



State of New Mexico
House of Representatives
Santa Fé

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Dear Attorney General Raul Torrez,

I am writing to request an opinion from your office regarding action the Otero County Commission took in an emergency meeting on Friday, March 13, 2026. Commissioners voted at that meeting to extend their Intergovernmental Support Agreement (IGSA) with Immigration and Customs Enforcement (ICE) for an additional five years for a facility that is located in the district I represent. I am seeking a formal opinion on whether this action violates House Bill 9, the Immigrant Safety Act, which the Legislature passed and Governor Michelle Lujan Grisham signed into law during the 2026 30-day legislative session.

That legislation requires counties including Otero to terminate such agreements “upon the earliest date permissible under the terms of the agreement” after the legislation takes effect on May 20. I am concerned that Otero County has entered into a new contract, effective today, March 16, for five years, and that the contract includes no provision that allows Otero County to terminate the contract early. The agreement explicitly states that the county “shall not have the right to terminate this agreement.”

In addition to suspecting this is an attempt to circumvent HB9, I am concerned about what this provision could mean for Otero County and its residents if ICE fails to meet its obligations under the agreement.

Additionally, I am requesting an investigation into the potential violations of the Open Meetings Act related to approval of this resolution. Otero County announced its emergency meeting only three hours before holding the meeting and did not allow for public comment. While it justified the emergency meeting by citing the rapidly approaching expiration of its previous agreement with ICE, I question whether that could have been resolved another way that did not exclude the public. In addition, the new agreement was not all commissioners approved at the meeting. They also authorized the county attorney to, “initiate such legal proceedings as the County

Attorney deems necessary” related to the ICE agreement, according to the meeting agenda, and to “engage outside litigation counsel to assist in any litigation initiated” up to \$350,000. I cannot see how the approval of legal action or the hiring of outside counsel met the justification for a vote at an emergency meeting, and the county failed to provide any legal justification for those actions. So I suspect that the commission approved those actions without giving proper notice to the public.

In addition, Otero County’s three commissioners raised no questions and engaged in no discussion during the emergency meeting, which lasted only a few minutes. I cannot fathom how they could have no questions before voting to approve an agreement that potentially put them at odds with the State of New Mexico and could lead to litigation. The circumstances cast doubt on whether this body conducted all of its business in full view of the public, and I suspect an illegal rolling quorum may have occurred.

This issue is of the greatest concern to the public, and it is critical that the public be included in the decisionmaking to the extent required by the Open Meetings Act. I am asking you to issue a legal opinion on the new contract in the interest of protecting the authority of the State of New Mexico to decide whether counties can continue doing business with ICE, and I’m asking you to investigate these potential Open Meetings Act violations in the interest of protecting the public’s right under the act to “the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.”

I am writing to you instead of submitting my request through a form because of the nature of my request for both a legal opinion and an Open Meetings Act investigation.

I am attaching several documents, including the resolution Otero County Commissioners approved, the IGSA that resolution authorized and the emergency meeting notice. In addition, your office can view the emergency meeting at <https://www.youtube.com/watch?v=WHFlvp5VFII..>

Thank you for your attention to this matter. I am available to discuss further, and I look forward to your opinion and response.

Sincerely,



Representative Sarah Silva