

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4372-01  
Bill No.: HB 1736  
Subject: Employees - Employers ; Immigration  
Type: Original  
Date: February 6, 2008

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Bill Summary: This proposal establishes the Missouri Illegal Immigration Relief Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Less than \$1,013,829)	(\$1,099,455)	(\$1,132,440)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$1,013,829)</b>	<b>(\$1,099,455)</b>	<b>(\$1,132,440)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
MO Housing Trust Fund	(\$2,578 to \$7,338)	(\$3,094 to \$8,806)	(\$3,094 to \$8,806)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$2,578 to \$7,338)</b>	<b>(\$3,094 to \$8,806)</b>	<b>(\$3,094 to \$8,806)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
UC Administration Fund	(\$0 to \$34,000,000)	(\$0 to \$34,000,000)	(\$0 to \$34,000,000)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(\$0 to \$34,000,000)</b>	<b>(\$0 to \$34,000,000)</b>	<b>(\$0 to \$34,000,000)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
Department of Revenue	2 FTE	2 FTE	2 FTE
Department of Labor and Industrial Relations	21 FTE	21 FTE	21 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>23 FTE</b>	<b>23 FTE</b>	<b>23 FTE</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

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### ASSUMPTION

Officials at the **Department of Higher Education (DHE)** assume that the requirements of this bill could be performed with existing DHE resources. It is likely, however, that working with institutions to implement the requirements that pertain to higher education and grants and scholarships would require a great deal of time and effort of DHE staff.

Officials at the **State Public Defenders (SPD)** assume this proposed legislation requires all public employers to contract only with employers who participate in the status verification program. This could potentially mean that every individual attorney with whom we contract, every court reporter we utilize, every trainer we bring in for a training program, every expert used in a case, cannot be used unless they participate in this program. Because most of these individuals are doing us a favor by working with us for much lower pay than they can make in private sector contracts, they are unlikely to voluntarily agree to take on the extra work involved in verifying the status of each of their employees. E.g. how are employees defined? Does a doctor we retain have to verify the immigration status of every employee in the hospital at which he works or only those within his department or only those he directly supervises? As a result, SPD anticipates they will have increased difficulty (more so than we're already experiencing, which is significant) in finding contract attorneys, experts, etc. willing to work with us at all, resulting in a delay of case processing through the criminal justice system.

Officials at the **Department of Conservation** assume this could have a fiscal impact but the exact amount is unknown.

Officials at the **Department of Revenue (DOR)** assume that Customer Assistance would require one Tax Processing Technician I for every 8,300 non-notarized registration applications received in the Business Tax Registration Section. Additionally, Personal Tax and Corporate Tax combined would require one Tax Processing Technician I for the verification required in section 650.677 related to the tax credit applications administered by the DOR.

Office of Administration Information Technology (ITSD DOR) estimates that this legislation could be implemented utilizing 1 existing CIT III for 1 month at a rate of \$4,186. Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed to implement.

Officials at the **Office of the Secretary of State (SOS)** assume the Business Services Division would have to put a business registration in suspended status for a variable amount of time. The

ASSUMPTION (continued)

database will have to be modified to create a new status and to make it capable of restoring the business' good standing status at the end of the court ordered suspension. Based on similar database changes, we anticipate this modification to cost \$40,000.

Officials at the **Missouri Department of Transportation (MoDOT)** assume MoDOT takes steps to ensure that only individuals authorized to work in the United States are hired and is already participating in E-Verify. Also, pursuant to Governor Blunt's Executive Order 07-13, MoDOT requires contractors to ensure that they employ people who are eligible to work in the United States and requires contracts to contain language allowing the department to cancel the contract if the contractor has knowingly employed individuals who are not eligible to work in the United States. However, language in this bill may additionally require that contractors participate in E-Verify, so it might involve some procedural changes.

Officials at the **Department of Health and Senior Services (DOH)** assume Section 650.677(2) requires the department to provide notary services at no cost to an applicant for all public benefits subject to the provisions of this legislation. Program staff for many of the department's programs located throughout the state would be required to obtain a notary commission to provide this service. This would result in an unknown cost to the department.

Officials at the **Department of Social Services' Children's Division, Division of Legal Services, Human Resource Center, Division of Youth Services** and the **MO HealthNet** assume that there is no fiscal impact from this proposal.

Officials at the **Department of Social Services' Family Support Division (FSD)** assume FSD has 125 field offices where applicants can file applications. Each of these field offices would need to have at least one notary public in order to meet the requirements of this bill. At a cost of \$69.90 per notary, the FSD would incur a cost of \$8,737.50 ( $125 \times 69.90 = 8,737.50$ ).

**Oversight** assumes that the cost for the Department of Health and Senior Services and the Department of Social Services to obtain notary commissions for their employees to be less than \$30,000. Oversight has shown the cost only in FY 2009 as it is assumed they will register all the necessary employees needed in the first year.

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume the proposed legislation would have a significant impact on the Division of Employment Security (DES) in the form of extra responsibilities relating to the verification of legal status of applicants for benefits. This proposal would require verification that the applicant is lawfully present in the United States

ASSUMPTION (continued)

to be eligible for unemployment benefits. Based on claims filed in the federal fiscal year that ended September 30, 2007, this proposal would increase the number of applicants to be verified to roughly 370,000. This would require the DES to hire an additional 21 claims technicians at an average annual salary of \$31,424. The DES does not have federal funds available to hire an additional 21 employees so they would need to be funded through General Revenue.

Second, the payment of unemployment benefits could be delayed for each applicant until the DES receives and reviews each applicant's documents. Delay will prevent timely payment of benefits as required by the U.S. Department of Labor (USDOL). This will result in reduced funding for DES.

Third, the federal government and state governments are jointly responsible for administering the unemployment insurance (UI) system. State laws must meet certain federal requirements for the state agency to receive administrative grants needed to operate its UI program and employers to qualify for certain tax credits. USDOL has informally reviewed HB 1736 and has concerns which raise conformity issues. These issues may jeopardize the certification of the state's UI program. If the program fails to be certified, Missouri would lose \$34 million in federal funds the state receives to administer the UI program.

The Federal Unemployment Tax Act (FUTA) imposes a 6.2% payroll tax on employers. Most employers never actually pay the total 6.2% due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the payroll tax if the state UI law is approved by the Secretary of Labor. The proposed legislation may cause Missouri's program to fail certification. As a result, Missouri employers could lose approximately \$977 million annually in FUTA credits.

**Oversight** assumes it is unclear whether the state would lose its unemployment insurance federal funds. Oversight has shown the potential loss as a range from \$0 to \$34,000,000.

Officials at the **Office of the Attorney General (AGO)** assume that this proposal may result in additional costs to the Attorney General. Specifically, there are two subsections in Section 650.686 that will require the AGO to provide an opinion to the General Assembly as to whether Missouri's agencies and political subdivisions have any policy that contravene subsections 1 and 2 of that section.

Section 3. Prior to January 1, 2009, the attorney general of the state of Missouri shall issue an opinion informing the general assembly of all government entities, agencies, and political

ASSUMPTION (continued)

subdivisions within the state of Missouri that have current policies, written or unwritten, in contravention of subsections 1 and 2 of this section."

Section 4. Prior to the appropriating of funds to any government entity, agency, or political subdivision of this state, any member of the general assembly may request that the attorney general of the state of Missouri issue an opinion stating whether the government entity, agency, or political subdivision has current policies, written or unwritten, in contravention of subsections 1 and 2 of this section."

Subsections 1 and 2 prohibit policies that would restrict public officials from communicating with the Department of Homeland Security about immigration issues and also prohibit policies that don't allow those officials to inquire about immigration status. As written, AGO assumes that this provision would require that the AGO send out a Sunshine Law request to all public bodies in the state of Missouri to determine whether any have policies in contravention of this section. AGO does not know how to determine if those same public bodies have "unwritten" policies other than taking a sampling of those public bodies and conducting individual meetings. Once the AGO receives the responses on written policies, AGO will have to review those policies to determine if they comply with the provisions of subsection 1 and 2. AGO assumes that a very small number, less than 5%, will have any policies relating to communication with the Department of Homeland Security on this issue. Therefore, AGO assumes that costs of this review and report can be absorbed with existing resources. If, however, the AGO finds that a substantial number of public bodies in the state have a policy, AGO may seek appropriations to handle the task of reviewing and opining on each of those policies that contravene the law.

Officials at the **City of West Plains** assume this proposal is likely to have some fiscal impact on the city of an unknown amount in administering and verification.

Officials at the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to

ASSUMPTION (continued)

the state of funding the formula.

Officials at the **Department of Economic Development (DED)** assume to determine the cost of using SAVE to verify status of individuals receiving a benefit from the Missouri Housing Trust Fund (MHTF), the projected number of individuals served per year (11,900) was multiplied by the per verification cost of SAVE (\$0.26 or \$0.74). These costs were found on the SAVE program page on the U.S. Citizenship and Immigration Services website ([www.uscis.gov](http://www.uscis.gov)). The cost per verification of the web-based system is \$0.26 or \$0.74 if verification requires more than the basic information. It is unknown how many would need the additional verification, so a range was calculated:  $1,190 \times \$0.26$  to  $1,190 \times \$0.74 = \$3,094$  to  $\$8,806$ .

Officials at the **Office of Administration, State Emergency Management Agency, Springfield Police Department, Department of Public Safety, Office of Prosecution Services, Fire Safety, State Tax Commission, Boone County Sheriff, Capitol Police, Alcohol and Tobacco Control, Administrative Hearing Commission, Office of the State Courts Administrator, Office of the State Auditor, St. Louis County, Water Patrol, Missouri Highway Patrol, Office of the State Treasurer, Missouri Gaming Commission, Department of Agriculture, Department of Insurance, Financial Institutions and Professional Registration, Missouri Ethics Commission, Department of Mental Health, and the Department of Natural Resources** assume that there is no fiscal impact from this proposal.

FISCAL IMPACT - State Government

FY 2009  
(10 Mo.)

FY 2010

FY 2011

JH:LR:OD (12/07)

# **GENERAL REVENUE**

## **Cost - SOS**

Computer modifications	(\$40,000)	\$0	\$0
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## **Cost - DOR**

Personal Service	(\$42,292)	(\$52,273)	(\$53,841)
Fringe Benefits	(\$18,702)	(\$23,115)	(\$23,808)
Expense and Equipment	<u>(\$12,458)</u>	<u>(\$2,060)</u>	<u>(\$2,123)</u>

<b>Total Costs - DOR</b>	<b>(\$73,452)</b>	<b>(\$77,448)</b>	<b>(\$79,772)</b>
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FTE Change - DOR	2 FTE	2 FTE	2 FTE
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## **Cost - DOLIR**

Personal Service	(\$566,418)	(\$700,092)	(\$721,095)
Fringe Benefits	(\$250,470)	(\$309,581)	(\$318,868)
Expense and Equipment	<u>(\$53,489)</u>	<u>(\$12,334)</u>	<u>(\$12,705)</u>

<b>Total Costs - DOLIR</b>	<b>(\$870,377)</b>	<b>(\$1,022,007)</b>	<b>(\$1,052,668)</b>
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FTE Change - DOLIR	21 FTE	21 FTE	21 FTE
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## **Cost - DOH & DOS**

notary commission for employees	<u>(Unknown less than \$30,000)</u>	<u>\$0</u>	<u>\$0</u>
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# **ESTIMATED NET EFFECT ON GENERAL REVENUE**

<b><u>(Less than \$1,013,829)</u></b>	<b><u>(\$1,099,455)</u></b>	<b><u>(\$1,132,440)</u></b>
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Estimated Net FTE Change on General Revenue

23 FTE	23 FTE	23 FTE
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# **MO HOUSING TRUST FUND**

## **Cost - DED**

verification costs	<u>(\$2,578 to \$7,338)</u>	<u>(\$3,094 to \$8,806)</u>	<u>(\$3,094 to \$8,806)</u>
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# **ESTIMATED NET EFFECT ON MO HOUSING TRUST FUND**

<b><u>(\$2,578 to \$7,338)</u></b>	<b><u>(\$3,094 to \$8,806)</u></b>	<b><u>(\$3,094 to \$8,806)</u></b>
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# **UC ADMINISTRATION FUNDS**



Loss - DOLIR

unemployment insurance payments	<u>(\$0 to</u> <u>\$34,000,000)</u>	<u>(\$0 to</u> <u>\$34,000,000)</u>	<u>(\$0 to</u> <u>\$34,000,000)</u>
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**ESTIMATED NET EFFECT ON  
UC ADMINISTRATION FUNDS**

<u>(\$0 to</u> <u>\$34,000,000)</u>	<u>(\$0 to</u> <u>\$34,000,000)</u>	<u>(\$0 to</u> <u>\$34,000,000)</u>
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FISCAL IMPACT - Local Government

FY 2009  
(10 Mo.)

FY 2010

FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Businesses could incur costs to ensure their employees are not illegal aliens. Business owners could possibly lose payroll tax credits estimated at \$997 million annually.

FISCAL DESCRIPTION

This bill establishes the Missouri Illegal Immigration Relief Act to assist the federal government in enforcing federal immigration laws.

Public Benefits

Agencies and political subdivisions of the state are prohibited from providing any state or local benefit or federal public benefit to a person who is unlawfully present in the United States, except for certain state or local benefits or federal public benefits exempted under federal law and kindergarten through twelfth grade education. An applicant 18 years of age and older must sign an affidavit attesting that he or she is a United States citizen or a qualified alien. Eligibility must then be verified through the federal Systematic Alien Verification for Entitlements Program. Temporary public benefits may be provided until verification is complete or for a period not to exceed 60 days. Applicants denied public benefits will have access to all administrative reviews and appeals to a court allowed by law.

FISCAL DESCRIPTION (continued)

JH:LR:OD (12/07)

#### Federal Employment Authorizations

By January 1, 2009, every employer in the state must register with and utilize the federal E-Verify Program operated by the United States Department of Homeland Security to verify the federal employment authorization of all new employees. All documentation received on the authorization must be retained for three years after the termination of the employee. The penalty for employers who do not use E-Verify will be suspension of all business licenses for 30 to 60 days for a first offense, suspension for one to two years for a second offense, and suspension for five to 10 years for a third offense. Public employers cannot enter into contracts with contractors that do not use E-Verify.

#### Communication with Federal Officials

No government entity or official or political subdivision can prohibit or restrict any other government entity or official from communicating or cooperating with federal officials on the immigration status of any person in this state. No person or agency can prohibit or restrict any public employee from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state. The Attorney General must report to the General Assembly on all government entities, agencies, and political subdivisions that have written or unwritten policies regarding prohibitions or restrictions on communicating with federal officials regarding immigration issues. Any entity, agency, or political subdivision with this type of policy cannot receive state funding for the next fiscal year.

#### Local Ordinances

All political subdivisions of the state are authorized to enact laws prohibiting or restricting employment of unauthorized aliens and the harboring of illegal aliens, including the leasing of rental accommodations. Penalties that political subdivisions can impose include business license revocation and fines of up to \$10,000 per violation.

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

State Emergency Management Agency  
City of West Plains  
Springfield Police Department  
Department of Public Safety  
    Fire Safety  
    Capitol Police  
    Water Patrol  
    Alcohol and Tobacco Control  
Office of Prosecution Services  
State Tax Commission  
Boone County Sheriff  
Administrative Hearing Commission  
Department of Conservation  
Office of the State Courts Administrator  
Office of the State Auditor  
St. Louis County  
Office of Administration  
State Public Defenders  
Missouri Highway Patrol  
Office of the State Treasurer  
Missouri Gaming Commission  
Department of Agriculture  
Department of Higher Education  
Department of Insurance, Financial Institutions and Professional Registration  
Missouri Ethics Commission  
Department of Economic Development  
Department of Revenue  
Office of the Secretary of State  
Department of Mental Health  
Department of Elementary and Secondary Education  
Department of Natural Resources  
Missouri Department of Transportation  
Department of Labor and Industrial Relations  
Department of Health and Senior Services  
Department of Social Services  
    Children's Division  
    Division of Legal Services  
    Family Support Division

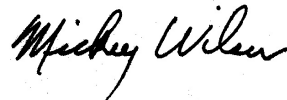
SOURCES OF INFORMATION (continued)

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Human Resource Center  
MO HealthNet  
Division of Youth Services  
Office of the Attorney General

**Not Responding**

Department of Corrections  
Missouri Veterans Commission

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 6, 2008