

LFC Requester:	
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**AGENCY BILL ANALYSIS
2026 SECOND SESSION**

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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 **Amendment**
Correction **Substitute**

Date Feb. 5, 2026
Bill No: SB 221-280

Sponsor: James Townsend & Antonio Maestas
Short Title: Misappropriation of Oil and Gas Product or Equipment

Agency Name and Code Number: LOPD 280
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill would create a new section of the Criminal Code, § 30-16-49 NMSA 1978, penalizing the taking of petroleum products or oil and gas equipment.

Subsection A would apply to conduct including possessing, removing, receiving, purchasing, selling, disposing, concealing, delivering or transporting the petroleum product or oil and gas equipment. The bill would also apply to tapping a pipeline or oil tank, transporting petroleum without knowing the owner, or purchasing or storing the product from an unauthorized person.

Subsection B of the bill would establish penalties as follows: if the value of the product is \$500 or less, a fourth-degree felony; between \$500 and \$2,500, a third-degree felony; if greater than \$2,500, a second-degree felony.

Subsection C would provide that if an individual has engaged in misappropriation of a petroleum product or oil and gas equipment more than once within a six-month period, the prosecution would be able to charge the conduct in separate counts or in a single aggregate count.

Subsection D would make the penalties under the bill separate and distinct from the penalties provided in § 70-2-32, NMSA 1978.

Subsection E of the bill includes specific definitions of the types of petroleum product and oil and gas equipment.

The bill would amend the Racketeering Act, § 30-42-3 NMSA 1978, to create a new subsection (34) including misappropriation of petroleum product or oil and gas equipment among the acts chargeable under the Racketeering Act for a pattern of conduct.

FISCAL IMPLICATIONS

Creation of any new crime is likely to create new prosecutions and, therefore, additional clients for LOPD. However, this crime covers conduct that is already criminal under a variety of statutes, *see infra*, Significant Issues. Thus, it is unlikely there would be an increase in the

number of prosecutions. As discussed below, the creation of a redundant crime can lead to litigation regarding which statute should apply and potential double jeopardy violations. However, that litigation could likely be absorbed under current LOPD operating budget.

SIGNIFICANT ISSUES

Criminal Damage to Property of another is already proscribed in NMSA 1978, § 30-15-1 (1963), as a fourth-degree felony for damage exceeding \$1,000.00. Because this bill would address a very specific type of damage, it is possible that the general-specific doctrine would prevent prosecutors from pursuing the existing felony, which is not limited to petroleum products or equipment and could therefore be easier to prove. *See State v. Cleve*, 1999-NMSC-017, 127 N.M. 240 (as a matter of legislative intent, when a general statute and specific statute both address the same conduct, courts will find that the more specific statute is intended as an exception and the broader provision cannot apply).

Likewise, the separate crimes of Larceny (standard theft) and Embezzlement (converting entrusted property to one's own use) are already proscribed in NMSA 1978, §§ 30-16-1 and -8 (respectively). They are punished as a *third*-degree felony for property with value greater than \$2,500 but less than \$20,000 and a second-degree felony for property with value exceeding \$20,000. Recognizing that employees may pilfer small amounts over time to avoid notice, the crime of embezzlement in particular allows prosecutors to aggregate the value of property embezzled over the course of one year to achieve higher penalties. Moreover, "attempt" to commit either of these property crimes is punishable as a fourth-degree and third-degree felony depending on value as well. *See* NMSA 1978, § 30-28-1.

In sum, the real and personal property in HB 144 could also be addressed under Criminal Damage to Property, Larceny, Embezzlement and Attempted felony statutes. Moreover, restitution is currently provided for in NMSA 1978, § 31-17-1.

When duplicative crimes are created that cover the same territory as existing crimes, there is always a risk of duplicative charging, creating the likelihood of double jeopardy litigation challenging convictions under both SB 221 and for criminal damage to property, larceny and/or embezzlement.

PERFORMANCE IMPLICATIONS

None known.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill, analyst is unaware if it has been drawn pursuant to a special message of the Governor, and it was not vetoed following the previous regular session.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. Existing New Mexico laws setting the penalty for theft will remain unchanged.

AMENDMENTS

None.