

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)

Conflicts with/Relates to: SB 103 “Unlawful Interference with Aircraft”

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 256 proposes to amend NMSA 1978, Section 64-1-22, unlawful interference with the flight of aircraft. The bill would expand the crime to include the unlawful interference with the *operation* of an aircraft, including by use of a laser. The bill proposes increased penalties separate from standard fourth degree sentencing guidelines.

The current law prohibits unlawful interference with the *flight* of an aircraft consisting of the discharge of a firearm or setting in flight any missile, projectile, or object intended to strike or collide with any flying aircraft. Whoever is convicted under the current statute is guilty of a fourth degree felony, punishable by a basic sentence of 18 months imprisonment and a fine not to exceed \$5,000. See NMSA 1978, §§ 64-1-23, 31-1815(A), (E)(11).

Under the proposed bill, the crime would include unlawful interference with the *operation* of an aircraft or *aviation support system*, by using any of the above, or a *laser*, to either strike, collide, or *interfere with* the aircraft or aviation support system. The bill defines laser.

It also increases the basic sentence to 5 years imprisonment (by creating a new “special” fourth degree felony in Section 31-18-15) and a fine not to exceed \$250,000.

FISCAL IMPLICATIONS

It is unclear how often, if ever, this crime is currently charged. LOPD has no readily apparent cases involving this charge from recent years. Nevertheless, penalty increases, particularly an increase that could more than triple punishment from a fourth-degree felony (from 18 months to 5 years), means that more of these cases would proceed to trial rather than resolving with plea agreements, because the state’s bargaining power is substantially increased by the substantially greater sentence.

Analyst has no data as to how much the prohibited conduct *currently* occurs (by way of firearm use), much less how much the conduct sought to be covered by the proposed legislation *currently* occurs. Therefore, further assessment would be warranted after the implementation of the proposed higher-penalty scheme.

SIGNIFICANT ISSUES

It is not entirely clear from this proposed bill what conduct is prohibited. It appears that the

proscribed conduct would encompass conduct by a passenger on board the aircraft, or other person on the ground. If the intent is to limit the crime to one or the other, it would be best to clarify.

Additionally, by changing the language of the existing statute from interfering with flight to interfering with *operation*, SB 256 could significantly expand the kind of acts punishable under the statute. For example, it is not clear whether interfering with non-flight related equipment, such as air conditioning, is included.

SB 256 also does not define “aviation support system,” which could theoretically include anything from air traffic control equipment to commercial airline baggage carts. There does not appear to be an industry standard for what constitutes an aviation support system, and even if there was, the statute is not itself clear on what equipment is included.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 103—Unlawful Interference with an Aircraft would also add lasers to the type of interference prohibited, but sets the felony penalty at 18 months for a first offense, then three years for a second or subsequent offense, or if the interference results in physical harm.

TECHNICAL ISSUES

Analyst is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill and analyst is unaware that it has been drawn pursuant to a special message of the Governor.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Prosecution remains available for the offense involving firearm use toward or onboard an aircraft, and for the offense of criminal damage to property for on-board conduct that may damage parts of an airplane.

AMENDMENTS