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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/2015
 LAST UPDATED 2/24/15

SPONSOR O'Neill HB _____

SHORT TITLE Criminal Offender Employment Act Eligibility SB 120/aSPAC

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)
 New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to SB120 would strike section 2 of the original bill currently codified as Section 28-2-4 NMSA 1978 “power to refuse, renew, suspend or revoke public employment or license”. The amendment makes subsequent changes for continuity purposes.

Synopsis of Original Bill

Senate Bill 120 would extend the provisions of the Criminal Offender Employment Act to include private employers. Specifically, SB120 would:

- prohibit a private employer from establishing an applicant’s conviction of a felony or misdemeanor involving moral turpitude as an automatic bar to obtaining employment, or from obtaining a license, certificate or other authority to engage in any regulated trade, business or profession; and
- allow a private employer to refuse, grant, renew, suspend or revoke employment where

the applicant has been convicted of a felony directly related to the particular employment or profession, or where the felony is not directly related but the employer has investigated and determined that the applicant has not been sufficiently rehabilitated to warrant the public trust.

FISCAL IMPLICATIONS

The bill would make it easier for criminal justice involved individuals to get and keep a job, possibly reducing recidivism. Having and keeping a job is one critical factor in assisting offenders not to reoffend. However, it is difficult to estimate how much this policy change would impact recidivism and subsequently estimate reductions in the inmate population.

SIGNIFICANT ISSUES

NMCD provided the following:

The amendment may address well documented challenges faced by those individuals with convictions including NMCD offenders attempting to secure job interviews, and may give these offenders a reasonable opportunity to present their skills and capacities to private employers (before having to disclose their conviction status if they become finalists for the position). Having and keeping a job is a critical factor in reducing recidivism. However, the impact of the amendment is too speculative at this point for NMCD to attempt to estimate any potential fiscal savings due to a potentially smaller prison population or lower recidivism rate.

NMSC provided the following analysis:

Having any lifetime arrest dims the employment prospects more than any other employment-related characteristic. Given the large number of individuals arrested in the U.S. annually and the high lifetime prevalence of arrest (Brame, Turner, Paternoster, & Bushway, 2012), this is discouraging for those who become involved in the criminal justice system. The finding that even an arrest (whether it results in a conviction, jail or prison time) narrows employment prospects heightens the importance of diversion programs and reducing official reliance on the criminal justice system.

In 1998, Hawaii became the first state to adopt a fair chance law as applied to both public and private employment. Seven states – Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New Jersey, and Rhode Island now prohibit private as well as public employers from posing questions about a job applicant's conviction history until later in the hiring process.

Fair-chance hiring policies increase employment of people with criminal records: Early results of such policies have been promising. For instance, after adopting a fair-chance hiring policy, the city of Durham, North Carolina, has increased its percentage of new hires with criminal records from less than 2.5 percent in 2011 to 15.5 percent in 2014. Minneapolis, Minnesota, has seen similarly positive results: Banning the box on job applications resulted in more than half of job seekers with criminal records being hired. And in Atlanta, Georgia, a fair-chance hiring policy led to people with criminal records making up fully 10 percent of all city hires between March and October 2013.

Additionally, some private employers—such as Target Corporation, one of the nation's

largest employers—have removed criminal history questions from their job applications.

DOH provided the following analysis:

The provisions of SB120 do not conflict or interfere with the Caregivers Criminal History Screen Requirements. However, SB120 would require private health care providers, agencies and facilities to consider applicants with felony convictions through the hiring process and not inquire about a conviction until the applicant has been selected as a finalist for the position. This requirement is consistent with the Caregivers Criminal History Screen Requirements for due process.

AOC provided the following:

There may be a question as to whether the proposed amendments are too broad in scope. While many states and municipalities have passed what are termed “ban the box” laws that apply to public employees, several states have recently passed laws extending prohibition against initial inquiry into criminal history to private employers. In both New Jersey and Illinois, where laws were signed in the summer of 2014, however, the prohibitions cover only those private employers with 15 or more employees. SB 120a contains no such limitation to extension of application of the law. Minnesota’s law also does not condition application of the law to the number of employees a private employer employs.

EC/bb/je/bb