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FISCAL IMPACT REPORT

SPONSOR Martinez DATE TYPED 2/10/05 HB _____

SHORT TITLE Local Enforcement of Federal Immigration Laws SB 103/aSJC/aSF1

ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

No Response Received

Attorney General (AG)

SUMMARY

Synopsis of SF1 Amendment

Senate Floor amendment number 1 provides that a law enforcement agency of the state of a political subdivision shall use state or federal resources to detect or apprehend persons whose only violation of law is that they are persons of foreign citizenship who have entered or are residing in the United States in violation of federal immigration laws in Title 8 of the United States Code if it is legally required to do so.

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment removes the reference to investigating or enforcing any violation of federal immigration laws in Title 8 of the United States Code.

Synopsis of Original Bill

Senate Bill 103 would prohibit any state or local law enforcement agency from utilizing state

resources, or accepting or utilizing federal resources, for enforcement of federal immigration laws.

Significant Issues

Specifically, this bill prohibits state or local enforcement agencies from using resources to detect or apprehend persons whose only violation of law is that they are persons of foreign citizenship who have entered or are residing in the United States in violation of federal immigration laws, or investigating or enforcing federal immigration laws.

For purposes of this bill, the Labor Department is not considered a law enforcement agency.

FISCAL IMPLICATIONS

DPS indicates that there would be no fiscal impact because it does not take enforcement action based solely on a person's immigration status.

TECHNICAL ISSUES

DPS writes that... "[t]he Law Enforcement Assistance Act of 1965, Public Law 89-197, (Not **98-197** as stated in the current State Statute) was the mechanism for the Federal Government to provide grant funding of all types, to state and local authorities. That law has since been repealed and replaced with Title 42 USCS, Chapter 46, Justice System Improvement, Public Law 90-351.

"In essence, the current State Statute 29-1-10 NMSA 1978 is obsolete. Amending the obsolete statute, as proposed in this bill, would not serve the purpose intended.

"State Statute 29-1-10 should be updated, using the current Federal Statutes, in order to ensure a mechanism is in place for state and local governments to receive Federal Grant Funding."

DPS also indicates that, if the bill is amended to reflect the proper federal statutes, it would be necessary to construct the language so that only funding tied to the enforcement of immigration laws is restricted. Otherwise, other federal grant funding projects could be negatively impacted.

OTHER SUBSTANTIVE ISSUES

DPS notes concerns that this bill could hamper law enforcement officers' efforts to combat terrorist threats when they are investigating suspicious activity. DPS notes additional concerns that the bill could interfere with law enforcement's efforts to combat illegal human smuggling.

POSSIBLE QUESTIONS

Is the proper statute cited in the bill?

Would passage of this bill jeopardize unrelated federal funding?

EF/yr