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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/12/2025

SPONSOR Muñoz

BILL
NUMBER Senate Bill 225

SHORT TITLE Increase Various Penalties

ANALYST Valdez

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Penalty	See fiscal implications	See fiscal implications	See fiscal implications	See fiscal implications	See fiscal implications	Recurring	General Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	\$28.2	\$39.8	\$68.0	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Corrections Department (NMCD)
 Department of Environment (NMED)
 Department of Public Safety (DPS)
 Department of Transportation (NMDOT)

Agency Analysis was Solicited but Not Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Senate Bill 225

Senate Bill 225 (SB225) increases fines for littering, increases hours of community service required for those committing graffiti, increases the penalty for the improper use of a travel lane, and increases and provides penalties for violating the Recycling and Illegal Dumping Act.

Section 1 of SB225 amends Section 30-8-4 NMSA 1978 Subsection B to increase the fine for the petty misdemeanor of littering from \$50 to \$250.

Section 2 of SB225 amends Section 30-15-1.1 NMSA 1978 Subsection C to increase the mandatory community service for the fourth-degree felony of graffiti from 160 hours to 200 hours. SB225 also makes minor edits to this section of the law to improve readability.

Section 3 of SB225 amends Section 66-18-116 NMSA 1978 Subsection A to increase the penalty assessed for improper use of a travel lane (Section 66-7-376) from \$250 to \$500.

Section 4 of SB225 amends Section 74-13-4 NMSA 1978 to add Subsection A(3), which makes illegal dumping, detailed by Subsection J of Section 74-13-4 NMSA 1978, a fourth-degree felony with a maximum fine of \$10 thousand.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Sections 1 and 3 of SB225 increase fines for littering and improper use of a travel lane, respectively. Assuming similar levels of violations and enforcement in future years, these changes would increase revenue for the state. However, data on the current number of violations, which could be used to predict increases in penalty revenue, was not provided, making it exceedingly difficult to predict the dollar amount of the revenue increase.

Incarceration drives costs in the criminal justice system, so the primary fiscal implications examined in this analysis relate to changes in the number of individuals in prison and the length of time served in prison that might result from this. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and long-term costs to the general fund. In addition to the potential of new crimes to send more individuals to prison, increased sentence lengths decrease releases relative to the rate of admissions, pushing the overall prison population higher. The Corrections Department reports the average cost to incarcerate a single inmate in FY24 was \$56.7 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$28.2 thousand per inmate per year across all facilities. This bill will likely increase the number of individuals incarcerated.

Section 3 of SB225 defines a penalty for illegal dumping. According to the Environment Department (NMED), illegal dumping currently "lacks a quantitative definition for enforcement." SB225 would offer a remedy by specifying that those guilty of illegal dumping are guilty of a fourth-degree felony and a maximum fine of \$10 thousand. Without any evidence of how many have been guilty of this crime in the past, this analysis estimates one person per year will be subject to this penalty, leading that person to be imprisoned for a fourth-degree felony. On average, those guilty of a fourth-degree felony serve 1.41 years in a New Mexico correctional facility. Given the marginal costs of each offender, this analysis would expect costs to the New Mexico Corrections Department (NMCD) of \$28.2 thousand in FY26 and for those costs to plateau at \$39.8 thousand in FY27 and into the future.

SIGNIFICANT ISSUES

Research shows the certainty of being caught is a more powerful deterrent to crime than severity of punishment. As a result, increasing penalties for crimes is unlikely to produce a significant impact on crimes committed. Prioritizing solving crimes and securing convictions, particularly for serious offenses, could be much more impactful. In New Mexico, however, punishment has grown less certain as crime has increased, with fewer violent crimes solved and more violent felony cases dismissed. LFC's evaluation team has found in the 2nd Judicial District (Bernalillo County) specifically, neither arrests, convictions, nor prison admissions have tracked fluctuations in felony crime, and in 2020, when felonies began to rise, accountability for those crimes fell. Improving policing and increasing cooperation and coordination among criminal justice partners could help increase the certainty of punishment for the most violent offenses and provide a stronger deterrent to serious crime. Incarceration (and length of incarceration) has also been shown to have a criminogenic effect, meaning time in jail or prison may make people more likely to commit crimes in the future.

NMED points out the costly consequences of graffiti, which SB225 aims to address:

While some see graffiti as a form of self-expression or art, when done illegally, it disregards the rights of property owners and communities. According to the EPA, the cost of monitoring, detecting, removing, and repairing graffiti damage has been estimated as high as \$15 to \$18 billion per year in the United States. This affects both public and private property, where costly clean-up efforts are needed to remediate the vandalism. If left in place, graffiti contributes to a sense of urban decay, undermines community pride, can make certain areas feel unsafe or neglected, and detracts from the overall aesthetics of public places. It can also contribute to a cycle of vandalism as perpetrators see no consequences for their actions. This bill increases the community service requirements for both petty misdemeanor and fourth-degree felony violations. The current statute includes a restitution requirement but no fine. The bill does not contemplate a fine.

PERFORMANCE IMPLICATIONS

The Department of Public Safety highlights the potential benefits of SB225:

New Mexico's efforts to attract tourism and mitigate littering, graffiti, and illegal dumping serve to maintain the beauty of our state and foster pride in our state by our residents. Increasing hours of community service will help to offset the impact caused by perpetrators of graffiti through potential clean-up efforts. Increasing the fine for improper use of travel lanes increases the safety of the motoring public, as it acts as a deterrent to the dangerous driving behavior of utilizing a turning lane as a travel lane. Reducing dangerous incidents will decrease the opportunities for confrontations following disagreements on our roadways, particularly at times of traffic congestion when frustration already exists.