

HOUSE BILL 195

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Patricia Roybal Caballero and Richard C. Martinez

AN ACT

RELATING TO FEDERAL USE OF STATE RESOURCES; PROHIBITING STATE AND LOCAL AGENCIES FROM EXPENDING RESOURCES TO ENFORCE FEDERAL IMMIGRATION LAWS; RESTRICTING AUTHORITY OF SHERIFFS AND JAILS TO HOLD FEDERAL DETAINEES; REPEALING A REFERENCE IN STATE LAW TO A REPEALED FEDERAL LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] NON-ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.--

A. Except as provided in Section 33-3-16 NMSA 1978 and Subsection B of this section, neither the state nor a political subdivision of the state or their agencies or instrumentalities, including home rule municipalities, shall use or authorize the use of public funds, personnel, property, equipment or resources for the purpose of identifying,

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1 detecting, apprehending, arresting, detaining or prolonging the  
2 detention of a person based on a suspicion or knowledge that  
3 the person has entered or is residing in the United States in  
4 violation of federal immigration laws or for the purpose of  
5 assisting agents of the federal government in any such activity  
6 based on such suspicion or knowledge, including pursuant to any  
7 agreement, formal or informal, with the federal government.

8 B. Nothing in this section shall be deemed to  
9 prohibit a county government that was a party to an  
10 intergovernmental service agreement for the housing of federal  
11 detainees as of January 1, 2019, from continuing to perform its  
12 obligations under such agreement or from extending the term  
13 thereof.

14 SECTION 2. Section 33-3-16 NMSA 1978 (being Laws  
15 1865-1866, Chapter 19, Section 15, as amended) is amended to  
16 read:

17 "33-3-16. UNITED STATES PRISONERS.--~~[It shall be the duty~~  
18 ~~of]~~ The sheriff of each county [~~his~~] or the sheriff's deputy,  
19 the jailer, the jail administrator as defined in Section  
20 4-44-19 NMSA 1978 or the independent contractor to whom any  
21 person [~~shall be~~] is remitted in conformity with a [~~legal~~  
22 ~~process issued by or under the authority of the United States,~~  
23 ~~and he is hereby required, to]~~ warrant or order issued by a  
24 United States district judge in a criminal proceeding may  
25 receive such person [~~or persons~~] into [~~his~~] custody and keep

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underscoring material = new  
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1     ~~[them]~~ the person safely until ~~[they shall be]~~ the person is  
2     placed at liberty according to the laws of the United States  
3     ~~[provided that]~~. The United States shall be responsible for  
4     the payment of the fee ~~[which]~~ that shall be established from  
5     time to time by the sheriff or the sheriff's deputy, the  
6     jailer, the jail administrator or the independent contractor in  
7     charge of the operation of a jail."

8             SECTION 3. REPEAL.--Section 29-1-10 NMSA 1978 (being  
9     Laws 1966, Chapter 24, Section 1) is repealed.