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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Sens. Brantley and Ramos/Rep. Terrazas **ORIGINAL DATE** 2/19/2025

BILL

SHORT TITLE Use of Resources & Fed. Immigration Law **NUMBER** Senate Bill 87

ANALYST Hanika-Ortiz

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

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

Conflicts with House Bill 9

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Senate Bill 87

Senate Bill 87 (SB87) prevents the adoption or enforcement of any law, ordinance, rule, or regulation prohibiting, restricting, or interfering with federal immigration detention activities.

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

The bill does not identify an enforcement mechanism or appropriation to implement the bill.

SIGNIFICANT ISSUES

NMAG notes local governments have policies that restrict the use of public resources to cooperate with federal immigration enforcement efforts.¹

¹ See American Civil Liberties Union-New Mexico, “Immigration Rights in New Mexico: A Statewide Assessment of Local Government Policies & Procedures,” page 9 & attachments C through E (2019), available online at https://www.aclu-nm.org/sites/default/files/field_documents/final_report_of_findings-

Additionally, 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.

Further, NMAG explained that state and local governments would be exposed to potential liability if they allowed law enforcement to detain a person without supporting probable cause.

See *C.F.C. v. Miami-Dade County.*, 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.”

Lastly, SB87 lacks an enforcement mechanism. Presumably, participation would be on a county-by-county or city-by-city basis and may require local or state officers to act in violation of other laws. For example, this legislation may compel local and state law enforcement to detain without due process, target potential detainees based on race, ethnicity, or religion, violate an asylum seeker’s rights, separate children from parents without legal justification, or unlawfully conduct a raid without a warrant.

PERFORMANCE IMPLICATIONS

Last year, DPS reported it assisted the Governor’s Organized Crime Commission and federal authorities in human trafficking and migrant rescue operations. DPS is dedicated to combating transnational criminal organizations involved in drug trafficking, human trafficking, and arms trafficking. Additionally, DPS noted it prioritizes disrupting illegal activities on public lands and the Santa Teresa border area, to create a secure environment for New Mexico residents and visitors.

ADMINISTRATIVE IMPLICATIONS

It is unclear whether providing short-term access to nutrition for mothers and babies, vaccinations, and emergency care, would be considered interfering with federal immigration law enforcement.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill conflicts with House Bill 9, the Immigrant Safety Act, which would prohibit the state and other public bodies from cooperating with federal immigration authorities in certain areas.

AHO/hj/SR