

**LFC Requester:**

**Scott Sanchez**

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**      1/23/2024  

**Bill No:**      SB 141  

**Sponsor:**      George Muñoz  

**Agency Name and Code Number:**      305 – New Mexico  
Department of Justice  

**Person Writing Analysis:**      Bill Grantham  

**Short Title:**      RECYCLED METAL  
REPORTING  

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Senate Bill (“SB”) 141 would amend the Sale of Recycled Metals Act to add palladium, platinum, and rhodium to the definition of “regulated material;” expand the record-keeping requirements attached to the sale of catalytic converters and of palladium, platinum, and rhodium; and expand the list of officials who may request records required under the Act to include the Attorney General and other law enforcement officials or their representatives. SB 141 would also enact new sections of the Act to require the Department of Public Safety to establish a database of information collected under the Act and to initiate a program to encourage catalytic theft deterrence, and a new section establishing criminal penalties for violation of the recordkeeping requirements related to catalytic converters and palladium, platinum, or rhodium. Finally, it would make corresponding amendments to the Criminal Code.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

None noted.

**PERFORMANCE IMPLICATIONS**

SB 141 would authorize, but not require, the Attorney General or his or her representative to request recordkeeping documents from secondhand metal dealers, presumably for the purpose of investigating potential criminal offenses.

**ADMINISTRATIVE IMPLICATIONS**

To the extent the Attorney General chooses to avail him- or herself of investigative authority provided by the Bill, additional attorney and staff resources may be required.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

### TECHNICAL ISSUES

The new provisions providing criminal penalties at p. 15 of the bill each contain the phrase: “Any person who violates or falsifies a statement required by Section 57-30-2.4 NMSA 1978 . . . .” This appears to be grammatically incorrect as it refers to a “person who violates . . . a statement required.” This could be corrected by inserting commas after “violates” and “by,” to read: “Any person who violates, or falsifies a statement required by, Section 57-30-2.4 NMSA 1978 . . . .”

### OTHER SUBSTANTIVE ISSUES

1) SB 141 adds palladium, platinum, and rhodium to the definition of “regulated material” under the Sale of Recycled Metals Act at NMSA 57-30-2, but not to the definition of “regulated material” under the Criminal Code at NMSA 30-15-8. The definitions in both sections are otherwise similar, and both include “a catalytic converter that is not part of an entire motor vehicle.”

The new material at Section 7, Subsection C of SB 141 provides that a violation of the recordkeeping requirements of the Sale of Recycled Metals Act involving a purchase of palladium, platinum, or rhodium is a fourth-degree felony. The revisions to the Criminal Code at NMSA 30-15-8 make criminal damage to property by theft or attempted theft of a catalytic converter a fourth-degree felony. (New Subsection B at p. 16). However, because palladium, platinum, and rhodium are not made “regulated material” under NMSA 30-15-8, criminal damage to property by theft or attempted theft of those elements, other than as contained in a catalytic converter, is not a crime under that section.

Because the amendments to the Sale of Recycled Metals Act regulate sales of palladium, platinum, and rhodium separately and apart from sales of catalytic converters, it would seem more consistent to criminalize damage related to theft or attempted theft of those elements even where not contained in a catalytic converter (by adding them to the definition of regulated material in NMSA 30-15-8).

2) NMSA 1978, § 57-30-7 presently authorizes a “peace officer” to inspect certain records (Subsection A), and to place a hold on the sale or removal of property upon certain findings (Subsection B). SB 141’s amendments to § 57-30-7 would add the following to the persons authorized to inspect records under Subsection A: “the attorney general, a prosecuting attorney, the chief law enforcement officer of the investigating law enforcement agency or the superintendent or the designees of those individuals.” However, the bill would not amend Subsection B to add these additional officials.

This creates a potential ambiguity as to whether the newly authorized individuals (the attorney general, etc.) have authority to place a hold on property under Subsection B if justified by the results of a record inspection they conduct under Subsection A. This ambiguity is potentially compounded by the fact that some of the enumerated individuals, such as a “chief law enforcement officer,” would also apparently meet the definition of “peace officer” under NMSA 1978, §57-30-2 (G), making some but not all of the additions to subsection (A) redundant.

**ALTERNATIVES**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

**AMENDMENTS**

N/A