

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.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}*

*Check all that apply:*

**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** 1/16/2024

**Bill No:** HB56

<b>Sponsor:</b>	<u>Cathrynn Brown, Randall Pettigrew &amp; Harlan Vincent</u>	<b>Agency Name and Code Number:</b>	<u>770 - NMCD</u>
<b>Short Title:</b>	<u>Criminal Penalty: Property Trespass Without Owner</u>	<b>Person Writing</b>	<u>Anisa Griego-Quintana</u>
		<b>Phone:</b>	<u>505-479-2296</u>
		<b>Email</b>	<u>anisa.griego-quinta@cd.nm.gov</u>

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0	N/A	N/A

(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>	0	Minimal	Minimal	Minimal	Recurring	General

(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**

Synopsis: House Bill 56 seeks to amend the criminal trespass statute to include persons who knowingly enter without prior permission or remain on the lands of another knowing that the owner or lawful occupant or custodian of the lands did not provide or withdrew permission to enter or remain. HB 56 also increases the penalty from a misdemeanor to a fourth-degree felony and replaces the owner’s consent to enter with a requirement of obtaining prior permission. The existing penalty for trespassing while participating in a hunting, fishing or trapping activity is increased from a misdemeanor to a fourth-degree felony, but the revocation of the person’s hunting or fishing license remains.

The penalty for removing, tampering or destroying a no trespass sign is increased to a definite term of “no less” than 18 months (up from a term less than one year) in prison and a fine not more than \$1,000 (monetary fine same as in current law) at the discretion of the judge. Criminal trespass carries a basic sentence of eighteen months imprisonment, which a judge in his/her discretion can alter under the Criminal Sentencing Act. *See* NMSA 1978, § 31-18-5 (A), (B)(2022).

**FISCAL IMPLICATIONS**

The department’s financial implications would rely on the outcomes of prosecutions and convictions, potentially leading to a rise in individuals convicted of felonies. Depending on their sentences, this could subsequently increase the prison population or those placed on community supervision. The average cost per inmate for the department, based on calculations from FY23 expenditures, is around \$57,103 a year or roughly \$156 per day. In comparison, the average cost to oversee an individual on community supervision is approximately \$6,108. The overall cost increase to the department as a result of this legislation is expected to be minimal.

**SIGNIFICANT ISSUES**

The penalty for removing, tampering or destroying a no trespass sign is a mandatory eighteen (18) months imprisonment and conflicts with NMSA 1978, § 31-18-5 (A), (B)(2022). These provisions of the Criminal Sentencing Act allow judges to sentence an offender to less than eighteen months. Moreover, removing, tampering, or destroying a no trespass sign would result in a more severe penalty than committing trespassing.

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

The penalty for removing, tampering, or destroying a no trespass sign should cite to Section 31-18-5 to maintain consistency with the penalty provision for criminal trespass found in paragraph E.

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

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

Status quo.

**AMENDMENTS**

N/A