

LFC Requester:	Sanchez, Scott
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/5/25 *Check all that apply:*
Bill Number: HB Original Correction
 Amendment Substitute

Sponsor: Sen. Antonio Maestas **Agency Name and Code:** AOC
Short Title: State Enforcement of Immigration Law **Number:** 218
Person Writing: Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 250 prohibits, except as provided in Section 33-3-16 NMSA 1978, the state or a political subdivision of the state, including a home rule municipality, or their agencies and instrumentalities from using or authorizing the use of public funds, personnel, property, equipment or other resources for the purpose of identifying, detecting, apprehending, arresting, detaining or prolonging the detention of a person based on the suspicion or knowledge that the person has entered or is residing in the United States in violation of federal immigration laws or for the purpose of assisting federal agents in any activity based on such suspicion or knowledge.

SB 250 repeals Section 33-3-16 NMSA 1978, governing United States prisoners, and enacts a new Section 33-3-16 that removes the requirement that a sheriff, jailer, jail administrator or independent contractor operating a jail keep the person in custody until the person is released under the laws of the United States, and instead *permits* them to keep the person in custody until the person is released under the laws of the United States. Under SB 250's 33-3-16, the U.S. is responsible for the payment of the jail fee established by the sheriff, jailer, jail administrator or independent contractor that operates the jail. SB 250 defines "jail administrator".

SB 250 repeals Section 29-1-10 NMSA 1978, governing and authorizing state and local law enforcement agency participation in the Federal Law Enforcement Assistance Act of 1965 (Public Law 98-197 [89-197]).

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) While SB 250, Section 1 prohibits state and local agencies from expending resources to enforce federal immigration laws, there is no penalty prescribed for an agency that *does* expend resources to enforce federal immigration laws.
- 2) According to the National Conference of State Legislatures, a sanctuary policy or sanctuary jurisdiction is a term applied to jurisdictions that limit cooperation with federal immigration authorities. See, *What's a Sanctuary Policy? FAQ on Federal, State and Local Action on Immigration Enforcement*, 2019, <https://www.ncsl.org/immigration/sanctuary-policy-faq>
- 3) On January 20, 2025, *Protecting the American People Against Invasion*, an executive order, was signed and promulgated by President Trump. Among other provisions, the order provides:

Sec. 17. Sanctuary Jurisdictions. The Attorney General and the Secretary of Homeland Security shall, to the maximum extent possible under law, evaluate and undertake any lawful actions to ensure that so-called “sanctuary” jurisdictions, which seek to interfere with the lawful exercise of Federal law enforcement operations, do not receive access to Federal funds. Further, the Attorney General and the Secretary of Homeland Security shall evaluate and undertake any other lawful actions, criminal or civil, that they deem warranted based on any such jurisdiction’s practices that interfere with the enforcement of Federal law.

<https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>

According to the National Immigration Law Center, Congress will soon consider the “No Bailout for Sanctuary Cities” Act.

Despite its name, this bill will force cities and states to choose between facilitating mass deportations or losing otherwise unrelated health, education, transportation, domestic violence response, and other funding.

...

Many of the grants and programs targeted for funding slashes under the bill benefit all members of a community, citizen or noncitizen alike. Parsing out which funds benefit different types of people would be extremely burdensome or impossible. Therefore, jurisdictions targeted by this bill would most likely face a loss of funding for all program participants. For example, a county could lose its entire free school lunch programming for all children. Similarly, transportation systems would face losing Department of Transportation funding as use of streets, buses, and trains benefit everyone in a region, not just citizens.

<https://www.nilc.org/articles/this-bill-would-slash-city-and-state-funding-for-not-facilitating-mass-deportations/>

- 4) In 2017, the Congressional Research Service updated, *State and Local “Sanctuary” Policies Limiting Participation in Immigration Enforcement,*” <https://crsreports.congress.gov/product/pdf/R/R44795/4> . The report’s summary describes the report’s focus on legal issues relevant to sanctuary policies as follows:

...the report discusses legal issues relevant to sanctuary policies. In particular, the report examines the extent to which states, as sovereign entities, may decline to assist in federal immigration enforcement and the degree to which the federal government can stop state measures that undermine federal objectives in a manner that is consistent with the Supremacy Clause and the Tenth Amendment. Indeed, the federal government’s power to regulate the immigration and status of aliens within the United States is substantial and exclusive. Under the doctrine of preemption—derived from the Supremacy Clause—Congress may invalidate or displace state laws pertaining to immigration. This action may be done expressly or impliedly, for instance, when federal regulation occupies an entire field or when state law interferes with a federal regulatory scheme. However, not every state or local law related to immigration is preempted by federal law, especially when the local law involves the police powers to promote public health, safety, and welfare reserved to the states via the Tenth Amendment. Further, the anticommandeering principles derived from the Tenth Amendment prohibit the

federal government from directing states and localities to implement a federal regulatory program, like immigration.

See also, *FAQ on 8 USC Section 1373 and Federal Funding Threats to “Sanctuary Cities”*, Immigrant Legal Resource Center, https://www.ilrc.org/sites/default/files/resources/8_usc_1373_and_federal_funding_threats_to_sanctuary_cities.pdf, and *Sanctuary Policies: An Overview*, American Immigration Council, October 2020, <https://www.americanimmigrationcouncil.org/research/sanctuary-policies-overview>, and

- 5) Across the country, state lawmakers are introducing legislation to either require or prohibit state and local governments to/from expending resources to enforce federal immigration laws. In the first week of February, a state representative in Kentucky filed HB 344, which, according to a news release, “would prohibit local governments from obstructing the repatriation or identification of criminal aliens within the commonwealth. According to Rep. Jared Bauman of Louisville, the American people have created a mandate for the government to enforce its immigration laws, and HB 355 would be Kentucky’s way of upholding the law.

See, *State representative files measure to support enforcement of immigration law*, February 5, 2025, <https://www.wbko.com/2025/02/05/state-representative-files-measure-support-enforcement-immigration-law/>.

In 2023, HB 162 was introduced in New Mexico, prohibiting the adoption of any law, ordinance, rule or regulation that prohibits or restricts the use of personnel or resources to assist in the enforcement of federal immigration law or that interferes with the enforcement of federal immigration law. <https://www.nmlegis.gov/Sessions/23%20Regular/bills/house/HB0162.pdf>. In the FIR for HB 162, the part of the NM Attorney General’s analysis was quoted, as follows:

The bill could also violate the New Mexico Constitution’s Article IV, Section 24. Section 24 limits the ability of the legislature to affect local ordinances (under Dillon’s rule or the “home rule”). Relevant to this bill: “The legislature shall not pass local or special laws in any of the following cases: regulating county, precinct or district affairs; the jurisdiction and duties of justices of the peace, police magistrates and constables. . .” N.M. Const. art. IV, § 24. The bill here seeks to limit the ability of a local county or municipal government from passing an ordinance or rule or regulation that affects personnel or resources with respect to federal immigration law, which could be considered as regulating the jurisdiction of police or local “affairs” in general. While such an ordinance or rule would itself likely violate the Supremacy Clause as discussed above, this bill’s prohibition on a county or municipality from passing such an ordinance or rule may violate this provision in the New Mexico Constitution.

<https://www.nmlegis.gov/Sessions/23%20Regular/firs/HB0162.PDF>

See also, *State Map on Immigration Enforcement 2024*, Immigrant Legal Resource Center, November 2024, <https://www.ilrc.org/state-map-immigration-enforcement-2024>.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed

- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS