

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/23/25

Check all that apply:

Bill Number: SB87

Original Correction
Amendment Substitute

Sponsor: Sen. Crystal R. Brantley

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Use of Resources & Fed. Immigration Law

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

SB87 would prevent the State and its subdivisions from adopting or continuing to enforce any “law, ordinance, rule or regulation” prohibiting or restricting the use of resources and personnel in enforcing federal immigration law. It would similarly prohibit any laws, ordinances, rules, or regulations that would interfere with the enforcement of federal law.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Although most local governments do not appear to have written policies or regulations on the subject, some local governments have policies and procedures that restrict the use of public resources to cooperate with federal immigration enforcement efforts. *See American Civil Liberties Union-New Mexico, Immigration Rights in New Mexico: A Statewide Assessment of Local Government Policies & Procedures*, p. 9 & attach. C through E (2019), available online at https://www.aclu-nm.org/sites/default/files/field_documents/final_report_of_findings-immigration_rights_in_new_mexico_june_2019.pdf (collecting policies). SB87 would conflict with and abrogate any such policies.

Federal immigration authorities frequently issue detainers directing state and local law enforcement to detain individuals suspected of immigration-related offenses. Ordinarily, detainers are merely “request[s]” for cooperation and do not carry the force of law. 8 C.F.R. § 287.7(a). *See also Galarza v. Szalczyk*, 745 F.3d 634, 643 (3d Cir. 2014) (“Even if there were any doubt about whether immigration detainers are requests and not mandatory orders to local law enforcement officials, settled constitutional law clearly establishes that they must be deemed requests.”). Some New Mexico detention facilities and law enforcement agencies have policies or practices under which they decline to cooperate with federal detainer requests. SB87 would abrogate those policies, and, presumably, require them to comply with detainer requests. If facilities or law enforcement detained individuals solely on an immigration detainer and without supporting probable cause for a state law violation, they could be exposed to potential liability.

See C.F.C. v. Miami-Dade Cnty., 349 F. Supp. 3d 1236, 1259–60 (S.D. Fla. 2018) (“Numerous courts have determined that when local law enforcement agencies hold someone pursuant to a detainer—and without separate probable cause that the person has committed a crime—such detention gives rise to a Fourth Amendment claim against the local law enforcement.”).

SB87 would prohibit the state and its subdivisions from adopting any laws or ordinances that would “interfere with the enforcement of federal immigration law.” It is unclear what this means. For example, a regulation might be facially neutral but have the effect of occasionally denying state resources or assistance to federal immigration enforcement actions. It is unclear whether such a policy would be invalid under SB87; the bill does not specify whether the intent or the effect of a regulation is determinative.

SB87 lacks an enforcement mechanism. Accordingly, it is unclear who, if anyone, could enforce it.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Direct conflict with the Immigrant Safety Act, which would prohibit the state and other public bodies from cooperating with federal immigration authorities in certain areas.

SB87 would potentially implicate HB64 and SB6. HB64 would forbid post-secondary institutions from denying admission on the basis of immigration status, and SB6 would prohibit the state from considering immigration status when determining eligibility for the Fostering Connections program. It is unclear whether providing access to public benefits or opportunities would “interfere” with the enforcement of federal immigration law.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.