

LFC Requester:	
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AGENCY BILL ANALYSIS - 2026 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: 1-28-26 *Check all that apply:*
Bill Number: SB-136 Original Correction
 Amendment Substitute

Sponsor: George Munoz, Pete Campos **Agency Name and Code** AODA 264
Short Title: Unlawful Use of Unmanned Aircraft **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 136 creates the crimes of Unlawful Use of Unmanned Aircraft and Unlawful Use of an Unmanned Aircraft Near a Critical Infrastructure Facility.

Unlawful Use of an Unmanned Aircraft is operating a drone to capture an image of a person, privately owned real property, or a critical infrastructure facility with the intent to conduct surveillance. This is a misdemeanor, unless it occurs during the commission of a felony or if the image captured is confidential or prohibited from disclosure “as provided by law” in which case it becomes a fourth degree felony.

Unlawful Use of an Unmanned Aircraft Near a Critical Infrastructure Facility is operating a drone in proximity to a critical infrastructure facility in a way that interferes with operations, causes a disturbance, or makes physical contact with the facility or persons/objects on the premises. This is a fourth degree felony.

The bill creates seven exceptions: consent, government operations, commercial uses, academic research, surveying/engineering, and insurance-related imaging.

The bill also defines: critical infrastructure facility, image, and unmanned aircraft.

FISCAL IMPLICATIONS

The bill would likely have minimal fiscal impact on judicial partners. It creates two new offenses, but the number of chargeable cases is likely to be low. It is unknown how many additional investigations and prosecutions will occur as a result if this bill is enacted but any additional prosecutions are likely to be relatively low and could be absorbed into existing structures.

Law enforcement may need to purchase additional tools to be able to effectively investigate these offenses.

SIGNIFICANT ISSUES

Senate Bill 136 strengthens New Mexico’s ability to address modern crimes involving drones by giving prosecutors clear statutory authority to charge conduct that currently falls outside the Criminal Code. It provides a direct tool to address public privacy concerns, including situations where drones are used to look into windows, surveil people on private property, or facilitate harassment or stalking. At present, New Mexico has no criminal statute that regulates drone misuse in these contexts. The only state laws involving drones appear in Game and Fish regulations, which prohibit using unmanned aircraft to harass wildlife or to scout or locate wildlife for hunting. These provisions do not address surveillance of people, threats to infrastructure, or other criminal uses of drones. Senate Bill 136 fills this gap by defining the elements of unlawful drone use and establishing clear, workable definitions.

The bill creates two new offenses: unlawful use of an unmanned aircraft for surveillance and unlawful use of an unmanned aircraft near a critical infrastructure facility. The surveillance offense requires proof of intent, which will rely on circumstantial evidence such as flight patterns, repeated passes, or the use of captured images. The critical infrastructure offense

provides a clear charging tool for drone activity that disrupts operations or makes physical contact with sensitive facilities, addressing conduct that is not well covered by existing statutes. Senate Bill 136 is narrowly tailored. It does not ban drones or interfere with lawful recreational, commercial, or governmental operations. Instead, it targets only criminal surveillance and conduct that threatens critical infrastructure. The penalties mirror similar statutes such as trespassing and stalking, maintaining proportionality. The bill also avoids overlap with federal regulations governing registration, altitude limits, and restricted airspace, which is important because duplicating federal rules could create unnecessary complications for lawful users.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Creating a state wide statute may prevent localities from enacting a hodge podge of different ordinances that would be difficult for lawful users to navigate and place unnecessary restrictions on lawful use.

TECHNICAL ISSUES

Courts are likely to see litigation over what constitutes surveillance because Senate Bill 136 does not define the term, and defendants may argue that hovering, circling, or observing without recording does not meet the statutory threshold. Proving intent to conduct surveillance will also be difficult when officers must rely solely on flight behavior without access to stored or transmitted images. Establishing probable cause to seize or search a drone or its data will require officers to articulate why they believe an image was actually captured, which may be challenging if the drone streams video without saving it or if the operator deletes data before seizure. These issues create practical hurdles for law enforcement, including identifying the operator, distinguishing criminal use from lawful recreational or commercial flights, and conducting specialized forensic analysis of drones and controllers.

OTHER SUBSTANTIVE ISSUES

A potential limitation in Senate Bill 136 is that the surveillance offense requires the unmanned aircraft to capture an image, yet the bill does not define “surveillance” or address situations where a drone is used to monitor a person or property without saving or transmitting any images. Proving the intent to surveil may be difficult when the only available evidence is flight behavior, and locating captured images may be challenging unless the offender stores them on the device or transmits them to another location. As written, the statute may not reach conduct where a drone is used to hover outside windows, follow individuals, or observe private property in real time without recording. Clarifying the definition of surveillance or expanding the statute to include real-time observation could strengthen the enforceability of the offense. Such changes may also ensnare lawful use of drones into investigations simply because lawful use may cause people in the proximity to airborne drones to feel alarmed or report suspicious activity, even when no criminal intent is present.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without enactment, prosecutors will continue to lack a direct statutory tool to address criminal misuse of drones and will remain dependent on older statutes that were never designed to address unmanned aerial technology, leaving significant gaps in the ability to charge surveillance based criminal conduct.

AMENDMENTS