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FISCAL IMPACT REPORT

SPONSOR Rehm ORIGINAL DATE 2/04/2007
LAST UPDATED _____ HB 658
SHORT TITLE Possession of Firearms by Illegal Aliens SB _____
ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1		Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
Corrections Department (CD)
Office of the Attorney General (OAG)
Public Defender Department (PDD)
Sentencing Commission (SC)

SUMMARY

Synopsis of Bill

House Bill 658 amends Section 30-7-16 NMSA 1978 to prohibit receipt, transport or possession of a firearm or destructive device by an illegal alien. The bill defines illegal alien to mean a person not legally present in the United States at the time of the possession at issue.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

CD states that there will probably be no impact on them as illegal aliens convicted of felonies will probably be subject to deportation by the Federal government, and the Department will pursue this option in order to attempt to avoid having to incarcerate these offenders in New Mexico prisons.

SIGNIFICANT ISSUES

The AOC provided the following

- Section 30-7-2 NMSA 1978, governing unlawful carrying of a deadly weapon, does not prevent the carrying of an unloaded firearm. HB 658 prohibits receipt, transport or possession of any firearm by an illegal alien, loaded or unloaded.
- Section 29-19-4 NMSA 1978, governing applicant qualifications for a concealed handgun license requires an applicant to be a citizen of the United States.

According to the SC illegal aliens have been prohibited from buying or transferring firearms since the passage of the federal Gun Control Act in 1968.

The OAG states HB 658, although not entirely free from litigation potential, is arguably not unconstitutional under the Fourteenth Amendment's Equal Protection Clause, provided:

- the requisite "police power" argument can be made in support of the State's legitimate interest,
- it is not in conflict with the language of the New Mexico Constitution, and
- it is not prohibited by the doctrine of federal preemption, because it is consistent with federal law and federal law does not forbid state enactments in the same area as long as they do not conflict with federal law.

ADMINISTRATIVE IMPLICATIONS

Any litigation resulting from the provisions of this bill can be handled by agencies involved with existing staff as part of their ongoing responsibilities.

DW/csd