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FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/07

SPONSOR Youngberg LAST UPDATED _____ HB 1284

SHORT TITLE Enforcement of Immigration Laws SB _____

ANALYST Peery-Galon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NA	\$.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Labor Department
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Department of Public Safety (DPS)
 Attorney General's Office (AGO)
 New Mexico Corrections Department (NMCD)

No Responses Received From

Governor's Office
 Public Defenders Department
 New Mexico Municipal League
 New Mexico Association of Counties

SUMMARY

Synopsis of Bill

House Bill 1284 creates the crime of criminal trespass by an illegal alien and enacts the Employment of Unauthorized Workers Act requiring employers to make a reasonable effort to verify that an unauthorized worker was not hired or employed and to comply with federal and state employment eligibility laws. The proposed legislation empowers the attorney general to investigate and bring civil action in order to enforce the Act. The penalties for violation of the Act are civil penalty of up to \$5,000 and the suspension or revocation of any permit, license, registration or other authorization issued to the employer to conduct business in New Mexico.

House Bill 1284 enacts statutory provisions requiring law enforcement agencies to employ all lawful means to enforce the federal immigration laws and allowing law enforcement officers to inquire about the immigration status of lawfully detained persons. Also, the proposed legislation creates the Interim Legislative Committee on Immigration as a joint interim legislative committee and provides for its membership, duties, reporting requirements and staffing by Legislative Council Services.

FISCAL IMPLICATIONS

There will be minimal administrative cost for statewide update, distribution and documentation of statutory changes. AOC reports any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and appeals from convictions.

AGO states in order to investigate and enforce the Employment of Unauthorized Workers Act, an appropriation will be needed to hire investigators and attorneys.

AODA states the proposed legislation requires additional judgeships, prosecutors, defense attorneys and jail space which will be critical along the border counties.

NMCD states that the enactment of the proposed legislation will result in a minimal to moderate increase to the department's prison population and probation/parole caseloads. However, if the proposed legislation results in a substantial number of new convictions this will increase the Corrections Department's prison population. The annual cost of incarcerating an inmate is \$23,867 per year for males and \$21,651 per year for females. The cost per client in probation and parole for a standard supervision program is \$1,467 per year, for an intensive supervision program is \$3,383 per year, for a NMCD community corrections program is \$3,503 per year, for a privately-owned community corrections program is \$7,917 per year, and for male and female residential community corrections program is \$39,401 per year.

SIGNIFICANT ISSUES

DPS states the enforcement of immigration laws is a function and responsibility of the federal government. State and local law enforcement often refer detainees to the Border Patrol if contact is made with an illegal immigrant. DPS notes the proposed legislation could have a negative impact on criminal investigations if the victims are illegal aliens that are afraid to report the crimes to the police.

AGO reports specialized federal training for state and local law enforcement is required to learn enforcement of federal immigration law. AGO states a substantial increase in law enforcement is required in order to prevent law enforcement from being detracted from existing criminal enforcement duties. AGO notes inquiry into a person's immigration status may promote racial profiling and could be perceived as a violation of an individual's rights. Also, reporting of violent crimes may decrease due to fear of law enforcement's inquiry into immigration status.

County jails are reimbursed for the cost of housing federal prisoners who are charged with illegal immigration. AOCA reports that if the proposed legislation is enacted making illegal immigration a crime prosecutable by the state, jails will be required to cover the cost to house this type of offender with no reimbursement.

NMCD states the department would make reasonable efforts to work with the federal immigration officials to have illegal aliens returned to their own counties; however, there is no guarantee that the department would be successful in this endeavor.

PERFORMANCE IMPLICATIONS

AOC states the proposed legislation may have an impact on performance measures pertaining to cases disposed of as a percent of cases filed and percent change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

AGO states the Department of Labor is the established agency in New Mexico to monitor and enforce regulations pertaining to labor.

AOC notes new laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts requiring additional resources.

AODA states the proposed legislation could increase the caseload of district attorneys along the border by approximately 25 percent and the caseloads of remaining district attorneys could see an increase of around 10 percent.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

AODA states the proposed legislation is somewhat a duplication of federal law, except the penalties are much stiffer.

OTHER SUBSTANTIVE ISSUES

Executive Order No. 2005-019 titled Clarifying Victim and Witness Protections in New Mexico requires the following:

- New Mexico law enforcement officers can not inquire about a person's immigration status for the sole purpose of determining whether the person is present in the United States in violation of federal civil immigration law, and
- New Mexico law enforcement officers can not inquire about the immigration status of crime victims, witnesses or other who call or approach the police seeking assistance.

The executive order states that nothing in the in the order is to construed to prohibit the ability of New Mexico law enforcement officers from cooperating with federal authorities in the investigation and apprehension of undocumented immigrants suspected of criminal activity.

RPG/mt