

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/13/2025 *Check all that apply:*
Bill Number: SB 364 Original Correction
 Amendment Substitute

Sponsor: Cindy Nava, Javier Martinez, Craig Brandt, Michael Padilla, and Joseph Cervantes **Agency Name and Code** 790 – Department of Public Safety
Short Title: Law Enforcement Qualifications **Person Writing** Sonya K. Chavez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0.0	\$0.00	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.0	\$0.0	\$0.0	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total for NMSP	\$0.0	\$500.0	\$500.0	\$1,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

The proposed legislation seeks to amend NMSA 1978, Sections 29-1-9, 29-2-6, and 29-7-6 to allow individuals who are not U.S. citizens but possess work authorization documents from U.S. Citizenship and Immigration Services (USCIS) to serve as law enforcement officers. This change is expected to potentially broaden the recruitment pool for law enforcement agencies across the state, which may have both fiscal and operational implications.

FISCAL IMPLICATIONS

NEW MEXICO STATE POLICE

Recruitment Overhaul: The legislative change would likely necessitate an overhaul of recruitment practices. New Mexico State Police would need to expand their recruitment efforts to reach work-authorized non-citizens, which could involve significant investment in advertising, outreach programs, and recruitment events specifically targeted at these individuals.

Background Checks: The process for vetting non-citizen applicants could be more complex, requiring additional background checks and coordination with federal immigration agencies. This could increase administrative costs, including fees for additional screenings, background verification, and potential delays in hiring due to the complexity of verifying immigration and work authorization statuses.

Additional Training Requirements: Non-citizens with work authorization may require specialized training to meet legal requirements for firearm use, legal protocols, and other law enforcement duties. Training costs could increase due to the need to ensure compliance with federal laws regarding non-citizens carrying firearms. New Mexico State Police would need to potentially develop or revise training programs to accommodate non-citizen officers, which could require additional funding for resources, instructors, and facilities.

Certification Costs: Depending on the legal status of non-citizens and their ability to carry firearms, additional certifications may be required. This could involve coordination with federal authorities to ensure all non-citizen applicants meet the necessary qualifications and background checks, which could lead to higher administrative and operational costs.

If enacted, funding will be required for essential investments in recruitment efforts, background screening, training programs, and certification requirements. Additional costs will be incurred to expand advertising, outreach, and recruitment staff, while also covering the costs of thorough background checks and additional administrative support. Enhanced training programs increased instructional resources, and compliance-focused sessions are critical for ensuring preparedness. Additionally, firearm certification and coordination with federal authorities are necessary for proper credentialing. The total estimated recurring cost for these initiatives is \$500,000.

NEW MEXICO LAW ENFORCEMENT ACADEMY

With the exception of reworking internal application packages, which would only create negligible financial costs

SIGNIFICANT ISSUES

In New Mexico, the ability for a non-U.S. citizen with work authorization documents to carry a firearm as a law enforcement officer would generally depend on both federal law and state law, as well as the specific policies of

the law enforcement agency.

Under U.S. federal law, non-citizens who have valid work authorization from U.S. Citizenship and Immigration Services (USCIS) are generally allowed to work in the United States. However, federal law (particularly the Gun Control Act of 1968) restricts the ability of non-citizens to possess firearms unless they meet certain criteria. One of these criteria is that they must be a lawful permanent resident (green card holder) or meet certain exceptions, such as holding specific legal statuses (e.g., diplomats, certain foreign nationals with a visa for specific purposes). Work authorization alone does not automatically grant the ability to carry firearms under federal law.

Under state law (New Mexico), it allows law enforcement officers to carry firearms as part of their duties, but the state's regulations will typically align with federal standards regarding firearm possession by non-citizens. Therefore, a non-citizen with work authorization would likely need to be a lawful permanent resident or meet other legal requirements that align with both federal and state laws to be permitted to carry a firearm in the course of their duties as a police officer.

New Mexico law may also have specific guidelines or exemptions for law enforcement officers regarding who can carry firearms in the performance of their official duties, but these are typically subject to meeting federal eligibility standards.

In summary, non-U.S. citizens with work authorization documents may not be able to carry firearms in New Mexico as law enforcement officers unless they also meet the federal eligibility requirements for firearm possession, which generally includes being a lawful permanent resident or meeting other specific conditions. Additionally, local law enforcement agencies would need to ensure compliance with these federal laws.

Under this bill, the eligibility of non-U.S. citizens to serve as law enforcement officers would be contingent upon work authorization from USCIS. However, these work authorizations are subject to expiration and specific conditions that must be met to obtain or maintain them. DPS may face difficulty in keeping track of the expiration dates or changes in an individual's work authorization status, particularly for employees on temporary or non-permanent work visas. Without an effective tracking mechanism, DPS might inadvertently continue employing someone whose work authorization has expired or been revoked. This could lead to legal consequences for the department, as they may be violating employment and immigration laws by retaining someone who no longer has the legal right to work.

Non-citizens with work authorization may face delays or complications in renewing their work permits. This could result in temporary gaps in staffing or disruption in critical law enforcement operations if an officer is unable to work due to expired or revoked work authorization. DPS may struggle to maintain a consistent and reliable workforce, particularly if these issues arise unexpectedly.

DPS invests significant resources in the recruitment, hiring, and training of law enforcement officers. If an employee's work authorization expires or is revoked after being hired, DPS could face the added cost and resource burden of re-hiring and training a new candidate. This also wastes time and money if an individual is no longer able to fulfill their role as a law enforcement officer.

The legal landscape for work authorization, immigration status, and employment eligibility is complex and subject to frequent changes. DPS would need to stay up-to-date with evolving laws and regulations related to USCIS work authorizations to ensure compliance. This could create administrative burdens and legal risks for the department.

PERFORMANCE IMPLICATIONS

None for DPS.

ADMINISTRATIVE IMPLICATIONS

This would require internal changes to the New Mexico Law Enforcement Academy application packets for the *Basic Academy* as well as the *Certification by Waiver* classes. An additional verification process verifying citizenship status may need to be created and implemented.

Certification would continue to occur based on the approval of the Standards and Training Council, and Law Enforcement Certification Board per the Board's Chief Executive Officer

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified by DPS.

TECHNICAL ISSUES

None noted by DPS.

OTHER SUBSTANTIVE ISSUES

None noted by DPS.

ALTERNATIVES

None identified by DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain with 29-1-9, NMSA 1978:

No sheriff of a county, mayor of a city or other person authorized by law to appoint special deputy sheriffs, marshals, policemen or other peace officers in the state of New Mexico to preserve the public peace and to prevent and quell public disturbances shall appoint as such special deputy sheriff, marshal, policeman or other peace officer any person *who shall not be a citizen of the United States of America.*

AMENDMENTS

None proposed by DPS.