

**BILL #** SB 1070

**TITLE:** immigration; law enforcement; safe neighborhoods

**SPONSOR:** Pearce

**STATUS:** As Amended by Senate PSHS and Senate RULES

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## FISCAL ANALYSIS

### Description

Among the major changes, the bill:

- 1) Requires officials and agencies of the state and political divisions to fully comply with and assist in the enforcement of federal immigration laws. This includes prohibiting the adoption of any policies that limit immigration enforcement; utilizing various means to verify immigration status; transferring illegal aliens to federal custody; and arresting individuals without a warrant for a public offense that could cause deportation.
- 2) Requires employers to maintain records of verification of employment eligibility for each employee for the length of employment or 3 years, whichever is longer.
- 3) Establishes crimes involving trespassing by illegal aliens; stopping to hire or solicit work under specified circumstances; and transporting, harboring or concealing unlawful aliens while also committing a criminal offense. For these crimes, there would be fines from \$500 to \$5,000, or more, depending on the circumstance.
- 4) Requires that all civil penalties that result from an entity adopting policies that limit enforcement of federal immigration laws or an individual being convicted of trespassing, be deposited into a new Department of Public Safety (DPS) subaccount for the Gang and Immigration Intelligence Team Enforcement Mission (GIITEM).

### Estimated Impact

The fiscal impact of this bill cannot be determined with certainty. We do not have a means to quantify the number of individuals arrested under the bill's provisions or the impact on the level of illegal immigration.

#### Direct Impacts

##### *Incarceration Costs*

The bill could result in additional costs by detaining illegal aliens in state prisons. The total cost to the state will depend on how long these individuals are incarcerated before being transferred to federal custody. The marginal cost per day is \$9.67 (\$3,531 annually). The number of new offenders or persons detained, pursuant to SB 1070, cannot be predicted in advance.

Local governments would also have increased jail costs as a result of SB 1070.

##### *Law Enforcement Training Costs*

There may be additional costs associated with providing DPS officers, as well as other law enforcement, with further immigration enforcement related training. Given that it is unclear how much, if any, additional training would be required, the potential total cost is unknown. DPS, however, does not anticipate it to have a significant cost impact on the state.

##### *County Prosecution Costs*

SB 1070 is anticipated to result in additional expenses for county attorneys related to prosecution of new crimes, as identified in this bill. These expenses would be in addition to the costs of enforcing current employer sanctions laws. Additional county prosecution costs cannot be predicted in advance.

##### *New Revenue from Fines Assessed on New Crimes*

The bill would also generate additional fine revenue. Fine revenue cannot be estimated in advance since it will depend on the number of violators, the number of prior offenses, the severity of the offense, and how long a policy has been in place.

The Arizona Association of Counties and the League of Cities and Towns have not conducted fiscal impact analyses on this bill.

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### Broader Impacts

The bill could have broader consequences on both state revenues and expenditures. To the extent that the bill increases enforcement of immigration laws, the level of illegal immigration could 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 of this bill will depend on the effects on the level of immigration, which cannot be determined in advance.

### **Analysis**

#### *Enforcing Federal Law*

According to current federal law, an alien is considered guilty of improper entry into the United States if that individual 1) falsely represents their status in order to achieve entry, 2) enters or attempts to enter without authorization by an immigration official (such as through U.S. Customs entry points or without a visa), or 3) evades inspection by immigration officers.

Since SB 1070 would require law enforcement to make additional efforts to adhere to federal immigration law and creates new crimes, the bill may generate new incarceration costs. The bill includes provisions requiring law enforcement to determine the immigration status of any individual who raises “reasonable suspicion” that they are an illegal alien, making an arrest without a warrant for any public offense that could cause deportation, transferring an illegal alien to Immigration and Customs Enforcement (ICE) upon completion of incarceration or assessment of a fine, and prohibiting officials or agencies from imposing laws or policies that hinder federal immigration laws.

In order to ensure that law enforcement is upholding federal immigration laws, DPS, as well as other law enforcement agencies, may provide additional training to officers. The cost would depend on the number of hours of training required. DPS does not anticipate that there would be significant training costs to the state; however, additional training related to immigration enforcement may be required by the federal government. The necessity of federal training is currently unknown.

#### *Establishing New Crimes*

This bill establishes new crimes of 1) trespassing by illegal aliens, 2) stopping to hire or soliciting work under specified circumstances, and 3) transporting, harboring, or concealing unlawful aliens while also committing a criminal offense. Given that these are new crimes, a prison or jail sentence would be imposed depending on the severity of the crime and the class of felony or misdemeanor that is identified in this bill. This would also result in additional cost to state prisons to incarcerate the violators of these provisions.

All offenders sentenced after January 1, 1994 are required to serve a minimum of 85% of their court-imposed sentence, pursuant to A.R.S § 41-1604.07. For the purposes of these estimates, the minimum cost would include the minimum sentence, as adjusted for the 85% rule, and would be at the marginal cost of \$9.67 per day. The maximum cost would be 100% of the sentence served with the full operational cost of \$60 per day.

Trespassing by illegal aliens, stopping to hire or soliciting work under specified circumstances, and transporting, harboring, or concealing unlawful aliens in commission of a criminal offense would be considered class 1 misdemeanors under SB 1070, which has a maximum sentence limit of 6 months. The sentence would be determined by the judge. There is no minimum sentence.

In the case of trespassing, if the occurrence was a second or subsequent offense, it would be considered a class 4 felony, which has a minimum sentence of 1.5 years and a maximum of 3 years. In addition, trespassing is considered a class 2 felony if there are illicit drugs or a dangerous weapon found at the time of detainment. Class 2 felonies are 4 to 10 years. Lastly, if an individual is found guilty of transporting 10 or more illegal aliens while also committing a criminal offense, it constitutes a class 6 felony. *Table 1* below provides details of the sentencing for the new crimes established in SB 1070.

<b>Prison Cost per New Offender</b>			
<b>Charge</b>	<b>85% of Minimum Sentence</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>
Class 1 Misdemeanor	none	none	6 months
Class 6 Felony	5 months	6 months	1.5 years
Class 4 Felony	1.3 years	1.5 years	3 years
Class 2 Felony	3.4 years	4 years	10 years

*Employee Verification*

As of January 1, 2008, employers operating under an Arizona business license must be in compliance with the Legal Arizona Workers Act. All employers in Arizona are required to use the federal government’s E-Verify system to check the legal status of employees. SB 1070 requires that all employers maintain records of verification of employment eligibility for each employee for the length of employment or 3 years, whichever is longer. This is not estimated to have a state fiscal impact.

*New Fine Revenue*

The bill would also generate additional fine revenue. Fine revenue cannot be estimated in advance since it will depend on the number of violators, the number of prior offenses, the severity of the offense, and how long a policy has been in place.

The bill establishes the following fines for new crimes in SB 1070: a minimum of \$500 in the case of a first offense of trespassing (\$1,000 for subsequent offenses), a minimum of \$1,000 for unlawful transportation of an illegal alien while also committing a criminal offense (at least \$1,000 per alien if the violation involves 10 or more aliens), and \$1,000 to \$5,000 per day for an entity that adopts a policy that impedes the enforcement of federal immigration laws. The amount of fine revenue cannot be determined in advance and will depend on the number of new offenders detained.

All civil penalties that result from an entity adopting policies that limit enforcement of federal immigration laws or an individual being convicted of trespassing, would be deposited into a new DPS subaccount for GIITEM. GIITEM, which is overseen and largely funded by DPS, is a multi-agency law enforcement task force that targets gang activity and illegal immigration statewide. As a result, these revenues would be deposited into a state fund and subject to legislative appropriation.

Other new offenses that do not have a GIITEM revenue stream identified in the bill would typically benefit the jurisdiction in which the fine is assessed. However, there are surcharges on those fines that would be deposited into state funds, such as the Criminal Justice Enhancement Fund, which benefits various state criminal justice agencies. For example, unlawfully stopping to hire or solicit work is classified as a class 1 misdemeanor and could carry a fine of up to \$2,500. Each fine would have surcharges of 84% plus a \$20 probation surcharge fee to pay for state and county probation costs. A \$2,500 fine would result in \$2,100 in state surcharge revenues. Total estimated new revenues that would be generated by new crimes cannot be predicted and would depend on the amount of the court-imposed fine and how many offenders would be found guilty.

**Local Government Impact**

Because the bill would impact local law enforcement agencies, any potential costs and savings identified above also apply to local governments. Similarly, any of the economic costs and benefits described above would have effects both at the state and local levels. This includes incarceration costs, law enforcement training, and new revenue generated by new crimes established by SB 1070, as well as any indirect costs or savings that may occur with benefits and tax collections.

Beyond the costs and savings mentioned above, the bill could increase costs for City Attorneys’ Offices and County Attorneys’ Offices to investigate and enforce crimes under this legislation. These prosecution costs will vary depending on the severity of the crime, duration of a potential court case and other mitigating factors. The magnitude of this impact cannot be determined in advance.