

Written Testimony in Opposition to HB 2771

Submitted to the House Committee on Federal and State Affairs

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Chair Kessler and Members of the Committee:

I submit this testimony in opposition to HB 2771.

This bill authorizes county sheriffs to detain individuals for up to 48 hours based solely on a federal immigration detainer issued by **U.S. Immigration and Customs Enforcement**, without a judicial warrant and without criminal charges. While framed as a clarification of authority, the practical effect is far broader. HB 2771 lowers institutional guardrails, shifts financial liability to the state, and removes local oversight — all while increasing the risk of constitutional violations and erosion of community trust.

Constitutional and Legal Risk

Immigration detainers are civil administrative requests, not judicial warrants. Authorizing detention without a warrant signed by a judge raises serious Fourth Amendment concerns. No state statute can immunize a county from federal constitutional scrutiny.

HB 2771 implicitly acknowledges this risk by requiring the State of Kansas to pay certain federal civil judgments and mandating representation by the Attorney General when litigation arises. If this policy were legally straightforward and low-risk, such financial backstops would not be necessary.

Kansas taxpayers should not be asked to underwrite undefined constitutional exposure resulting from expanded civil immigration detention authority.

Structural Governance Concerns

HB 2771 permits a sheriff to enter into a 287(g) agreement with ICE without approval from the county commission. That is a significant structural shift.

A single elected official would be empowered to commit county resources, expose the state to litigation costs, and alter the nature of local law enforcement operations — without oversight from the county's governing body.

Regardless of one's views on immigration enforcement, this represents a departure from traditional checks and balances in local government. Public safety policy should not be insulated from shared governance.

Public Safety and Community Trust

When local law enforcement engages in immigration enforcement without judicial safeguards and without transparency, communities become fearful of interacting with police. Individuals may hesitate to report crimes, cooperate as witnesses, or engage with schools and public services.

Public safety depends on trust. If segments of our communities believe that contact with local law enforcement may lead to civil immigration detention, that trust erodes. The result is not stronger public safety — it is fragmentation and silence.

This concern is not theoretical. Recent federal immigration enforcement activity in Kansas has already generated significant public anxiety and protest. Legislation that expands local detention authority without explicit safeguards risks amplifying that fear.

Incentives Without Accountability

HB 2771 requires municipal insurance pools to provide coverage for federal immigration enforcement cooperation and shifts certain judgment costs to the state. When financial risk is removed and defense is guaranteed, the incentive structure changes.

The bill reduces friction but does not increase oversight.

Policy that expands enforcement authority while reducing accountability mechanisms invites overreach — even if unintentionally.

Conclusion

For these reasons, I respectfully urge the Committee to oppose HB 2771.

However, if this body is determined to move the bill forward, meaningful safeguards must be included:

- Require a judicial warrant prior to detention beyond an individual's original criminal hold.
- Require approval by the county commission before entering into any 287(g) agreement.
- Mandate annual public reporting on the number of detainers honored, the duration of detention, and any resulting litigation.
- Establish a clear complaint and review process for individuals alleging unlawful detention or profiling.

If Kansas is to expand local cooperation in federal immigration enforcement, it must do so with constitutional clarity, fiscal transparency, and structural oversight.

Absent those protections, HB 2771 places communities, local governments, and taxpayers at unnecessary risk.

Respectfully submitted,
Troy Knoell