

**FISCAL NOTE**  
 LEGISLATIVE FISCAL ANALYST ESTIMATE

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *</b>				
	<b>FY 2011-12</b>		<b>FY 2012-13</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	See Below			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

\*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill would adopt the Illegal Immigration Enforcement Act. LB48 provides that no governmental unit may restrict the enforcement of federal immigration laws. A peace officer or custodial authority (jail or prison) shall determine the immigration status of a person when reasonable suspicion exists. If it is determined that a person is unlawfully present in the United States, the peace officer or custodial authority shall notify Immigration and Customs Enforcement (ICE). Reasonable suspicion cannot be based solely upon a person's race, color, religion, sex, or national origin.

A person's lawful presence in the United States can be demonstrated by a valid driver's license, state or tribal identification card, or any governmental unit identification if proof of lawful presence in the country is required prior to its issuance. A law enforcement agency (police department, town marshal, sheriff, Nebraska State Patrol) may transport a person who is unlawfully present in the United States and who is in the agency's custody to a federal facility.

Any person who is required by federal law to register and fails to do so is guilty of a Class II misdemeanor (0-6 month's jail, \$1,000 fine). Any person who is required but fails to carry an alien registration card is guilty of a Class V misdemeanor (\$100 fine). Any record that relates to the immigration status of a person is admissible in any court.

No person who is unlawfully present in the United States shall work as an employee or independent contractor and violating this section is a Class I misdemeanor (up to 1 year jail, \$1,000 fine).

If a person is unlawfully present in the United States, then no other person shall conceal, harbor, transport, or attempt to do so, or induce such person to come to this state. Violation of this section is a Class I misdemeanor (up to 1 year jail, \$1,000 fine). A separate offense may be charged for each unlawfully present person involved in violating such subsections.

A person's immigration status may be determined by an authorized peace officer, ICE, or Customs and Border Protection. The bill also has the severability clause.

There is a potential for both costs and savings from this bill, but an accurate methodology to determine such costs and savings is unascertainable due to the number of variables associated with making such a determination. Some variables include not knowing how many persons are unlawfully present in Nebraska, how many businesses in Nebraska hire such individuals, and how many children of such individuals are affected.

Areas for potential costs:

- State and local law enforcement
- Jails and possibly prisons
- Courts
- Prosecution and public defenders
- Foster care costs if parents are deported and children stay in Nebraska

Areas of potential savings:

- Public education if children leave or if children are deported because they were not born in the country
- Welfare programs and medical treatment. State law currently does not allow any public benefits to any person not lawfully present in the United States but children born in the USA would be eligible and a person requiring emergency medical treatment would no doubt receive it, regardless of his/her immigration status.

As previously noted, current state law does not allow public benefits to any person not lawfully present in the United States. The state or political subdivision shall verify the lawful presence of any person who has applied for public benefits. (See Laws 2009, LB403, codified at sections 4-108 through 4-114, 77-27,187, 77-27,188.03, 77-5701, 77-5722.01, 77-5801, 77-5808, 77-5901, and 77-5908).

Public benefits are defined in section 4-109, but generally means any grant, professional or commercial license, welfare benefit, health payment or financial assistance benefit, disability benefit, housing benefit, postsecondary education financial assistance, food assistance benefit, or unemployment benefit, or any other similar benefit for which payments or assistance are provided.

The National Conference of State Legislatures (NCSL) has compiled a survey of the fiscal impacts of immigrants entitled "A Summary of State Studies on Fiscal Impacts of Immigrants", March 17, 2009. The survey summarizes the fiscal impact studies done in Arizona, Arkansas, Colorado, Georgia, Illinois, Iowa, Kansas, Missouri, Minnesota, New Mexico, New York, North Carolina, Oklahoma, Texas, Utah, Virginia and Washington D.C. The complete survey is found at this link: <http://www.ncsl.org/default.aspx?tabid=16867>

The NCSL survey demonstrates the difficulty in estimating the fiscal impact of a bill such as LB48. The survey states the following:

Several states and organizations have conducted studies on the fiscal and economic impacts of immigrants or on specific immigration laws. Because of the complexity of researching unauthorized immigrants, studies are limited in scope and size... Estimates of tax revenues typically focus on income, sales and property tax. Some studies examine health, education and law enforcement costs, while others focus only on education. A few go beyond traditional assessment of taxes paid versus services used....

Although the provisions of LB48 could have a fiscal impact on state and local resources, it is unknown how many individuals will be impacted by the provisions of this bill, and therefore, the fiscal impacts are unknown at this time. Any fines assessed pursuant to convictions will accrue to the county where the violation occurs to be used for the support of public schools, but without some knowledge as to how many people could be impacted by LB48, the amount is indeterminable.

For example, sections 5 and 6 of the act provide criminal penalties for persons who are unlawfully present in the United States, and any individuals who conceal, harbor, transport, or attempt to do so or encourage such persons to come or reside in the state. It is unknown how many persons who are unlawfully present in the United States currently reside in Nebraska, or how many individuals are concealing, harboring, or transporting them.

The Attorney General, State Patrol, the Department of Health and Human Services, Nebraska Department of Correctional Services (NDCS), and the Department of Education all estimate no fiscal impact from the provisions of this bill.

The Supreme Court states that LB48 may have an impact on judicial workload, but the impact is not estimated to be significant.

The NDCS response follows:

LB48 is the Illegal Immigration Enforcement Act. It includes provisions stating that if reasonable suspicion exists that an incarcerated person is unlawfully present in the United States, and then the custodial authority shall determine the person's immigration status prior to his or her release from custody. If it is determined that a person is unlawfully present in the United States, the custodial authority shall immediately notify the US Immigration & Customs enforcement of the person's unlawful presence.

The Nebraska Department of Correctional Services (NDCS) currently determines whether an inmate is foreign born upon admission. Documentation on all suspected alien inmates is sent to Immigration & Customs Enforcement weekly, which then conducts investigations to determine immigration status.

NDCS processes over 2200 admissions per year. NDCS believes the current process is in compliance with the provisions of the bill, therefore there would be no fiscal impact on NDCS.

**IMPACT ON POLITICAL SUBDIVISIONS:** The Lancaster County Sheriff states that without an estimate of the number of illegal immigrants in Lancaster County who come into contact with law enforcement, it is impossible to determine how much employee time will be involved in the enforcement of this bill. Each case will be different, requiring very little time to a great deal of time to determine immigration status. There are too many variables to determine a fiscal impact from this bill.

The Fremont Police Department states that there is the possibility of a financial impact to them. Specifically, Fremont states that if an officer detains an illegal immigrant, the officer would have to transport the illegal immigrant to an ICE (U.S. Immigration and Customs Enforcement) detention facility in Omaha as Fremont does not have an ICE detention facility. This would require Fremont to pay an officer to provide transportation each time an illegal immigrant was detained and there was an absence of any other criminal charges.

The City of Omaha states that this bill will require additional administrative work for the Police Department and the Prosecutor's Office. The financial impact cannot be determined at this time.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Joe Wilcox	DATE	3/1/11	PHONE	471-2526
<p>COMMENTS</p> <p>SUPREME COURT – No basis to dispute agency analysis.</p> <p>ATTORNEY GENERAL – No basis to dispute agency analysis.</p> <p>DEPT. OF EDUCATION – No basis to dispute agency analysis.</p> <p>DHHS – Concur with agency analysis.</p> <p>CORRECTIONAL SERVICES - No basis to dispute agency analysis.</p> <p>STATE PATROL - No basis to dispute agency analysis.</p> <p>LANCASTER COUNTY SHERIFF – No basis to dispute analysis.</p> <p>CITY OF OMAHA – No basis to dispute.</p> <p>CITY OF FREMONT POLICE DEPT. – No basis to dispute analysis.</p>					