

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

STEVE BULLOCK  
GOVERNOR



MIKE COONEY  
LT. GOVERNOR

May 7, 2019

The Honorable Corey Stapleton  
Secretary of State  
State Capitol  
Helena, MT 59601

Dear Secretary Stapleton:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 146 (HB 146), "AN ACT PROHIBITING STATE AGENCIES AND LOCAL GOVERNMENTS FROM ENACTING OR ENFORCING CERTAIN POLICIES CONCERNING CITIZENSHIP AND IMMIGRATION; REQUIRING THE ATTORNEY GENERAL TO INVESTIGATE AND ENFORCE CERTAIN PROVISIONS; PROVIDING DEFINITIONS AND PENALTIES; AMENDING SECTIONS 90-6-209 AND 90-6-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

House Bill 146 ostensibly bans so-called "sanctuary cities" in Montana. But there are no sanctuary cities in Montana. As a result, HB 146 is a solution searching for a problem. In the process, it creates problems of its own.

Section 2(1)(b) of the bill violates Article II, section 11 of the Montana Constitution and the Fourth Amendment of the United States Constitution by requiring a person be held or detained without a warrant or judicial determination of probable cause. Numerous court cases have held that an immigration detainer issued by the U.S. Department of Homeland Security is not a warrant for arrest or detention, and that states which honor such detainer requests may violate the Fourth Amendment rights of persons held pursuant solely to an extra-judicial immigration detainer.

Besides the direct violation of individual's constitutional rights, HB 146 also impermissibly imposes an unfunded mandate on local governments, both as to the cost of detention for an individual who would otherwise be free to go, and for the civil liability the local government could incur for a violation of the individual's constitutional rights. As such, HB 146 violates § 1-2-112, MCA, which prohibits the legislature from imposing various mandates on local government absent providing specific funding for those requirements. The unconstitutional requirements to enforce federal immigration law would also expose cities and towns to significant legal liability.

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Montana has a proud history of local control. House Bill 146 replaces local control over law enforcement with an unfunded mandate to enforce federal immigration law—even where doing so would be unconstitutional. I will not subject local governments to these unlawful conditions, nor will I expose local taxpayers to the legal liability that will inevitably follow.

For these reasons, I veto HB 146.

Sincerely,



STEVE BULLOCK

Governor

cc: Legislative Services Division  
Greg Hertz, Speaker of the House  
Scott Sales, President of the Senate