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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 221

SHORT TITLE: Crime of Misappropriation of Oil & Gas Equip.

SPONSOR: Townsend/Maestas

LAST ORIGINAL
UPDATE: _____ **DATE:** 02/11/2026 **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY26 | FY27 | FY28 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|-----------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------|
| Courts/DAs/NMCD | See "Fiscal Implications" | See "Fiscal Implications" | See "Fiscal Implications" | See "Fiscal Implications" | Recurring | General Fund |

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

- Administrative Office of the Courts
- Administrative Office of the District Attorneys
- Law Offices of the Public Defender
- New Mexico Sentencing Commission
- Department of Public Safety

Agency or Agencies That Were Asked for Analysis but did not Respond

Office of the Attorney General

SUMMARY

Synopsis of Senate Bill 221

Senate Bill 221 (SB221) creates a new value-graded felony crime targeting unauthorized taking and handling of petroleum products and oil and gas equipment and makes that crime eligible to serve as a predicate offense under the Racketeering Act.

SB221 creates a new felony offense in the Criminal Code by enacting Section 30-16-49 NMSA 1978, titled “Misappropriation of a Petroleum Product or Oil and Gas Equipment”. The bill makes it a crime to take, control, transport, purchase, sell, trade, or otherwise handle a petroleum product or oil and gas equipment without authorization and with intent to deprive the owner, including tapping into pipelines or tanks, transporting petroleum products without identifying the owner, purchasing from unauthorized sellers, or using methods not authorized by the Oil Conservation Division. The offense is graded as a fourth-degree, third-degree, or second-degree

felony depending on the aggregate value of the petroleum product or equipment involved, starting at \$500 or less as a fourth-degree felony and increasing with higher values. The bill also allows prosecutors to aggregate multiple acts within a six-month period to determine value and venue and defines “oil and gas equipment” and “petroleum product” broadly to cover a wide range of industry materials and derivatives.

SB221 also amends Section 30-42-3 NMSA 1978 to add this new offense to the definition of “racketeering” under the Racketeering Act. By doing so, misappropriation of petroleum products or oil and gas equipment becomes a predicate offense that can support a racketeering charge when part of a pattern of racketeering activity.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

SB221 creates a new value-graded felony offense and adds that offense to the Racketeering Act. Although the bill contains no appropriation, it is likely to have fiscal implications across the criminal justice system. The Administrative Office of the Courts (AOC) reports that any additional fiscal impact on the judiciary would be proportional to the enforcement of the new offense and related racketeering provisions, including commenced prosecutions, motions practice, jury trials, potential restraining orders under the Racketeering Act, and appeals. Increased felony-level charging, particularly when conduct that might otherwise be charged under existing property crimes is prosecuted under this new statute, could increase demands on district courts for judge and courtroom staff time, jury utilization, and case-processing resources. As AOC notes, new laws and hearings have the potential to increase caseloads, requiring additional resources to manage the increased workload.

The Law Office of the Public Defender (LOPD) indicates that creating a new crime is likely to result in additional clients, although some conduct covered by the bill may overlap with existing statutes. To the extent prosecutors elect to charge under the new statute or pursue racketeering counts based on this offense, LOPD's workload may increase, particularly if felony penalties result in more defendants exercising their right to trial. Indigent defendants are constitutionally entitled to representation, and increased felony filings typically increase demands on attorney time, expert resources, and support staff.

By adding the offense to the Racketeering Act, SB214 authorizes both criminal and civil enforcement mechanisms that may involve complex, multi-defendant, or multi-county investigations and prosecutions. The magnitude of any additional prosecutorial or investigative costs would depend on charging patterns and enforcement priorities.

Incarceration is generally the most significant driver of costs associated with crime policy changes. Changes that increase the number of incarcerated individuals or lengthen their incarceration increase the average daily prison population, which in turn increases correctional expenditures. The New Mexico Sentencing Commission (NMSC) notes that it is difficult to determine the precise effect of SB221 on the state's prison population. The bill establishes felony penalties beginning at the fourth-degree felony level for conduct involving \$500 or less and authorizes second-degree felony penalties for higher-value conduct. To the extent the new offense results in felony convictions in cases that might otherwise be charged as lower-level

offenses, or results in longer periods of incarceration than under existing law, the state may experience increased prison costs.

NMSC reports that the average daily cost to incarcerate an individual in the state's prison system is \$153.08, inclusive of public and private facilities. Even a modest increase in the average daily population, when multiplied by the per-day cost and the duration of incarceration, can result in recurring general fund expenditures. Because the bill also permits aggregation of multiple acts within a six-month period to determine the offense level, some cases may qualify for higher felony classifications than would otherwise apply, potentially affecting sentence length and associated correctional costs.

Overall, the fiscal impact of SB 221 on the general fund is indeterminate but likely recurring to the extent it affects courts, indigent defense, prosecution, and incarceration. The magnitude of the impact will depend on how frequently the new offense is charged, whether it supplants or supplements existing property crime charges, how often racketeering provisions are invoked, and the sentencing outcomes in affected cases.

SIGNIFICANT ISSUES

The Administrative Office of District Attorneys notes that only one of the four ways to commit the new offense expressly includes intent language, while the remaining subsections lack an explicit mens rea requirement. Given the felony-level penalties attached to the offense, this drafting structure may prompt litigation over whether the statute creates a strict-liability crime or whether courts will imply a mental-state requirement. Appellate interpretation could shape how broadly the statute is applied and may affect charging practices.

LOPD notes that conduct covered by SB221 may also fall under existing statutes governing larceny, embezzlement, or criminal damage to property. When multiple statutes address similar conduct but impose different penalty structures, courts may be asked to determine which statute applies in a given case. This could raise issues of statutory construction, including the application of the "general-versus-specific" doctrine, and could result in litigation over whether multiple charges for the same conduct are permissible.

The bill's aggregation provision permits charging multiple acts within a six-month period in a single count and authorizes venue in any county where misappropriation occurred. While this language appears intended to clarify prosecutorial authority, AOC notes that multi-county cases may present logistical considerations related to witness availability and case coordination across judicial districts. The practical implementation of these provisions may depend on inter-district coordination and prosecutorial case strategy.

NMSC observes that the penalty thresholds in SB221 differ from those in the general larceny statute, including the classification of conduct involving \$500 or less as a fourth-degree felony. This distinction may lead to differential treatment of petroleum products and oil and gas equipment compared with other types of property.