COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4301-02
Bill No.: HB 1805
Subject: Tax Credits; Taxation and Revenue; Business and Commerce
Type: Original
Date: February 1, 2010

Bill Summary: This proposal establishes provisions to create job opportunities and business success for Missourians.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	($9,503,676)	($9,940,343)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	**($9,503,676)**	**($9,940,343)**	**(Unknown)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Technology Trust	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Unemployment Compensation Trust	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on All Federal Funds	**(UNKNOWN)**	**(UNKNOWN)**	**(UNKNOWN)**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	1 FTE	1 FTE	Up to 5 FTE
Total Estimated Net Effect on FTE	**1 FTE**	**1 FTE**	**Up to 5 FTE**

☒ 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Director's Office** assume the proposal would not fiscally impact their agency.

Officials from the **Office of the Secretary of State (SOS)** assume 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 Secretary of State's Office for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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.

Officials from the **Department of Revenue (DOR)** state their response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at $26,712 (1,008 FTE hours to make programming changes to the individual income tax processing system (MINITS) and the corporate income tax processing system (COINS)).

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

DOR also assumes their Personal Tax section would require one Revenue Processing Technician per 6,000 credits claimed. DOR's Collections and Tax Assistance section assume they would need additional FTE as a result of an increase in contacts due to adjustments. The Collections and Tax Assistance section assumes the need for one FTE Tax Collection Technician I for every additional 24,000 contacts annually on the non-delinquent tax line; one FTE Tax Collection Technician I for every additional 15,000 contacts annually on the delinquent tax line; and one

ASSUMPTION (continued)

FTE Revenue Processing Technician I for every additional 4,800 contacts in the tax assistance offices. Lastly, DOR assumes the need for one additional FTE Revenue Processing Technician I in the Corporate Tax Section for every 6,000 credits claimed.

In summary, DOR assumes the need for five additional FTE at a cost of roughly $220,000 per year.

The proposal defines a 'credible employee' as one who is first employed by the employer on or after August 28, 2010 and remains employed for at least 24 consecutive months. After the 24 month period is complete, the employer is able to apply for the $2,400 credit. **Oversight** assumes the earliest the 24 month period could be reached is August 2012, or fiscal year 2013. Therefore, Oversight will assume a loss of General Revenue in FY 2013. For example, if one thousand employees meet the criteria for this program, $2.4 million in withholding tax credits will be issued/utilized in FY 2013 (if ten thousand employees qualify, the tax credit would be $24 million). Oversight has no empirical basis to estimate the number of employers who will participate in the program or the number of new employees who will meet all of the criteria set forth; therefore, Oversight will assume an unknown loss of revenue to the General Revenue Fund starting in FY 2013.

Oversight will assume DOR will need one additional FTE to help administer the program until FY 2013. Starting in FY 2013, Oversight will range the administrative costs 'up to' DOR's estimate of five additional employees.

Oversight has, for fiscal note purposes only, changed the starting salary for DOR's additional employees to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Also, Oversight assumes that the relatively small number of additional staff can be located in existing office space.

Oversight assumes DOR's estimate of expense and equipment cost for the new FTEs could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2011 could be reduced by roughly $5,600 (up to $23,780 in FY 2013).

Officials from the **Office of the Secretary of State - Business Services Division** state small businesses filing documents with the Secretary of State's office under Chapters 347, 351, and 359 would not pay a filing fee from July 1, 2010, through June 30, 2012. All filing fees under Chapters 347, 351, and 359 for documents filed between July 1, 2010, and June 30, 2012, would

ASSUMPTION (continued)

be waived. The processing system for document filing would need to be changed to reflect filing transactions under Chapters 347, 351, and 359 at no fee. The system would then need to be changed back to reflect the fees being charged again beginning on July 1, 2012. The SOS assumes a cost for contract programming of $40,000 in FY 2011 and $10,000 in FY 2012 to make these changes.

The Business Services Division collected $11,922,663 in revenue in FY 2009. Fees collected under Chapters 347, 351, and 359 were approximately $8,973,375. Assuming no growth in 2010 and a five percent growth in the number of filings for fiscal years 2011 and 2012, the loss of General Revenue is estimated to be $8,365,857 for FY11 and $8,784,150 for FY12; Technology Trust Fund revenue loss is estimated to be $1,056,186 for FY 2011 and $1,108,996 for 2012. The Technology Trust Fund revenue lost to the Secretary of State's budget would need to be replaced by General Revenue in the FY 2011 and FY 2012 budgeting process.

	General Revenue	Technology Trust
FY 2009 Chapters 347, 351 & 359 revenue	$7,967,483	$1,005,892
Est. FY 2011 revenue (5% growth)	$8,365,857	$1,056,186
Est. FY 2012 revenue (5% growth)	$8,784,150	$1,108,996

Oversight will assume a transfer from General Revenue to the Technology Trust fund will occur in both fiscal years to replace the revenue lost from the two-year moratorium on fee collections under Chapters 347, 351 & 359.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state the proposed Section 288.305 would allow a $500 credit against the state unemployment compensation (UC) tax for each employee hired by an employer on or after August 28, 2010; who was collecting UC for 60 days or more before becoming employed; who remains employed at least six months; and who ceases collecting UC once employed.

The credit provided in this proposal is equal to a reduction of an employer's tax rate, a tax required under Chapter 288. This reduction is based on a factor other than the employer's experience. Under federal law, an employer's UC tax rate is to be based on its "experience with respect to unemployment or other factors bearing a direct relation to unemployment risk…"

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. Non-conformity with federal law could jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri could lose federal funds the state receives to administer the UI program.

The 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 experienced rating plan. FUTA allows employers tax credits up to a maximum of 5.4% against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor. If the proposed legislation would cause Missouri's program to fail certification, Missouri employers' FUTA tax credits could be at risk.

From the $500 per new employee credit in Section 288.305, **Oversight** will assume an unknown amount of lost revenue to the Unemployment Compensation Trust Fund in all three fiscal years on the fiscal note.

Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore, have not reflected them in the fiscal note.

Officials from the **Office of Administration - Budget and Planning** did not respond to our request for fiscal impact.

This proposal could reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2011	FY 2012	FY 2013
GENERAL REVENUE			
Costs - Secretary of State			
Contract programming for removing filing fees for two years	($40,000)	($10,000)	$0
Costs - Department of Revenue			
Personal Service	($23,360)	($24,061)	(Up to $123,915)
Fringe Benefits	($12,250)	($12,618)	(Up to $64,981)
Expense and Equipment	($6,023)	($518)	(Up to $26,449)
Total Costs - DOR	($41,633)	($37,197)	(Up to $215,345)
FTE Change - DOR	1 FTE	1 FTE	Up to 5 FTE

FISCAL IMPACT - State Government (continued)	FY 2011	FY 2012	FY 2013
Loss - Department of Revenue Tax credit for 'credible employees' - Section 135.1300	$0	$0	(Unknown)
Loss - Secretary of State Filing fees for FYs 2011 and 2012	($8,365,857)	($8,784,150)	$0
Transfer Out - to the Technology Trust Fund	($1,056,186)	($1,108,996)	$0
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($9,503,676)**	**($9,940,343)**	**(Unknown)**
Estimated Net FTE Change for General Revenue Fund	1 FTE	1 FTE	Up to 5 FTE

TECHNOLOGY TRUST FUND			
Transfer In - from General Revenue to reimburse for lost filing fee revenues	$1,056,186	$1,108,996	$0
Loss - Secretary of State Filing fees for FYs 2011 and 2012	($1,056,186)	($1,108,996)	$0
ESTIMATED NET EFFECT TO THE TECHNOLOGY TRUST FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - State Government (continued)	FY 2011	FY 2012	FY 2013
UNEMPLOYMENT COMPENSATION TRUST FUND			
Loss - $500 credit per new employee (Section 288.305)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO THE UNEMPLOYMENT COMPENSATION TRUST FUND	**(UNKNOWN)**	**(UNKNOWN)**	**(UNKNOWN)**

FISCAL IMPACT - Local Government	FY 2011	FY 2012	FY 2013
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses that qualify under the program could be positively impacted as a result of this proposal.

FISCAL DESCRIPTION

Beginning January 1, 2011, this bill authorizes an income tax credit for an employer with one or more creditable employees. The credit, which can be carried forward for two years, will be equal to $2,400 for each creditable employee who:

(1) Is first employed by the employer on or after August 28, 2010;

(2) Was unemployed for at least 60 days immediately prior to becoming employed;

(3) Remains employed by the employer for at least 24 consecutive months;

FISCAL DESCRIPTION (continued)

(4) Provides a notarized affidavit swearing that he or she is eligible to work in the United States according to federal law; and

(5) Is paid at least minimum wage the entire time he or she is employed.

The bill also authorizes an employer with one or more creditable employees to receive a credit against future contributions made to the Unemployment Compensation Fund. The credit will be $500 per creditable employee who:

(1) Is first employed by the employer on or after August 28, 2010;

(2) Was eligible for and receiving unemployment benefits for at least 60 days immediately prior to becoming employed;

(3) Remains employed by the employer for at least six months; and

(4) Does not receive unemployment benefits while employed.

Beginning July 1, 2010, and ending June 30, 2012, the bill requires the Secretary of State to waive any filing fees required by Chapters 347, 351, and 359, RSMo, regarding limited liability companies, corporations, and limited partnerships.

The bill contains an emergency clause.

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
Department of Labor and Industrial Relations
Department of Public Safety
Office of the Secretary of State

NOT RESPONDING
Office of Administration - Budget and Planning

Mickey Wilson

Mickey Wilson, CPA
Director
February 1, 2010