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## FISCAL IMPACT REPORT

SPONSOR Block/Mason LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 1/31/2023  
BILL \_\_\_\_\_  
SHORT TITLE Interference with Federal Immigration Law NUMBER House Bill 162  
ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but could be moderate	Indeterminate but could be moderate	Indeterminate but could be moderate		Recurring	NMAG operating (GF)
<b>Total</b>	Indeterminate but could be moderate	Indeterminate but could be moderate	Indeterminate but could be moderate		Recurring	Local Government Funds

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

HB162 may conflict with Article IV, Section 24 of the New Mexico Constitution

### Sources of Information

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)

Department of Homeland Security and Emergency Management

#### No Responses Received From

Department of Public Safety

New Mexico Counties

New Mexico Municipal League

## SUMMARY

### Synopsis of House Bill 162

House Bill 162 (HB162) prohibits the adoption or continued effect of any law, ordinance, rule or regulation that prohibits or restricts the enforcement of federal immigration law.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## FISCAL IMPLICATIONS

The New Mexico Legislature is limited in its ability to affect local ordinances (see NMAG’s comments below.) As such, NMAG and/or local governments may need to allocate staff and resources to defend the multiple challenges that could result from the passage of this bill.

## SIGNIFICANT ISSUES

The bill raises several issues that could violate the New Mexico Constitution.

NMAG’s analysis includes the following comments:

The bill seeks to prevent the New Mexico Legislature and local governments from enacting or continuing to enforce a law or ordinance that would prohibit enforcement of federal immigration law. The Supremacy Clause in the United States Constitution already accomplishes this. The Supremacy Clause precludes states from dictating to the federal government who can perform federal work. A state may not deny to those failing to meet its own qualifications the right to perform the functions within the scope of the federal authority.” *Sperry v. State of Fla. ex rel. Florida Bar*, 373 U.S. 379, 385 (1963). Because any law or ordinance this bill seeks to prevent would limit a state or local government or law enforcement from performing federal work with respect to federal immigration law, that law or ordinance could be a violation of the Supremacy Clause. Therefore, this bill would accomplish what the Supremacy Clause already accomplishes, and therefore may be unnecessary.

The bill could also violate the New Mexico Constitution’s Article IV, Section 24. Section 24 limits the ability of the legislature to affect local ordinances (under Dillon’s rule or the “home rule”). Relevant to this bill: “The legislature shall not pass local or special laws in any of the following cases: regulating county, precinct or district affairs; the jurisdiction and duties of justices of the peace, police magistrates and constables. . .” N.M. Const. art. IV, § 24. The bill here seeks to limit the ability of a local county or municipal government from passing an ordinance or rule or regulation that affects personnel or resources with respect to federal immigration law, which could be considered as regulating the jurisdiction of police or local “affairs” in general. While such an ordinance or rule would itself likely violate the Supremacy Clause as discussed above, this bill’s prohibition on a county or municipality from passing such an ordinance or rule may violate this provision in the New Mexico Constitution.

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