BILL # HB 2582 **TITLE:** immigration enforcement; security council

SPONSOR: Pearce **STATUS:** As Amended by Senate JUD

PREPARED BY: Martin Lorenzo

FISCAL ANALYSIS

Description

HB 2582 addresses several issues related to illegal immigration and immigration enforcement including: 1) authorizing peace officers to enforce federal immigration laws, 2) establishing the Border Security Fund, 3) the formation of the Border Security Council, 4) the appropriation of $30 million from the General Fund to the Border Security Fund and $20 million from the General Fund to the Department of Public Safety (DPS) for border related staff and operations, and 5) directs certain existing criminal surcharges and assessments to the Border Security Fund.

Estimated Impact

As amended, HB 2582 appropriates $50 million ($20 million to DPS and $30 million to local governments) from the General Fund in FY 2007 to offset costs associated with authorizing peace officers to enforce federal immigration laws. It is difficult to predict in advance how this level of appropriation will relate to the new state and local law enforcement responsibilities.

Beyond the appropriations, General Fund revenues would decline by $6.9 million in FY 2007 as certain DUI assessments are transferred to the Border Security Fund. Future revenue loss would likely grow to $10.4 million in FY 2008. Additionally, the bill diverts a portion of current criminal surcharges from the Criminal Justice Enhancement Fund and other funds to the new Border Security Fund. However, since the bill allows the Border Security Council to determine the offenses that are immigration related (and would therefore be redirected to the Border Security Fund) the magnitude of impact cannot be determined in advance.

The bill could have broader consequences on both state revenues and expenditures. To the extent that the bill results in increased enforcement of immigration laws, the level of illegal immigration would likely decline. Lower levels of immigration would reduce participation in state-funded programs, which would then affect spending. Reduced immigration levels would also impact state revenues. The growth in general tax collections would decline with a reduced immigrant population. This reduction may be offset somewhat if wages increase to remaining residents in an attempt to offset the overall decline in the labor supply. The magnitude of these broader revenue and spending impacts will depend on how much the bill affects the level of immigration, which cannot be determined in advance. *(Please see HB 2577 fiscal note for further analysis.)*

The Department of Public Safety, League of Arizona Cities and Towns and the Arizona Association of Counties do not have a specific fiscal estimate of the bill.

Analysis

Under the bill, peace officers in the state would be authorized enforce federal immigration laws, including their ability to investigate, apprehend, detain or remove illegal aliens to the extent permitted by federal law. Based on the HB 2589 fiscal note, approximately 47,050 unauthorized immigrants' are referred to federal authorities from local, state, tribal and military entities on an annual basis. However, these estimates may be overstated to the extent that the unauthorized immigrants may have been charged with more than one immigration related violation and a portion of the referrals occurred in California.

Costs resulting from enforcing federal immigration laws may arise from increased workloads for law enforcement, judicial and corrections personnel, and costs from incarcerating and transporting illegal immigrants. At this time, the magnitude of the impact cannot be determined. For example, the current federal referral activity does not translate into workload generated by the bill.

HB 2582 establishes the Border Security Fund, consisting of gifts, grants, various criminal surcharges, legislative appropriations, and from FY 2007 through FY 2011, assessments charged to individuals convicted of operating a motor vehicle, aircraft or motorized watercraft while intoxicated. The bill also establishes the Border Security Council, who is to grant 50% of the monies in the Border Security Fund to counties and 50% to city, town and county law enforcement agencies, to aid in combating illegal immigration.

The bill includes an appropriation of $50 million from the General Fund to offset the costs of enforcing federal immigration laws and addressing related issues. The $50 million appropriation includes:

- $20 million to DPS to expand the Gang Intelligence Team Enforcement Mission into the Gang and Immigration Intelligence Team Enforcement Mission (GITEM). Of this amount, $10 million is for border security, border personnel, incarceration, and border physical barriers. The remaining $10 million is for additional Highway Patrol Officers exclusively for border security.
- $30 million to the Border Security Fund for grants to local governments. Of this amount, 50% is for city, town and county law enforcement agencies as well as city and town prosecutors and county attorneys. The remaining 50% will be allocated to counties for incarceration operating expenses.

An unknown amount of this appropriation may be recovered as the bill requires the Department of Administration to seek reimbursement from the federal government.

As indicated above, from FY 2007 through FY 2011, the Border Security Fund would include monies from assessments charged to those convicted of operating vehicles, aircraft and motorized watercraft while intoxicated. Based on revenues generated in a fund that imposes the same assessments, the estimated loss to the General Fund would total $6.9 million in FY 2007 and may grow to $10.4 million in FY 2008. Laws 2005, Chapter 307 (SB 1160) established these new assessments, which range from $500 per conviction to $1,500, depending on whether the conviction was for a first offense, second offense, extreme driving under the influence (DUI), or an aggravated DUI offense. The revenues from Chapter 307 are currently deposited into the General Fund, however, HB 2582 would deposit the estimated $6.9 million into the Border Security Fund in FY 2007. Actual revenues resulting from the assessments authorized by Chapter 307 are unknown as revenues into the General Fund are not accounted for by offense. However, revenues deposited into the Prison Construction and Operations Fund (PCOF), established by Laws 2003, Chapter 5 receives monies from assessments equivalent to those in Chapter 307, and imposed on individuals convicted of the same offenses. Total revenues deposited into the PCOF in FY 2004, FY 2005 and through February of FY 2006 are $83,700, $5,041,400 and $6,913,100, respectively. The FY 2006 amount would annualize to roughly $10.4 million. Since FY 2006 is the first year Chapter 307 assessments were implemented, Chapter 307 revenues are likely to be less than those into the PCOF as case processing times, collection efforts, and the enforcement of the assessment take time to fully materialize. As a result, General Fund revenue loss in FY 2007 is estimated to be as high as $6.9 million in FY 2007 and increasing to $10.4 million in FY 2008.

The Border Security Fund would also consist of current criminal surcharges, not imposed for clean elections purposes, resulting from offenses related to immigration control. However, since the bill grants the Border Security Council the authority to determine what offenses are immigration control related, it is unknown how much revenue will result from this source or what effect the reallocation of monies will have on the funds (and the recipients of those monies) that would have otherwise received the monies under current law. The Administrative Office of the Courts (AOC) has indicated that in FY 2005, non-Clean Election Fund criminal surcharges totaled $21,573,900. Depending on what charges the Border Security Council determines are immigration related, a portion of these monies may be redistributed to the Border Security Fund. *Table 1* indicates the amount and recipients of criminal surcharge monies in FY 2005.

Table 1

Estimated Criminal Surcharge Revenues

	FY 2005
Criminal Justice Enhancement Fund	$13,739,400
Medical Services Enhancement Fund	3,805,300
Fill The Gap	1,896,300
Deoxyribonucleic Acid Identification Fund	750,500
Other	230,400
Probation Surcharge ($5 flat fee)	1,152,000
Total	**$21,573,900**

Local Government Impact

As amended, the bill appropriates $30 million from the General Fund to the Border Security Fund which will be distributed to local governments. Of this amount, $15 million would be distributed to city, town and county law enforcement agencies, city and town prosecutors and county attorneys. The remaining $15 million would be granted to counties for incarceration related costs.

The Arizona Association of Counties has reported that in FY 2005, counties expended $39.6 million to incarcerate illegal immigrants. Of this amount, counties were reimbursed $2.2 million from the federal State Criminal Alien Assistance Program.

Local governments may also benefit from the $10 million appropriation to DPS, as a portion of these monies may fund a percentage of local officers salaries if they are members of the expanded GITEM task force.

The adequacy of HB 2582 appropriations to cover local government costs from the bill cannot be determined in advance. In addition, local governments could have their share of criminal surcharges reallocated from existing funds to the new Border Security Fund.

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