

March 27, 2013

The Honorable Arlen Siegfried, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Siegfried:

SUBJECT: Fiscal Note for HB 2194 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2194 is respectfully submitted to your committee.

HB 2194 creates the Kansas Business Workers and Community Partnership Act as of January 1, 2013, intended to facilitate information sharing between the state and the federal government, the state work force, the business community and local governments to address critical labor shortages in Kansas. The bill would require the Department of Labor to develop and administer a program to support noncriminal undocumented aliens who, in lieu of detention or deportation by the federal government, seek authorization from the federal government to work for certain eligible businesses in the state. The program must also provide assistance to these individuals or their dependents through partnership arrangements with eligible community or faith-based organizations. These undocumented persons may be partnered with eligible businesses in industries that have been certified as having significant worker shortages that threaten local economies.

The bill directs the Governor to certify the industries with significant worker shortages that threaten local economies. The state must support an application to the federal Department of Homeland Security (DHS) for deferred action or other discretionary relief on behalf of an undocumented alien who is eligible to participate in the Kansas program and commits to work with a certified employer in an industry certified as short on workers. The Department of Labor must report annually to the Legislature on the program.

HB 2194 directs that any undocumented alien may seek to enroll in the program if the person meets the conditions specified in the bill related to background checks, proof of presence in Kansas for at least five years, and agreements to work toward English proficiency and employment with a certified business. Upon DHS approval, the participant must obtain evidence of work authorization from the federal agency, seek a Social Security card and comply with the program requirements. From completion of these steps, an applicant may then apply for a Kansas driver's license or Kansas nondriver's identification card.

If the undocumented alien is fired for cause, the individual would not be eligible for unemployment benefits. Program eligibility would end for an employment gap of 90 days. A spouse or minor dependent would be eligible for the program. The spouse or dependent could apply for a Kansas driver's license or identification card if otherwise eligible.

Employers would qualify for the program for meeting criteria specified in HB 2194. While Section 1 of the bill has the Governor make the certification, Section 4 of the bill has the Department of Labor make the certification that a business is experiencing labor shortages. Employers would pay an annual registration fee ranging from \$1,000 plus \$200 per program participant to \$5,000 plus \$200 per participant; amounts increase as the business employs greater numbers of undocumented aliens. The business must also complete training and certification by the Department of Labor, pay all federal and state employment taxes and provide all benefits to participants as provided to other employees.

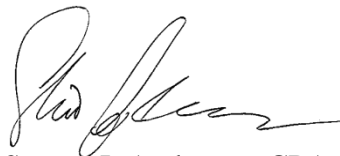
If an employer is decertified by the Department of Labor, payment of a civil penalty of \$500 per program participant or \$5,000 in total is due. Employers may voluntarily leave the program with 60 days' notice. Employers participating in the program would not be criminally prosecuted by the state for actions arising out of the past employment of an undocumented alien who is a program participant.

The bill authorizes community and faith-based organizations to become contract providers of activities specified in the bill, which include education and outreach regarding program participants, assisting participants in completion of their documentation and placement with certified employers, and teaching English.

The bill also authorizes the Secretary or the Secretary's agent to enter any premises at any reasonable time, in order to inspect records or interview employers, employees or program participants to assure compliance with the provisions of this act. The act would take effect January 1, 2013.

The Department of Labor would be required by HB 2194 to establish the new program but has not yet provided an estimate of what the program would cost the agency. Once potential new costs have been identified, a revised fiscal note will be provided. Enactment of HB 2194 would have no fiscal or administrative effect on the Department of Revenue, as the agency responsible for issuing driver's licenses and nondriver's identification cards. Any fiscal effect associated with HB 2194 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Dawn Palmberg, KDOL

Steve Neske, Revenue