GOVERNOR OF MISSOURI

JEFFERSON CITY
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JEREMIAH W. (JAY) NIXON
GOVERNOR

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June 28, 2016

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Senate Bill No. 1025 entitled:

AN ACT

To repeal section 144.010, 144.018, and 144.020, RSMo, and to enact in lieu thereof three new sections relating to the taxation of instructional classes.

I disapprove of Senate Bill No. 1025. My reasons for disapproval are as follows:

Senate Bill No. 1025 would exclude any amount paid for instructional classes from the definition of sale at retail for purposes of the Missouri sales tax law. Its intent is to exempt "instructional classes" offered at businesses like dance studios, martial art studios and gymnastic centers from sales tax, thereby overruling long-standing Missouri Supreme Court precedent. Because Senate Bill No. 1025 seeks to create an exemption from established law and its unaccounted-for budgetary impact is unsound fiscal policy, it fails to receive my support.

Senate Bill No. 1025 is another attempt to subvert the law that applies state and local sales tax to places of recreation and amusement like dance studios and gyms. It does so by creating a loophole for instructional classes that are conducted at these entities. Proponents disingenuously claim this provision is necessary to clarify a confusing area of the law. What they are really seeking is to chip away at an area of law that has consistently been applied by the Missouri Supreme Court and diligently followed by the department of revenue over the course of previous and current administrations. Places of amusement and recreation have always been subject to this particular tax. Earlier this year, the Missouri Supreme Court reiterated this point and made it clear that activities that constitute amusement or recreation are subject to the tax under existing law even if there is an instructional component. Moreover, because Senate Bill No. 1025's definition of "instructional class" is vague, it has the potential to generate even more litigation designed to further test and expand the exemption.

Enacting this new exemption would further erode the tax base without requiring the creation of even a single job, in addition to reducing state revenue for education, public safety and other

vital services by $8 million in Fiscal Year 2017 alone. When coupled with an additional estimated $8 million reduction in local sales tax revenues, the overall cost of this provision to state and local revenues grows to $16 million. The Fiscal Year 2017 budget passed by the General Assembly fails to account for the cost of this new carve-out, and would necessitate executive action to offset its fiscal impact if this legislation were to become law. This is fiscally irresponsible and cannot receive my support.

In accordance with the above stated reasons for disapproval, I am returning Senate Bill No. 1025 without my approval.

Respectfully submitted,

Jeremiah W. (Jay) Nixon
Governor