 2 FTE	Could Exceed 2 FTE
Total Estimated Net Effect on FTE	Could Exceed 2 FTE	Could Exceed 2 FTE	Could Exceed 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 2025	FY 2026	FY 2027
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development (DED)** note:

Section 620.3900 creates the Regulatory Sandbox Act.

Section 620.3905.1 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 Section 620.3905 creates "Regulatory Relief Office" within DED, which shall be administered by the sandbox program director who is responsible for:

- a) Administration of Sandbox Program
- b) Act as Liaison between business and agencies
- c) Establishing Program
- d) Enabling a person to obtain monitored access to the market in the state along with legal protections
- e) Review State Law and Regulations that may inhibit innovative business
- f) Create a framework for analyzing the risk level of the health, safety, and financial well-being of consumers
- g) Provide general assembly with reports

Oversight notes that there are many other duties that Regulatory Relief Office must perform and maintain.

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 DED's FTE costs for Division Program Director at \$86,960 and Legal Counsel at \$67,946 annually, in the fiscal note.

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. This office is allowed to make suggestions as to which state laws and regulations are burdensome but does not define burdensome. This is concerning for DOR as most people would consider taxes burdensome. Depending on the laws waived this

could result in increased costs to DOR for tracking these participants and changes to our individual income tax system. These computer changes are estimated at \$7,193.

The proposal directs the regulatory relief office to consult with applicable agencies, regarding the acceptance of the applicant in the sandbox and the agreement of rules to be waived. The agencies are asked to notify the office if the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant. The office is allowed to enter into agreement with the applicant to participate in the sandbox and have rules waived. 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.” This may require DOR to provide information on our 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 determine if there are additional costs from this provision.

This proposal says that the sandbox agreement cannot exempt an applicant from income, property, or sales tax liability. Property tax is handled by the State Tax Commission. 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, marijuana taxes and more that do not appear protected under this proposal. Allowing participants in the program to not pay taxes will result in a loss of state and local revenue.

This proposal gives the regulatory relief office authority to waive state law and regulations. DOR is concerned this would result in filing deadlines being moved or changes for some filers and not others, or payments being waived. This would result in a negative fiscal impact to state and local revenue.

At this time, DOR is unable to estimate an exact 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 state and local 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 unknow effect on General Revenue 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. Additionally, Oversight will reflect a potential FTE costs, in the fiscal note beginning FY 2025.

Officials from the **Office of Administration – Budget & Planning (B&P)** note:

Section 620.3915 -- An applicant shall remit to the regulatory relief office an application fee of three hundred 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.

620.3915 -- An applicant shall remit to the regulatory relief office an application fee of three hundred 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 Section 3915.2 requires an applicant remit, to the regulatory relief office, an application fee of \$300 per application for each innovative offering. Therefore, **Oversight** will reflect a potential positive fiscal impact on State Funds for this application fee.

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 the officials from the DCI assume this proposal would have a direct fiscal impact on other areas of 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.

In response to the similar proposal, HCS for HB 268 (2023), 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.

Officials from the **Missouri Department of Agriculture (MDA)** assume the proposal, specifically Section 620.3905.2(4) could result in a loss of fee funds to the Missouri Department of Agriculture. If fees are not required to be paid in accordance with current regulations, guidelines, and policies, the fee-fund revenue to the Department could substantially decrease. The fee funds support many FTE within MDA, in accordance with their respective divisions and the fees associated with such; therefore, the loss of fee funds could result in the need for reductions in staff due to unavailability of funding. This loss in fee-fund revenue will result in a need for general revenue to support these necessary positions across the state of Missouri.

Oversight notes officials from the MDA assume the proposal could have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a \$0 to Unknown negative impact for MDA, for various state funds, in the fiscal note.

Officials from the **Office of Administration (OA)** assume this bill appears to establish the Regulatory Relief Office within the Department of Economic Development. It is assumed that the Office of Administration -Division of Personnel's team members would be required to provide assistance in establishing the new division.

The fiscal impact of this bill is determined by the total number of hours estimated (10 hours) multiplied by the average salary of Division of Personnel team members (\$30.40) plus the added cost to update MoCareers, the State's centralized application platform (\$300.00). Therefore, the total fiscal impact would be \$604.

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, a 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 there are many other duties required from the Regulatory Relief 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 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 the similar proposal, HCS for HB 268 (0551) 2023, officials from the **Missouri State Senate** assumed the proposal will have a negative fiscal impact to the senate contingent appropriation to reimburse 2 senators for travel to meetings of the General Regulatory Sandbox Program Advisory Committee. In summary, it will cost approximately \$281.60 per meeting.

Oversight notes the Missouri State Senate assumes no fiscal responsibility for the other committee members.

Oversight notes that Missouri State Senate assume the proposal will have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a negative fiscal impact in the fiscal note.

Officials from the **Attorney General's Office**, the **Office of Administration - Administrative Hearing Commission**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety – Director's Office**, the **Governor's Office**, the **Missouri Department of Transportation**, the **State Treasurer Office**, the **University of Missouri System**, and the **Northwest Missouri University** each assume 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 above organizations.

In response to the similar proposal, HCS for HB 268 – 2023, officials from the the **Office of Administration**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Missouri Department of Transportation**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Public Safety (the Alcohol & Tobacco, the Capital Police, the Fire Safety, the Director's Office, the Gaming Commission, the National Guard, the Highway Patrol, the Veterans Commission, the State Emergency Management Agency)**, the **Missouri House of Representatives**, the **Missouri Ethics**

Commission, the Missouri Department of Transportation, the Office of the State Public Defender, the Missouri Department of Transportation – Patrol Employees Retirement System, the Missouri House of Representatives, the Joint Committee on Education, the Joint Committee on Public Employee Retirement, the Legislative Research, the Missouri Lottery, the Missouri Consolidated Health Care Plan, the Missouri Higher Education Loan Authority, the Missouri Office of Prosecution Services, the Missouri State Employee's Retirement System, the State Tax Commission, and the Office of the State Auditor each assumed 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 **City of Kansas City** assume 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.

In response to the similar proposal, HCS for HB 268 – 2023, the **City of O'Fallon, the City of Springfield, the Metropolitan St. Louis Sewer District - 7B Sewer, and the Wayne County Pwsd #2** each assumed 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 many counties, cities and special districts assess sales or use tax on the sale of goods in Missouri. The tax remitted to various local political subdivisions serves the local political subdivision needs. DOR notes that although sales taxes and property taxes may not be waived other local taxes and fees may be waived. DOR assumes the companies could receive relief from various local taxes and fees. This could have an effect on the local political subdivisions. Therefore, **e** will note a potential unknown negative impact to the local political subdivision funds in the fiscal note, depending upon sandbox participants and applications.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Revenue Gain</u> – \$300 Fee Paid to participate in the program (p.4-5) §620.3915.2	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Revenue Reduction</u> – potential for various taxes and fees 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.4)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> – Section 620.3905. 2 FTE Legal Counsel & Program Director			
Personnel Service	(\$129,088)	(\$158,004)	(\$161,164)
Fringe Benefits	(\$74,269)	(\$90,281)	(\$91,464)
Expense & Equipment	(\$19,980)	(\$11,969)	(\$12,208)
<u>Total Costs - DED</u>	<u>(\$223,337)</u>	<u>(\$260,254)</u>	<u>(\$264,836)</u>
FTE Change	2 FTE	2 FTE	2 FTE
NET EFFECT ON THE GENERAL REVENUE FUND	<u>Unknown to Could exceed (\$223,337)</u>	<u>Unknown to Could Exceed (\$260,254)</u>	<u>Unknown to Could Exceed (\$264,836)</u>
Estimated Net FTE Change on General Revenue	Could Exceed 2 FTE	Could Exceed 2 FTE	Could Exceed 2 FTE
OTHER STATE FUNDS			
<u>Loss of Revenues</u> - to various State Funds – various tax or fees not paid DNR, MDC, DCI, MDA (p.5,6)	\$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 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Reduction</u> – loss to a various local funds –various tax and fees not paid (p.5,9)	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses, who will participate in the Sandbox program, will be able to receive potential tax and reductions resulting in lower costs of doing business and/or 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 will administer the provisions of the bill with the purpose of identifying state 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 must maintain a web page on the Department's website that invites residents and businesses to make suggestions regarding 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 will be responsible for evaluating and approving or denying applications to participate in the Sandbox Program. An applicant must submit an application along with a \$300 application fee to the Regulatory Relief Office, which must 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 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 bill.

Upon the receipt of a report from all applicable agencies, the Regulatory Relief Office must provide the application and associated reports to the General Regulatory Sandbox Program

Advisory Committee, which is established by the bill. The Advisory Committee will be composed of 11 members, as described in the bill including two members of the House of Representatives, one appointed by the Speaker and one appointed by the Minority Leader of the House, and two members of the Senate, one appointed by the President Pro Tem and one appointed by the Minority Leader of the Senate. 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 two-thirds majority vote of the members of the Advisory Committee, and further provided that such vote shall be taken within 15 business days of the Regulatory Relief Office's decision. Meetings of the Advisory Committee will be considered public meetings for the purposes of the Sunshine Law (Section 620.3910).

Upon approval of an application, a Sandbox participant will 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 regulations outlined in an agreement entered into with the Regulatory Relief Office.

Innovative offerings will only be available to consumers who are residents of this state, and no regulation can 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 will not be subject to prosecution or administrative penalty for a violation of any 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 must disclose certain information to consumers, as described in the bill (Section 620.3925).

At least 45 days prior to the end of a participant's demonstration period, the participant must notify the Regulatory Relief Office with the intention to exit the Sandbox Program or seek an extension. The Regulatory Relief Office can grant an extension not to exceed 12 months, and a participant can seek multiple extensions. If a demonstration includes an innovative offering that requires ongoing services or duties beyond the two-year demonstration period, the participant can continue to demonstrate the offering, but will be subject to all regulations that were waived or suspended as part of the Sandbox Program, provided that any participant that receives an extension to the demonstration period will not be subject to the waived or suspended regulations until after the end of the extended demonstration period.

A Sandbox participant must 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

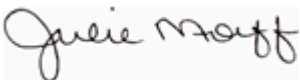
agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.

No later than 45 days after a Sandbox participant exits the Sandbox Program, such participant must submit a written report describing an overview of the demonstration. No later than 30 days after receiving such report, an applicable agency must provide a written report to the Regulatory Relief Office that describes any statutory or regulatory reform the applicable agency recommends (Section 620.3930).

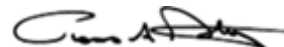
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration
Office of Administration – Budget & Planning
Office of Administration – Administrative Hearing Commission
Department of Economic Development
Missouri Department of Conservation
Missouri Department of Agriculture
Department of Commerce and Insurance
Attorney General’s Office
Department of Labor and Industrial Relations
Department of Public Safety – Director’s Office
Governor’s Office
Missouri Department of Transportation
State Treasurer Office
University of Missouri System
Northwest Missouri University
City of Kansas City



Julie Morff
Director
January 9, 2024



Ross Strobe
Assistant Director
January 9, 2024