



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0767	Title:	Proof of citizenship for certain governmental programs or functions
Primary Sponsor:	Himmelberger, Dennis	Status:	As Introduced

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|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Federal Special Revenue	(\$1,050,808,068)	(\$1,100,504,681)	(\$1,143,458,499)	(\$1,188,382,651)
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Federal Special Revenue	(\$1,050,808,068)	(\$1,100,504,681)	(\$1,143,458,499)	(\$1,188,382,651)
Net Impact-General Fund Balance	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>

Description of fiscal impact:

This bill does not allow public assistance to individuals who are not citizens of the United States. This would put the State of Montana into non-compliance with federal law and regulations, therefore the state would be ineligible to receive federal funds for public assistance programs.

FISCAL ANALYSIS

Assumptions:

Department of Public Health and Human Services

1. Federal law currently requires the state to provide certain public assistance to certain qualified aliens, i.e., non-citizens of the United States. *See* Technical Concerns
2. The general fund associated with these programs will remain in the budget to maintain state only TANF, Medicaid, and Child Care programs.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	(358.84)	(358.84)	(358.84)	(358.84)
<u>Expenditures:</u>				
Personal Services	(\$7,818,203)	(\$7,541,720)	(\$7,750,088)	(\$7,964,258)
Operating Expenses	(\$3,489,083)	(\$3,388,969)	(\$3,475,875)	(\$3,565,019)
Benefits	<u>(\$1,039,500,782)</u>	<u>(\$1,089,573,992)</u>	<u>(\$1,132,232,536)</u>	<u>(\$1,176,853,374)</u>
TOTAL Expenditures	<u><u>(\$1,050,808,068)</u></u>	<u><u>(\$1,100,504,681)</u></u>	<u><u>(\$1,143,458,499)</u></u>	<u><u>(\$1,188,382,651)</u></u>

Funding of Expenditures:

Federal Special Revenue (03)	(\$1,050,808,068)	(\$1,100,504,681)	(\$1,143,458,499)	(\$1,188,382,651)
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Revenues:

Federal Special Revenue (03)	(\$1,050,808,068)	(\$1,100,504,681)	(\$1,143,458,499)	(\$1,188,382,651)
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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

Federal Special Revenue (03)	\$0	\$0	\$0	\$0
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Technical Concerns:

1. Legal review indicates that this statute supersedes all State of Montana and federal law by which the state provides public assistance to persons who are not citizens of the United States.
2. Compliance with HB 767 will result in the state being in non-compliance with federally mandated public assistance benefits, and would disqualify state from federal funding for TANF, Medicaid, Child Care, Food Stamp, and Child Support Enforcement programs.
3. To obtain the federal funding for public assistance programs, the state must administer those programs in accordance with the federal statute. Therefore, to obtain Medicaid-related federal funding, the state must comply with Title XIX of the Social Security Act, 42 U.S.C. § 1396 *et seq.*, which sets forth certain requirements regarding eligibility, provision of services, and other matters related to Medicaid assistance. Likewise, to obtain federal funding for Food Stamp related public assistance programs, the state must comply with the federal law, 7 C.F.R. 272.1 *et seq.* which sets forth certain requirements regarding eligibility, provision of services, and other matters related to Food Stamp assistance.
4. Federal citations:
 - a. PRWORA Title IV Restricting Welfare and Public Benefits to Aliens: Alien eligibility begins at Sec 400 for both programs and goes through Section 441 for TANF and Section 451 for Medicaid. Includes definitions of qualified aliens, those who are eligible or ineligible, time limits on eligibility, emergency medical coverage exception.
 - b. Medicaid: 42 CFR 435.406: Citizenship and alienage, emergency medical coverage for aliens.
 - c. TANF: 45 CFR 233.40 through 233.52: TANF cites for aliens.
 - d. Food Stamp: 7 CFR 273.4.
5. Medicaid and TANF cash assistance eligibility for aliens is based on whether the alien meets qualified alien status (thirteen different categories) as verified by INS, is past the five year ban (unless he/she falls into one of the exempt groups), and has met the 40 quarter work requirement. They must also meet all other financial and non-financial eligibility requirements.
6. Aliens other than those who meet the qualified alien criteria may be eligible for Alien Emergency Medical under certain conditions and refugees may be eligible for Refugee Medical Assistance.

7. Food Stamp Alien Eligibility: Individuals who are not a U.S. citizen or U.S. National can receive food stamp benefits without any further verification under specific conditions in law.
8. This bill is in conflict with other statutes and these conflicts would need to be addressed. The Governmental Code of Fair Practices prohibits discrimination on the basis of "national origin" and a number of federal public assistance statutes require Montana to operate in line with federal mandates which include serving qualified aliens.
9. No alien would be eligible for the all general funded Mental Health Services Programs (MHSP) or Developmental Disabilities Programs (DDP). Over time, the institutions would have a small, but growing inventory of indigent patients who do not qualify for any "public assistance" programs, so they could not be safely discharged to the community. This would be a burden of uncompensated care at the institutional rate, but is difficult to quantify.
10. There would be a loss to the general fund for the Medicaid match for aliens at the Montana State Hospital (MSH), Montana Mental Health Nursing Care Centers (MMHNCC), Montana Developmental Center (MDC), and any other programs currently eligible for reimbursement by Medicaid. This would be some estimated number of patients per year at average length of stay times the average daily rate times the Medicaid matching percentage, but again, the number of aliens served is not tracked and would be difficult to quantify.

Sponsor's Initials

Date

Budget Director's Initials

Date