

March 2, 2012

REVISED

The Honorable Pete Brungardt, Chairperson  
Senate Committee on Federal and State Affairs  
Statehouse, Room 136-E  
Topeka, Kansas 66612

Dear Senator Brungardt:

**SUBJECT:** Revised Fiscal Note for SB 399 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 399 is respectfully submitted to your committee.

SB 399 establishes 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.

SB 399 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 SB 399. 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 SB 399 to establish the new program and has now provided an estimate of what the program would cost the agency. According to the agency, the duties would be time and labor intensive. The bill would require coordination with federal authorities during the initial phase as well as during the maintenance of the program. To develop cost estimates, the Department assumed 50 employers would sign up for the program,

100 employees would sign up, and that the program would be centrally managed from Topeka. In the first year, additional expenditures for 5.75 FTE positions (including an attorney, investigator/auditor, trainer, administrative support and partial IT positions) and equipment and phone and network charges total \$586,088. In addition, the agency reports that there could be costs incurred for incarceration of illegal aliens who are no longer qualified for the program pending proceedings by federal authorities. A rather extensive bilingual campaign would have to be initiated to encourage undocumented workers to participate, as well as development of an electronic database. These first-year expenses detailed below not covered by fee income would have to be financed by the State General Fund.

Staff Salaries	\$396,428
Staff Benefits	100,319
Indirect Expenses	111,271
Licensing and IT Security	15,000
Database Server	12,500
Staff Travel	10,000
Computers and Phones	19,250
Telephone and Network Connectivity	5,940
Possible Incarceration	<u>10,000</u>
Total	\$586,088

In the second year, Labor assumes 100 employers and 500 employees might sign up and that the program would remain at agency headquarters in Topeka. Staffing would have to increase to add two investigators and one administrative support staff and staff travel would increase 50 percent.

Staff Salaries	\$350,334
Staff Benefits	117,304
Indirect Expenses	98,204
Licensing and IT Security	15,000
Staff Travel	15,000
Computers and Phones	5,250
Telephone and Network Connectivity	7,380
Possible Incarceration	<u>10,000</u>
Total	\$618,472

Based on the agency's assumptions regarding subscription to the program, \$70,000 of fee income in the first year would be generated, and \$150,000 in the second year. In neither year is that sufficient to finance the anticipated costs of the bill.

Enactment of SB 399 would not have a fiscal or administrative effect on the Department of Revenue, as the agency responsible for issuing driver's licenses and nondriver's identification

The Honorable Pete Brungardt, Chairperson

March 2, 2012

Page 4—399 Revised

cards. Any fiscal effect associated with SB 399 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

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

cc: Kathie Sparks, Labor