

FIRST REGULAR SESSION

HOUSE BILL NO. 1169

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOUX.

2292H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 23.050, 23.140, 23.150, 23.153, 23.170, 32.057, and 610.032, RSMo, and to enact in lieu thereof nine new sections relating to the joint committee on legislative research, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 23.050, 23.140, 23.150, 23.153, 23.170, 32.057, and 610.032, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 23.050, 23.140, 23.145, 23.150, 23.153, 23.154, 23.170, 32.057, and 610.032, to read as follows:

23.050. 1. **As used in this chapter, the term "oversight report" means any fiscal note, program review, program evaluation, analytic study, program report, recommendation, sunset review, or any other official written analysis provided by the oversight division.**

2. The committee may obtain information upon the needs, organization, functioning, efficiency and financial status of any department of state government or of any institution or agency which is supported in whole or in part by revenue of the state; collect and assemble information concerning the revenue of the state and the tax resources of the state and upon questions of statewide interest which may reasonably become subjects of legislative action or of legislative consideration; make available such information as is requested by any member or member-elect of the general assembly. **Any information provided to the oversight division of the joint committee on legislative research shall be subject to the provisions of section 105.055.**

3. **No confidentiality law or privilege may be asserted by any governmental entity, elected official, or political subdivision to avoid sharing information with the committee**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 that is relevant to an oversight report. Any confidentiality law requiring a specific grant
17 to provide information is satisfied by this section. The committee shall maintain any
18 confidentiality required by such privilege and shall not waive such privilege. Compliance
19 with this chapter shall not waive privilege or confidentiality as to any other governmental
20 entity.

21 **4. The committee is also specifically authorized to receive, inspect, review, possess,**
22 **and maintain information protected from disclosure by section 32.057. It shall be unlawful**
23 **for the committee, any officer, employee, agent, or deputy or former director, officer,**
24 **employee, agent, or deputy of the committee; any person engaged or retained by the**
25 **committee on an independent contract basis; any person to whom authorized or**
26 **unauthorized disclosure is made by the committee; or any person who lawfully or**
27 **unlawfully inspects any report or return filed with the department of revenue or to whom**
28 **a copy, an abstract or a portion of any report or return is furnished by the committee to**
29 **make known in any manner to permit the inspection or use of or to divulge to anyone any**
30 **information relative to any such report or return, any information obtained by an**
31 **investigation conducted by the committee in the discharge of official duty, or any**
32 **information received by the committee in cooperation with the United States or other states**
33 **in the enforcement of the revenue laws of this state. Such confidential information is**
34 **limited to information received under section 32.057 in connection with the administration**
35 **of the tax laws of this state.**

36 [~~2.~~] 5. The committee shall compile a report of its activities and a detailed account of its
37 expenditures for submission to the general assembly, which report shall be completed at least
38 thirty days prior to the convening of each regular session of the general assembly. The report
39 shall be mailed to the post-office address of each member of the present and forthcoming general
40 assembly and a copy of the report shall be submitted to each state elective officer. The report
41 shall include any recommendations for legislative action as well as any recommendations which
42 the committee desires to make concerning the efficient and economical operation of the state
43 government.

23.140. 1. Legislation, with the exception of appropriation bills, introduced into either
2 house of the general assembly shall, before being acted upon, be submitted to the oversight
3 division of the committee on legislative research for the preparation of a fiscal note. The staff
4 of the oversight division shall prepare a fiscal note, examining the items contained in subsection
5 2 and such additional items as may be provided either by joint rule of the house and senate or by
6 resolution adopted by the committee or the oversight subcommittee.

7 2. The fiscal note shall state:

- 8 (1) The ~~[eost]~~ **estimated fiscal impact** of the proposed legislation to the state for the
9 next ~~[two]~~ **three** fiscal years, **including:**
- 10 (a) **Net direct fiscal impact on general revenue funds;**
 - 11 (b) **Net direct fiscal impact on other state funds;**
 - 12 (c) **Net direct fiscal impact on federal funds;**
 - 13 (d) **Net direct fiscal impact on full-time equivalent employees;**
 - 14 (e) **Net direct fiscal impact on local funds;**
 - 15 (f) **Maximum estimated utilization of tax credits and deductions; and**
 - 16 (g) **Other parameters as adopted by the oversight subcommittee;**
- 17 (2) Whether or not the proposed legislation will establish a program or agency that will
18 duplicate an existing program or agency;
- 19 (3) Whether or not there is a federal mandate for the program or agency;
- 20 (4) Whether or not the proposed program or agency will have significant direct fiscal
21 impact upon any political subdivision of the state;
- 22 (5) Whether or not any **changes to existing physical facilities, or any** new physical
23 facilities will be required; and
- 24 (6) Whether or not the proposed legislation will have an economic impact on small
25 businesses. For the purpose of this subdivision "small business" means a corporation,
26 partnership, sole proprietorship or other business entity, including its affiliates, that:
- 27 (a) Is independently owned and operated; and
 - 28 (b) Employs fifty or fewer full-time employees;
- 29 (7) **A detailed fiscal analysis, including:**
- 30 (a) **Assumptions;**
 - 31 (b) **Sources of information; and**
 - 32 (c) **Full cost of implementation, if greater than three years; and**
 - 33 (8) **An indicator of the amount of resources available to create the fiscal note**
34 **including, but not limited to:**
 - 35 (a) **The amount of information available;**
 - 36 (b) **The relevance of information available;**
 - 37 (c) **The age of information available; and**
 - 38 (d) **The amount of time available to analyze the bill and create a fiscal note.**
- 39 3. The fiscal note for a bill shall accompany the bill throughout its course of passage.
40 No member of the general assembly, lobbyist or persons other than oversight division staff
41 members shall participate in the preparation of any fiscal note unless the communication is in
42 writing, with a duplicate to be filed with the fiscal note or unless requested for information by
43 the fiscal analyst preparing the note. Violations of this provision shall be reported to the

44 chairman of the legislative research committee and subject the fiscal note and proposed bill to
45 subcommittee review. Once a fiscal note has been signed and approved by the director of the
46 oversight division **and the corresponding bill has been perfected**, the note shall not be
47 changed or revised without prior approval of the chairman of the legislative research committee,
48 except to reflect changes made in the bill it accompanies, or to correct patent typographical,
49 clerical or drafting errors that do not involve changes of substance, nor shall substitution be made
50 therefor. Appeals to revise, change or to substitute a fiscal note shall be made in writing by a
51 member of the general assembly to the chairman of the legislative research committee and a
52 hearing before the committee or subcommittee shall be granted as soon as possible. Any
53 member of the general assembly, upon presentation of new or additional material, may, within
54 three legislative days after the hearing on the request to revise, change or substitute a fiscal note,
55 request one rehearing before the full committee to further consider the requested change. The
56 subcommittee, if satisfied that new or additional material has been presented, may recommend
57 such rehearing to the full committee, and the rehearing shall be held as soon as possible
58 thereafter.

59 4. The director of the division, hereinafter provided for, or the director's designees, shall
60 seek information and advice from the affected department, division or agency of state
61 government and shall call upon the research staffs of the house of representatives and of the
62 senate, and upon the staffs of the house and senate appropriations committees for assistance in
63 carrying out fiscal notes and evaluations of programs selected by the committee, during the
64 interim, and each staff shall supply such information or advice as it deems appropriate in
65 response to the inquiry. The state auditor shall, upon request, cooperate and provide assistance
66 in the conduct of audits and the preparation of reports made in connection therewith.

**23.145. The joint committee on legislative research shall prepare a report each year
2 that includes a review of all fiscal notes for bills truly agreed to and finally passed during
3 the prior calendar year. The review shall compare the projected fiscal impact of the
4 implemented legislation to the actual fiscal impact since the bill's implementation. All
5 comparisons shall be sent to the general assembly in a report.**

23.150. 1. The committee on legislative research shall organize an oversight division
2 to prepare fiscal notes and to conduct program evaluations of state agencies, including program
3 evaluations involving budget transparency and accountability. The committee may form a
4 **personnel** subcommittee of not less than six members to provide ~~[direct supervision of]~~
5 **recommendations to the committee about** the personnel and practices of the division. The
6 subcommittee shall consist of one-half of the members appointed by the chair from the house
7 which he or she represents and one-half of the members appointed by the vice chair from the
8 house which he or she represents.

9 2. Within the limits of the appropriations made for this division, the committee shall
10 employ a director **and an assistant director** of the oversight division and other personnel as it
11 deems necessary. The director shall be qualified by training and experience to conduct such
12 evaluations, and he or she shall be directly responsible for those activities. The director of the
13 oversight division, with the consent of the joint committee, may employ personnel necessary to
14 carry out the duties prescribed in this chapter. Persons employed to work in the oversight
15 division shall be professional persons possessing a wide knowledge and demonstrated expertise
16 in governmental programming and financial planning, in conducting program review evaluations
17 and analytic studies, and of federal, state, and local government budgetary processes, laws and
18 regulations of the state of Missouri.

23.153. 1. As part of the preparation of any ~~[fiscal note for any proposed piece of~~
2 ~~legislation]~~ **oversight report**, the staff member of the oversight division assigned to prepare that
3 ~~[note]~~ **oversight report** shall maintain a log, which shall be a public record as defined in chapter
4 610. That log shall contain a record of ~~[any contact initiated by]~~ any other person who ~~[either~~
5 ~~inquires regarding the content of the fiscal note or who]~~ attempts to influence the preparation of
6 the ~~[fiscal note]~~ **oversight report**. The log shall contain, at a minimum, the name and position
7 of the person initiating the contact, the time and date of the contact, ~~[the number of the fiscal~~
8 ~~note and the number of the proposed piece of legislation]~~ **an identifying name or number of**
9 **the oversight report**, and a narrative summary of the comments made by the person who
10 ~~[initiated the contact]~~ **attempted to influence the preparation of the oversight report.**
11 **Additionally, if a political subdivision refuses to provide information subject to an**
12 **oversight report, that refusal shall be part of the log. The logs shall be considered public**
13 **records subject to release under the provisions of chapter 610.**

14 2. ~~[Violation of the provisions of this section is a class A misdemeanor]~~ **It shall be a**
15 **class D felony to knowingly insinuate, offer, promise, threaten, or impose any benefit or**
16 **detriment in return for modifying an oversight report or practice of the oversight division.**
17 **Any act or discussion of the committee, subcommittee, or those interactions with the**
18 **oversight division within the scope of employment shall not be considered a violation of this**
19 **subsection.**

23.154. **An intentional failure to provide any book, account, contract, record, file,**
2 **or document upon request of the director of oversight shall be a class A misdemeanor.**

23.170. 1. The oversight division of the committee on legislative research shall,
2 pursuant to a duly adopted concurrent resolution of the general assembly, or pursuant to a
3 resolution adopted by the committee on legislative research, conduct program evaluations of
4 agencies as directed by any such resolution.

5 2. The staff of any agency subject to a program evaluation shall fully cooperate with the
6 staff of the oversight division and shall provide all necessary information and assistance for such
7 an evaluation. All records of an agency [~~unless otherwise expressly declared by law to be~~
8 ~~confidential,~~] may be inspected by the oversight division staff while conducting the evaluation,
9 and the agency subject to the evaluation shall afford the oversight division staff with ample
10 opportunity to observe agency operations.

11 3. All evaluations shall be completed within one year unless an extension is authorized
12 by the committee, but progress reports shall be made to the committee at least quarterly.

13 4. Any member of the general assembly and any committee of either house of the general
14 assembly may submit requests for program evaluations to the committee on legislative research,
15 and any agency may request an evaluation of its operations. The director of the division shall
16 present program evaluations completed during the previous legislative interim period to
17 appropriate committees of each chamber during early hearings of those committees at the next
18 regular session.

32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the
2 director of revenue, any officer, employee, agent or deputy or former director, officer, employee,
3 agent or deputy of the department of revenue, any person engaged or retained by the department
4 of revenue on an independent contract basis, any person to whom authorized or unauthorized
5 disclosure is made by the department of revenue, or any person who lawfully or unlawfully
6 inspects any report or return filed with the department of revenue or to whom a copy, an abstract
7 or a portion of any report or return is furnished by the department of revenue to make known in
8 any manner, to permit the inspection or use of or to divulge to anyone any information relative
9 to any such report or return, any information obtained by an investigation conducted by the
10 department in the discharge of official duty, or any information received by the director in
11 cooperation with the United States or other states in the enforcement of the revenue laws of this
12 state. Such confidential information is limited to information received by the department in
13 connection with the administration of the tax laws of this state.

14 2. Nothing in this section shall be construed to prohibit:

15 (1) The disclosure of information, returns, reports, or facts shown thereby, as described
16 in subsection 1 of this section, by any officer, clerk or other employee of the department of
17 revenue charged with the custody of such information:

18 (a) To a taxpayer or the taxpayer's duly authorized representative under regulations
19 which the director of revenue may prescribe;

20 (b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue
21 laws of this state;

22 (c) To the state auditor or the auditor's duly authorized employees as required by
23 subsection 4 of this section;

24 (d) To any city officer designated by ordinance of a city within this state to collect a city
25 earnings tax, upon written request of such officer, which request states that the request is made
26 for the purpose of determining or enforcing compliance with such city earnings tax ordinance
27 and provided that such information disclosed shall be limited to that sufficient to identify the
28 taxpayer, and further provided that in no event shall any information be disclosed that will result
29 in the department of revenue being denied such information by the United States or any other
30 state. The city officer requesting the identity of taxpayers filing state returns but not paying city
31 earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax,
32 and the director shall compare the list submitted with the director's records and return to such
33 city official the name and address of any taxpayer who is a resident of such city who has filed
34 a state tax return but who does not appear on the list furnished by such city. The director of
35 revenue may set a fee to reimburse the department for the costs reasonably incurred in providing
36 this information;

37 (e) To any employee of any county or other political subdivision imposing a sales tax
38 which is administered by the state department of revenue whose office is authorized by the
39 governing body of the county or other political subdivision to receive any and all records of the
40 state director of revenue pertaining to the administration, collection and enforcement of its sales
41 tax. The request for sales tax records and reports shall include a description of the type of report
42 requested, the media form including electronic transfer, computer tape or disk, or printed form,
43 and the frequency desired. The request shall be made by annual written application and shall be
44 filed with the director of revenue. The director of revenue may set a fee to reimburse the
45 department for the costs reasonably incurred in providing this information. Such city or county
46 or any employee thereof shall be subject to the same standards for confidentiality as required for
47 the department of revenue in using the information contained in the reports;

48 (f) To the director of the department of economic development or the director's duly
49 authorized employees in discharging the director's official duties to certify taxpayers eligibility
50 to claim state tax credits as prescribed by statutes;

51 (g) To any employee of any political subdivision, such records of the director of revenue
52 pertaining to the administration, collection and enforcement of the tax imposed in chapter 149
53 as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such
54 political subdivision. The request for such records shall be made in writing to the director of
55 revenue, and shall include a description of the type of information requested and the desired
56 frequency. The director of revenue may charge a fee to reimburse the department for costs
57 reasonably incurred in providing such information;

58 **(h) To the joint committee on legislative research for the purpose of analyzing tax**
59 **legislation. The request for such records shall be made in writing to the director of revenue**
60 **and shall include a description of the type of information requested and the desired**
61 **frequency;**

62 (2) The publication by the director of revenue or of the state auditor in the audit reports
63 relating to the department of revenue of:

64 (a) Statistics, statements or explanations so classified as to prevent the identification of
65 any taxpayer or of any particular reports or returns and the items thereof;

66 (b) The names and addresses without any additional information of persons who filed
67 returns and of persons whose tax refund checks have been returned undelivered by the United
68 States Post Office;

69 (3) The director of revenue from permitting the Secretary of the Treasury of the United
70 States or the Secretary's delegates, the proper officer of any state of the United States imposing
71 a tax equivalent to any of the taxes administered by the department of revenue of the state of
72 Missouri or the appropriate representative of the multistate tax commission to inspect any return
73 or report required by the respective tax provision of this state, or may furnish to such officer an
74 abstract of the return or report or supply the officer with information contained in the return or
75 disclosed by the report of any authorized investigation. Such permission, however, shall be
76 granted on condition that the corresponding revenue statute of the United States or of such other
77 state, as the case may be, grants substantially similar privileges to the director of revenue and on
78 further condition that such corresponding statute gives confidential status to the material with
79 which it is concerned;

80 (4) The disclosure of information, returns, reports, or facts shown thereby, by any person
81 on behalf of the director of revenue, in any action or proceeding to which the director is a party
82 or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state
83 when such information is directly involved in the action or proceeding, in either of which events
84 the court may require the production of, and may admit in evidence, so much of such information
85 as is pertinent to the action or proceeding and no more;

86 (5) The disclosure of information, returns, reports, or facts shown thereby, by any person
87 to a state or federal prosecuting official, including, but not limited to, the state and federal
88 attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil
89 investigation, action or proceeding pursuant to the laws of this state or of the United States when
90 such information is pertinent to an investigation, action or proceeding involving the
91 administration of the revenue laws or duties of public office or employment connected therewith;

92 (6) Any school district from obtaining the aggregate amount of the financial institution
93 tax paid pursuant to chapter 148 by financial institutions located partially or exclusively within

94 the school district's boundaries, provided that the school district request such disclosure in
95 writing to the department of revenue;

96 (7) The disclosure of records which identify all companies licensed by this state pursuant
97 to the provisions of subsections 1 and 2 of section 149.035. The director of revenue may charge
98 a fee to reimburse the department for the costs reasonably incurred in providing such records;

99 (8) The disclosure to the commissioner of administration pursuant to section 34.040 of
100 a list of vendors and their affiliates who meet the conditions of section 144.635, but refuse to
101 collect the use tax levied pursuant to chapter 144 on their sales delivered to this state;

102 (9) The disclosure to the public of any information, or facts shown thereby regarding the
103 claiming of a state tax credit by a member of the Missouri general assembly or any statewide
104 elected public official.

105 3. Any person violating any provision of subsection 1 or 2 of this section shall, upon
106 conviction, be guilty of a class E felony.

107 4. The state auditor or the auditor's duly authorized employees who have taken the oath
108 of confidentiality required by section 29.070 shall have the right to inspect any report or return
109 filed with the department of revenue if such inspection is related to and for the purpose of
110 auditing the department of revenue; except that, the state auditor or the auditor's duly authorized
111 employees shall have no greater right of access to, use and publication of information, audit and
112 related activities with respect to income tax information obtained by the department of revenue
113 pursuant to chapter 143 or federal statute than specifically exists pursuant to the laws of the
114 United States and of the income tax laws of the state of Missouri.

610.032. 1. If an executive agency's records are closed by law, it may not disclose any
2 information contained in such closed records in any form that would allow identification of
3 individual persons or entities unless:

4 (1) Disclosure of such information is made to a person in that person's official capacity
5 representing an executive agency and the disclosure is necessary for the requesting executive
6 agency to perform its constitutional or statutory duties; or

7 (2) Disclosure is otherwise required by law.

8 2. Notwithstanding any other provision of law to the contrary, including, but not limited
9 to, section 32.057, such closed information may be disclosed pursuant to this section; however,
10 the providing executive agency may request, as a condition of disclosing such information, that
11 the requesting executive agency submit:

12 (1) The constitutional or statutory duties necessitating the disclosure of such information;

13 (2) The name and official capacity of the person or persons to whom such information
14 will be disclosed;

15 (3) An affirmation that such information will be used only in furtherance of such
16 constitutional or statutory duties; and

17 (4) The date upon which the access is requested to begin, when the request is for
18 continuous access.

19 3. Any executive agency receiving such a request for closed information shall keep the
20 request on file and shall only release such information to the person or persons listed on such
21 request. If the request is for continuous access to such information, the executive agency shall
22 honor the request for a period of one year from the beginning date indicated on such request. If
23 the requesting executive agency requests such information for more than one year, the agency
24 shall provide an updated request for closed information to the providing executive agency upon
25 expiration of the initial request.

26 4. Any person receiving or releasing closed information pursuant to this section shall be
27 subject to any laws, regulations or standards of the providing executive agency regarding the
28 confidentiality or misuse of such information and shall be subject to any penalties provided by
29 such laws, regulations or standards for the violation of the confidentiality or misuse of such
30 information.

31 5. For the purposes of this section, "executive agency" means any administrative
32 governmental entity created by the Constitution or statutes of this state under the executive
33 branch, including any department, agency, board, bureau, council, commission, committee, board
34 of regents or board of curators of any institution of higher learning supported in whole or in part
35 by state funds, any subdivision of an executive agency, **the joint committee on legislative**
36 **research**, and any legally designated agent of such entity.

37 **6. The joint committee on legislative research shall not disclose closed records to**
38 **another executive agency under the provisions of this section.**

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