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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Chávez, E./Rubio/Romero, A./Chandler      **ORIGINAL DATE** 2/17/25

**BILL**

**SHORT TITLE** Immigrant Safety Act      **NUMBER** House Bill 9

**ANALYST** Sanchez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
NMAG	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>Total</b>	<b>No fiscal impact</b>	<b>Indeterminate but minimal</b>	<b>Indeterminate but minimal</b>	<b>Indeterminate but minimal</b>	Recurring	<b>General Fund</b>

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 250  
Conflicts with Senate Bill 87 and House Bill 316

### Sources of Information

LFC Files

Agency Analysis Received From  
Office of the Attorney General (NMAG)  
Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From  
Department of Finance and Administration (DFA)  
Municipal League (ML)  
Council of Governments (COGs)

## SUMMARY

### Synopsis of House Bill 9

House Bill 9 (HB9), titled the Immigrant Safety Act, seeks to establish statutory prohibitions on the use of public resources and agreements by public bodies in New Mexico to detain individuals for federal civil immigration violations. The bill enacts new material rather than amending existing statutes.

Under Section 1, the bill formally names the legislation as the Immigrant Safety Act. Section 2 defines "public body" broadly to include state and local governments, advisory boards, commissions, agencies, and any entity created by the New Mexico Constitution or any branch of

government that receives public funding. This definition extends to political subdivisions, special tax districts, school districts, and institutions of higher education, ensuring the law applies comprehensively across various levels of government.

Section 3 introduces substantive prohibitions, preventing public bodies from entering, renewing, or continuing any agreements—including intergovernmental service agreements—with federal agencies for the purpose of detaining individuals for civil immigration violations. This section further mandates that any existing agreements for such detentions must be terminated at the earliest possible effective date upon enactment of the Immigrant Safety Act. Additionally, public bodies are explicitly barred from selling, trading, leasing, or otherwise disposing of real property for the purpose of detaining individuals under federal civil immigration laws. Subsection D of Section 3 prohibits public bodies from adopting or maintaining any local laws, ordinances, policies, or regulations that conflict with these prohibitions. However, Subsection E clarifies that nothing in the Act limits law enforcement’s authority to detain individuals for investigatory purposes as permitted under state law.

Section 4 establishes enforcement mechanisms, empowering the New Mexico Attorney General (NMAG) or a district attorney to initiate civil actions in district court if they have reasonable cause to believe a violation has occurred or is about to occur. The courts are granted the authority to issue declaratory relief and injunctive orders—whether temporary, preliminary, or permanent—to ensure compliance with the act. Notably, the bill does not authorize monetary damages as a remedy.

Finally, Section 5 includes a severability clause, ensuring that if any provision of the Immigrant Safety Act is found invalid by a court, the remainder of the law remains in effect.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

HB9 does not contain direct appropriations or mandate new expenditures by state agencies. However, the bill’s provisions may have fiscal implications related to federal funding, agency enforcement costs, and potential litigation.

The Department of Public Safety (DPS) notes that it does not anticipate a direct fiscal impact on its operations. However, the department notes that New Mexico has received approximately \$6.5 billion in federal funding since 2021, and it is undetermined how much of that funding is tied to compliance with federal immigration enforcement policies. If federal funding to state or local entities is conditioned on cooperation agreements that HB9 seeks to prohibit, those entities may experience a reduction in financial support. The extent to which this legislation may impact federal funding remains unclear.

NMAG indicates that enforcement of the bill’s provisions may require legal action against non-compliant public bodies. While the bill does not require NMAG or district attorneys to initiate enforcement actions, litigation costs could arise if such actions are pursued. Additionally, legal challenges may be brought against the state under intergovernmental immunity doctrines, as seen in similar cases in other states. The potential fiscal impact of such legal proceedings is unknown and would depend on the scope and frequency of enforcement actions and legal challenges.

Local governments or other public entities currently engaged in agreements related to the detention of individuals for federal civil immigration violations may experience fiscal effects if existing contracts are required to be terminated. The financial impact on these entities would depend on the specific terms of their agreements, including any associated costs of early termination.

## SIGNIFICANT ISSUES

HB9 prohibits public bodies in New Mexico from entering into or renewing agreements to detain individuals for federal civil immigration violations and requires existing agreements to be terminated at the earliest permissible date. The bill also prohibits public entities from disposing of real property for use in immigration detention and from adopting policies that conflict with its provisions.

The bill raises legal considerations regarding state and federal authority over immigration enforcement. The federal government cannot compel state or local governments to enforce federal immigration laws, consistent with U.S. Supreme Court rulings in *New York v. United States* (1992) and *Printz v. United States* (1997). However, states may voluntarily choose to cooperate with federal immigration authorities to the extent permitted by law. HB9 would establish a state policy limiting such cooperation.

Section 3 of the bill includes provisions prohibiting public bodies from disposing of property for the purpose of immigration detention. This raises potential legal questions under the intergovernmental immunity doctrine, which generally prohibits state laws from directly regulating the federal government or discriminating against federal contractors. Court rulings on similar laws have varied. The Ninth Circuit Court of Appeals ruled in *Geo Group, Inc. v. Newsom* (2022) that a California law restricting private immigration detention was unconstitutional, while the Seventh Circuit upheld a similar restriction in *McHenry County v. Raoul* (2022). The applicability of these rulings to HB9 would depend on specific legal challenges.

The bill provides an enforcement mechanism allowing NMAG or a district attorney to bring civil actions against public bodies alleged to be in violation. Courts would have the authority to grant injunctive relief but not monetary damages. The extent to which enforcement actions would be pursued may depend on the priorities of individual prosecutors and available legal resources.

The potential impacts of the bill on law enforcement cooperation with federal agencies are also a consideration. DPS has indicated that flexibility in cooperating with federal authorities is a factor in addressing complex criminal activities and national security concerns. The bill does not prohibit general law enforcement collaboration with federal agencies but does restrict the use of public resources for immigration detention.

## PERFORMANCE IMPLICATIONS

The bill grants NMAG and district attorneys the authority to initiate civil enforcement actions against public bodies that fail to comply with its provisions. If enforcement actions are pursued, agencies may need to allocate staff time and legal resources to investigate and litigate cases. The extent of this impact would depend on the volume and complexity of enforcement actions.

Additionally, if the bill results in changes to federal partnerships or funding agreements, agencies that rely on such resources may need to adjust operational strategies or seek alternative funding sources. These adjustments could affect agency workload and priorities, though the specific impact would depend on how federal agencies and local governments respond to the bill's provisions.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB9 relates to other pending legislation addressing the role of state and local governments in federal immigration enforcement. The bill is similar in scope to Senate Bill 250, which also seeks to limit state cooperation with federal immigration enforcement. It conflicts with Senate Bill 87 and House Bill 316, which take opposing policy approaches.

## **OTHER SUBSTANTIVE ISSUES**

HB9 establishes a state policy restricting the use of public resources for federal civil immigration detention, which may have implications for intergovernmental coordination. While the bill does not prohibit general law enforcement cooperation with federal agencies, it does limit the ability of public bodies to engage in certain agreements and transactions related to immigration detention. Depending on how federal agencies interpret and respond to these restrictions, there could be changes in how state and local entities interact with federal immigration enforcement efforts.

Additionally, while the bill does not authorize monetary damages in enforcement actions, its provisions allow for civil actions to ensure compliance. This could result in litigation involving public bodies seeking clarity on compliance obligations or federal contractors disputing restrictions on their operations. Legal challenges could affect the implementation timeline and may require judicial interpretation to clarify the scope of the bill's provisions. Similar laws in other states have been subject to legal challenges, with courts issuing varying rulings on their applicability under intergovernmental immunity doctrines.

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