COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1496S.05C
Bill No.: SCS for HCS for HB 649
Subject: Employment Security; Labor and Industrial Relations, Department of
Type: Original
Date: May 5, 2021

Bill Summary: This proposal modifies various provisions relating to employment security.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Various State Agencies, Colleges & Universities	$0 to Unknown	$0 to Unknown	$0 to Unknown
Total Estimated Net Effect on Other State Funds	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Unemployment Compensation Trust Fund*	More than or Less than $37,957,296	More than or Less than $45,548,756	More than or Less than $45,548,756
Unemployment Compensation Administration Fund (0948)	($194,206)	($39,812)	($40,807)
Total Estimated Net Effect on All Federal Funds	**More than or Less than $37,763,090**	**More than or Less than $45,508,944**	**More than or Less than $45,507,949**

*Oversight notes changes to Section 288.060 from HB 150 (2015 – Governor's veto was overridden) were declared unconstitutional; therefore, the current maximum number of weeks eligible for benefits is still 20 weeks. This proposal revises these changes.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ 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 2022	FY 2023	FY 2024
Local Government	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume**:**

288.036 Vacation pay, termination pay, severance pay and holiday pay shall be considered as wages

Officials from the **Department of Labor and Industrial Relations** assume the proposal, makes the following changes:

Sections 288.036 and 288.060 will change the methodology used by the Division of Employment Security (DES) to calculate unemployment benefits for Missourians which could change the amount of unemployment benefit payments made to claimants.

Section 288.036.1 stipulates that termination pay and severance pay shall be considered wages for the week with respect to which it is payable. The change in Section 288.060.3 removes an existing provision stating termination pay and severance pay shall not be considered as wages for the calculation of partial benefits. Applied together, these changes will require claimants to report termination pay and severance pay as wages for each week it is payable. Wages from severance pay, when paid as a lump sum, will be pro-rated on a weekly basis at the rate of pay received by the employee at the time of separation. For weeks in which an otherwise eligible claimant reports termination pay and severance pay, the claimant will be entitled to either a reduced weekly benefit payment or no weekly benefit payment, depending on the amount of the termination pay and severance pay reported.

These changes would increase the balance of the Unemployment Insurance Trust Fund.
Based on data from the U.S. Bureau of Labor Statistics, the average weekly wage for an employed Missourian is $920, and the average tenure of an employee over age 25 is 5.0 years.
During the 12-month period ending June 30, 2019, DOLIR made 73,347 initial payments.

Using the average weekly unemployment payment of $264.56, and the assumptions that severance payments would be made on a weekly basis at the common method of calculation of one week's pay per year of service and that up to 5% of employers make severance/termination payments, a saving of $0 to $4,851,171 is estimated for the Unemployment Insurance Trust Fund

Section 288.036 is amended to change the cross-reference in subdivision (7) of subsection 1. The amendment does not create a substantial change to the current law.

Calculation of UI Trust Fund Cost Estimate	
Average weeks of severance/termination pay	5.0
X Average unemployment payment	$264.56
Total severance/termination payments per claimant	$1,322.80
Initial payments – 1 year	73,347
X 5% Claimants receiving severance/termination payments	3,667.35
Total payments per claimant	$1,322.80
X Claimants receiving severance/termination pay	3,667.35
Estimated highest savings to the Unemployment Trust Fund	**$4,851,171***

**A change in any of the variables used in this calculation will result in an impact higher or lower than the estimate provided in this document.*

Oversight notes that the DOLIR has stated the proposal would have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect positive fiscal impact to the Unemployment Compensation Trust Fund and reflect savings (reduction of payments) in amount of $4,851,171.

Oversight notes that in response to the similar proposal, SB 183(0839S-01) 2021, DOLIR – ITSD assumed cost associated with this specific provision. However, due to the additional sections in this specific version the overall costs for ITSD are reduced and part of the overall changes made in this bill summarized under Section 288.060.

In response to the similar proposal, SB 183 (0839S-01) 2021, officials from the **Missouri Department of Conservation, Missouri Department of Transportation, Office of Administration, Office of the State Courts Administrator, Attorney General's Office, City of Ballwin**, **City of Corder**, **City of Kansas City**, **City of O'Fallon**, **City of Springfield**, and **City of Saint Louis – Budget Division, Missouri State University**, **Northwest Missouri State University**, **State Technical College of Missouri**, **University Of Central Missouri**, and **High Point R-III School** each assume the proposal would not have a direct fiscal impact on their respective organizations.

Section 288.060 Weekly Remuneration

Section 288.060 will change the methodology used by the Division of Employment Security (DES) to calculate unemployment benefits for Missourians.

Section 288.060 is amended to remove the current language used to determine unemployment benefit duration and indexes the maximum number of weeks of unemployment benefits that are payable to the average statewide unemployment rate, twice each calendar year.

DES estimates eligible claimants receiving from $0 (no change) to $70.9 million less in regular unemployment insurance (UI) benefits if the indexing method is implemented. This chart, based on the current claims level, estimates a yearly decrease in benefits paid for each week reduction in the duration of unemployment benefits:

If Unemployment Rate Is	**# Regular UI Weeks Reduced**	**Maximum Duration for Regular UI**	**Estimated Regular UI Benefits NOT Paid to Eligible Recipients (Trust Fund)**	**Incremental Difference For Additional Week**
>9.0%	0 weeks (no change)	20 weeks		
8.6% - 9.0%	1 week	19 weeks	$7,115,130	$7,115,130
8.1% - 8.5%	2 weeks	18 weeks	$14,788,119	$7,672,989
7.6% - 8.0%	3 weeks	17 weeks	$22,895,864	$8,107,744
7.1% - 7.5%	4 weeks	16 weeks	$31,566,066	$8,670,202
6.6% - 7.0%	5 weeks	15 weeks	$40,659,390	$9,093,324
6.1% - 6.5%	6 weeks	14 weeks	$50,359,156	$9,699,766
5.6% - 6.0%	7 weeks	13 weeks	$60,605,653	$10,246,497
5.1% - 5.5%	8 weeks	12 weeks	$70,865,066	$10,259,411
4.6% - 5.0%	9 weeks	11 weeks	$80,988,452	$10,191,400
4.1% - 4.5%	10 weeks	10 weeks	$91,179,852	$10,191,400
3.6% - 4.0%	11 weeks	9 weeks	$101,371,252	$10,191,400
3.5%	12 weeks	8 weeks	$111,562,651	$10,191,400

These numbers are based on state fiscal year 2019 totals, because with the pandemic; the 2020 numbers would be unrealistically high.

If the number of individuals receiving benefits increases or decreases from current claim levels, the estimated amount of UI benefits not paid from the trust fund would also increase or decrease accordingly.

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The bill would make the maximum number of weeks available on a Regular UI claim anywhere from 12 to 20 weeks, depending on the state unemployment rate.

Additionally, **ITSD** would need to make the following changes to the UIneract System as follow:

- Need to develop a screen to allow the entry of the monthly unemployment rate that the system will use to calculate the average rate for the appropriate period in order to determine the calculation for the WBA
- Updates to Claim Re-determination process
- Updates to Payment process
- Updates to Claimant notices
- Updates to Reporting

Oversight notes that DOLIR - IT costs according to DOLIR are contracted at $111 per hour. This proposal would result in $194,206 (1,749.60 hours x $111) in FY 2022, $39,812 costs in FY 2023, and $40,807 in FY 2023 for ongoing maintenance.

Oversight notes that the average duration of unemployment claims in last three years was 12.4 weeks rounded to nearest tenth. According to DOLIR's website, Missouri's unemployment rate for February 2020 was 4.2% and the average weekly benefit amount in 2019 was $266.

Oversight notes the average duration of unemployment (see table below) benefits of 12 weeks in 2019 (13.1 weeks in 2015, 12.0 weeks in 2016, 12.1 weeks in 2017, and 12.3 weeks in 2018) was pre-COVID 19; and everything regarding unemployment has changed substantially since February 2020. Therefore, **Oversight** will reflect a savings to the Unemployment fund of More Than or Less Than **$40,697,595** ($111,562,651 – $70,865,066), which is the incremental difference between current average 12 weeks claimed and potential new maximum of 8 weeks claimed which will not be paid to eligible recipients.

State	Year	Quarter	Exhaustions Rate Past 12 Months		Average Duration Past 12 Months	Insured Unemployment Rate	
			(%)	Rank	Weeks	(%)	Rank
MO	2018	1	33.2	25	12.3	1.1	34
MO	2018	2	32.2	27	12.1	0.8	37
MO	2018	3	32	28	12.2	0.8	34
MO	2018	4	31.5	30	12.3	0.7	40
MO	2019	1	30.9	27	12.5	1	34
MO	2019	2	30.6	27	12.8	0.6	41
MO	2019	3	31.8	23	12.8	0.7	36
MO	2019	4	32.6	23	12.9	0.7	39
MO	2020	1	32.7	24	10.9	1.2	35
MO	2020	2	41.1	24	10.7	8.1	45
MO	2020	3	100	1	13.3	4.4	46
MO	2020	4	35	28	13.9	1.9	47

Oversight notes that the existing Section 288.060 was changed in HB 150 (2015); however, those changes were deemed unconstitutional in 2016 because the General Assembly's veto override in 2015 was deemed untimely.

Officials from the **Missouri Department of Transportation** (**MoDOT**) assumed the proposal will have a direct fiscal impact on their organization. MODOT notes the HR division assumes that this legislation could result in a minimal positive fiscal impact to the State Road Fund. MoDOT pays direct reimbursements. The potential lower number of weeks payable would be positive. However, our former employees rarely claim the full work weeks eligible.

In response to the previous version of this bill officials from the **University of Central Missouri** assumed the proposal would have an indeterminate fiscal impact for the University.

Oversight notes that above University and MoDOT both assume the proposal would have a direct fiscal impact on their respective organizations. Officials from the DOLIR assume there could be potential savings as the employer's paying less unemployment due the proposal. Therefore, Oversight will note $0 to Unknown positive fiscal impact on the fiscal note for various state agencies, universities, and colleges.

Officials from the **City of Kansas City** state the proposal may have a small positive fiscal impact on the City of Kansas City, Missouri. If the state unemployment average is below 6 percent the max unemployment payout is 12 weeks instead of 13 weeks. So therefore this legislation may save Kansas City a small amount of money, perhaps 1/12th of whatever Kansas City=s unemployment payout is currently (assuming unemployment is below 6 percent statewide).

Oversight notes that the City of Kansas City assume the proposal would have a possible small positive impact due to the reduction of unemployment weeks that claimant may receive.

Therefore, Oversight will note a $0 to Unknown positive impact on the fiscal note for local political subdivisions.

Oversight notes that the current average daily balance of the Unemployment Compensation Trust Fund was $832,620,711 in FY 2018 and $969,324,537 in FY 2019. Section 288.122 has been modified to allow for a higher balance for Missouri's Unemployment Trust Fund (UTF). This is accomplished by raising the UTF threshold amounts used for determining when negative tax rate adjustments are triggered, which lowers employers' tax rates.

Oversight assumes this proposal (decrease in the duration of unemployment and the increase in the threshold) would increase the Trust Fund balance. This threshold balance of the Trust Fund is required to be met to trigger a discount for employers. Oversight notes the state government and larger municipal governments would not be impacted; however, smaller municipalities may be impacted (an increase in the threshold balance required to receive the discount may reduce the discounts received by smaller political subdivisions). Oversight is unable to determine the potential cost to the political subdivisions as a result of this proposal; therefore, Oversight will reflect a zero to Unknown potential savings on the fiscal note.

Oversight notes that currently there are <u>5 states who pay less than 20 weeks</u> of unemployment as follows:

- **Kansas** was providing 16 weeks of UI before COVID-19, but that has been extended to 26 weeks through April 2021;
- **Alabama** currently provides up to 14 weeks of UI for new enrollees, with an additional five-week extension for those enrolled in a state-approved training program;
- **Georgia** was providing 14 weeks of UI, but in the COVID-19 emergency that has risen to 26 weeks;
- **Florida** currently provides up to 19 weeks for claims filed after January 1, 2021; and
- **North Carolina** currently provides up to 16 weeks for claims filed after January 3, 2021.

Oversight notes there is a change in the fiscal note if compared to similar legislation, HB 1409 from 2018. According to DOLIR the assumption was made that the amount of funding is based on the number of weeks paid which was incorrect, in fact the Federal funding for administration of the Unemployment Compensation Program is based on the number of initial claims processed, which they believe will not be changed by this proposal. Therefore, Oversight will not reflect any additional reduction to the Unemployment Compensation Administration Fund beyond the ITSD fiscal impact (0948). These changes were also noted in the fiscal note for HB 217 from 2019 session.

<u>**Section 288.104"Employment Security Program Integrity Act of 2021"**</u>

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume there is no anticipated fiscal impact to DOLIR as a result of this legislation. The Division of

Employment Security's current operational procedures comply with this bill's requirements, with the exception of the newly required written reports to the general assembly.

However, this legislation does require the department utilize the Integrity Data Hub published by the UI Integrity Center of the National Association of State Workforce Agencies (NASWA). While the department is currently utilizing this hub, there may be future advances to other systems outside of the Integrity Data Hub that may more helpful to the department and/or the subscription costs for NASWA may shift. By mandating that the department use the Integrity Data Hub specifically, it may prevent the department from using any future systems, and could result in future fiscal impact if the subscription costs associated with NASWA change.

Oversight notes the National Directory of New Hires is managed by the Federal Department of Health and Human Services, Office of Child Support Enforcement. The Missouri Department of Social Services manages by the Missouri State Directory of New Hires. DES cross-matches claimants against both new hire lists (National and State).

Oversight notes the proposal instructs the Division to utilize other government or commercially available services to achieve the purpose of the bill. Additionally, it requires that DOLIR to check its new-hire records against the records contained in the National Directory of New Hires in order to verify the eligibility of the individuals named in the division's new-hire records. The DOLIR already does have a system that comply with the proposed rules, except the report that must be submitted to the general assembly. Therefore, the **Oversight** will note zero impact on the fiscal note for purpose of this section of the proposal.

<u>Bill as whole:</u>

In response to the previous version of this bill officials from the **City of Springfield** assumed this proposal would not have a direct fiscal impact on their respective organization.

Officials from the **Missouri University System** assume this proposal would not have a direct fiscal impact on their respective organization.

Officials from the **City of Claycomo**, **City of Corder**, **City of Springfield**, **and State Technical College of Missouri** each assume the proposal would not have a direct fiscal impact on their respective organization.

In response to the previous version of this proposal, HB 649 (1496H.01) 2021, Officials from **Missouri Department of Conservation, Office of Administration, Missouri State University, Northwest Missouri State University, City of Saint Louis – Budget Division, City of Tipton, Springfield R-XII School, and High Point R-III School** each assume the proposal would not have a direct fiscal impact on their respective organization.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other local subdivisions, colleges, universities, and schools were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
OTHER STATE FUNDS			
Savings – Section 288.060 Colleges & Universities and other state agencies reduction of weekly benefits base on unemployment rate p. 8	$0 to Unknown	$0 to Unknown	$0 to Unknown
NET EFFECT ON OTHER STATE FUNDS	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**
UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND (0948)			
Costs – '287.060 & '287.036 Expense - IT Consultants p. 6	($194,206)	($39,812)	($40,807)
NET EFFECT ON UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND (0948)	**($194,206)**	**($39,812)**	**($40,807)**
FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
UNEMPLOYMENT COMPENSATION TRUST FUND			

Savings - '287.036 - Severance Pay p. 4	$0 to $4,042,642	$0 to $4,851,171	$0 to $4,851,171
Savings – '287.060 Reduction of weekly benefits base on unemployment rate p. 7	More than or Less than $33,914,654	More than or Less than $40,697,585	More than or Less than $40,697,585
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	**More than or Less than $37,957,296**	**More than or Less than $45,548,756**	**More than or Less than $45,548,756**

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
Savings - potential increase in discount for employer contribution rate with the increase of fund balances in trust fund p. 7-8	$0 to Unknown	$0 to Unknown	$0 to Unknown
ESTIMATED NET EFFECT ON LOCAL POLITICAL UBDIVISIONS	**$0 to Unknown**	**$0 to Unknown**	**$0 to Unknown**

FISCAL IMPACT – Small Business

There are over 166,000 small businesses covered by Missouri's unemployment insurance system. Changes to Missouri's unemployment insurance laws have the potential to increase or decrease the amount of unemployment taxes small businesses pay depending on the state's average unemployment rate.

FISCAL DESCRIPTION

This bill changes the average unemployment rate requirement in order for an insured worker to receive unemployment compensation benefits to:

(1) Twenty weeks if the Missouri average unemployment rate is higher than 9%;

(2) Nineteen weeks if the Missouri average unemployment rate is higher than 8.5% but no higher than 9%;
(3) Eighteen weeks if the Missouri average unemployment rate is higher than 8% but no higher than 8.5%;

(4) Seventeen weeks if the Missouri average unemployment rate is higher than 7.5% but no higher than 8%;

(5) Sixteen weeks if the Missouri average unemployment rate is higher than 7% but no higher than 7.5%;

(6) Fifteen weeks if the Missouri average unemployment rate is higher than 6.5% but no higher than 7%;

(7) Fourteen weeks if the Missouri average unemployment rate is higher than 6% but no higher than 6.5%;

(8) Thirteen weeks if the Missouri average unemployment rate is higher than 5.5% but no higher than 6%;

(9) Twelve weeks if the Missouri average unemployment rate is at or below 5.5%;

(10) Eleven weeks if the Missouri unemployment rate is higher than four and one-half percent but no higher than five percent;

(11) Ten weeks if the Missouri unemployment rate is higher than four percent but no higher than four and one-half percent;

(12) Nine weeks if the Missouri unemployment rate is higher than three and one-half percent but no higher than four percent; and

(13) Eight weeks if the Missouri unemployment rate is at or below three and one-half percent.

All necessary rules and regulations for the administration of this section will be established by the Division of Employment Security within the Department of Labor and Industrial Relations.

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 Labor and Industrial Relations
Missouri Department of Transportation
City of Claycomo
City of Corder
City of Springfield
State Technical College of Missouri

Julie Morff
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May 5, 2021

Ross Strope
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May 5, 2021