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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Ezzell **ORIGINAL DATE** 2/20/25

**BILL**

**SHORT TITLE** Criminal Code Definition of "Livestock" **NUMBER** Senate Bill 381

**ANALYST** Sanchez

### 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	At least \$28.2	At least \$28.2	At least \$58.4	Recurring	General Fund
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$38.4	Recurring	General Fund
Total	No fiscal impact	At least \$47.4	At least \$47.4	At least \$94.8	Recurring	General Fund

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

### Sources of Information

LFC Files

Agency Analysis Received From  
 Administrative Office of the Courts (AOC)  
 Administrative Office of District Attorneys (AODA)  
 Livestock Board (NMLB)  
 Corrections Department (NMCD)  
 Department of Public Safety (DPS)  
 Department of Agriculture (NMDA)

## SUMMARY

### Synopsis of Senate Bill 381

Senate Bill 381 (SB381) seeks to amend multiple provisions of the New Mexico Criminal Code to redefine "livestock" and enhance penalties for larceny of livestock and firearms. Specifically, the bill amends Section 30-1-12 NMSA 1978 to clarify that "livestock" includes domestic or domesticated animals used or raised on farms or ranches, as well as exotic animals in captivity. This definition explicitly includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids, and farm cervidae (hoofed ruminants like deer, moose, and elk) but excludes canine or feline animals.

Additionally, the bill amends Section 30-16-1 NMSA 1978 to adjust the classification of larceny offenses involving livestock and firearms. Under the proposed changes, the severity of the felony

charge increases based on the value of the stolen livestock or firearms, with thefts exceeding \$15 thousand constituting a first-degree felony. The bill also specifies that the theft of each head of livestock or each firearm shall constitute a separate offense, allowing for cumulative charges in cases involving multiple stolen items. These amendments modify penalty structures and statutory definitions related to livestock and firearm larceny.

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**

SB381 may result in increased costs to the judicial and correctional systems due to the reclassification of livestock and firearm larceny offenses. By specifying that each stolen head of livestock or firearm constitutes a separate offense under Section 30-16-1 NMSA 1978, the bill could lead to an increase in the number of criminal charges filed, potentially resulting in additional trials and higher caseloads in district courts. This may require additional judicial resources, including judge time, courtroom staffing, and jury fees. The Law Offices of the Public Defender (LOPD) may also experience increased demand for legal representation, particularly for indigent defendants facing multiple felony charges.

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have significant fiscal impacts. 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 jails, consequently increasing long-term costs to state and county general funds. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY24 was \$59.3 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 year across all facilities. LFC estimates a marginal cost (the cost per additional inmate) of \$19.2 per county jail inmate per year based on incarceration costs at the Metropolitan Detention Center. Some of SB381's provisions are anticipated to increase the number of incarcerated individuals and increase the time they spend incarcerated. Overall, the differing provisions of SB381 are expected to result in a net increase in incarceration costs for the state's prisons. The extent of the fiscal impact on incarceration costs will depend on the number of additional convictions and the sentencing outcomes associated with SB381's provisions.

The bill is not expected to impose significant new costs on law enforcement agencies because it does not create new enforcement responsibilities but clarifies prosecutorial guidelines for livestock and firearm larceny. By establishing tiered penalties and treating each stolen item as a separate offense, the bill may provide law enforcement and prosecutors with additional tools in charging decisions. Because livestock theft can impose financial burdens on ranchers and producers, changes in enforcement or sentencing outcomes may influence the economic impact of such crimes on the agricultural sector. The overall fiscal impact of SB381 will ultimately depend on enforcement patterns, prosecutorial discretion, and judicial sentencing decisions.

## SIGNIFICANT ISSUES

SB381 modifies how livestock and firearm theft is prosecuted in New Mexico by amending Section 30-16-1 NMSA 1978 to specify that each stolen head of livestock or firearm constitutes a separate offense. This change addresses the New Mexico Supreme Court’s decision in *State v. Torres*, 2022-NMSC-024, which held that under current law, livestock theft is prosecuted as a single offense regardless of the number of animals stolen. The bill clarifies legislative intent by explicitly defining “livestock” in Section 30-1-12 NMSA 1978 and establishing tiered felony classifications based on property value.

The bill’s provisions align with New Mexico’s long-standing approach of treating livestock theft separately from general property crimes. Historically, larceny of livestock has been classified as a felony regardless of the animal’s value, reflecting the economic significance of the state’s ranching industry. According to the New Mexico Department of Agriculture (NMDA), the total value of livestock production in New Mexico was approximately \$3.1 billion in 2023, with cattle and calves generating approximately \$1.7 billion in revenue. The bill’s impact on the agricultural sector may depend on how frequently separate charges are pursued in theft cases and how those charges influence sentencing and restitution outcomes.

For firearm theft, SB381 introduces new felony classifications based on the stolen firearm’s value and allows for separate charges for each stolen firearm. Under current law, firearm theft is prosecuted based on overall property value rather than the number of firearms stolen. The bill may have implications for how firearm-related larceny cases are charged and adjudicated, depending on prosecutorial discretion and judicial interpretation.

The practical impact of these changes will depend on enforcement and charging decisions, judicial rulings on sentencing, and concurrent versus consecutive sentencing structures. While SB381 provides clarity on unit-of-prosecution issues, its long-term effects on case outcomes and deterrence remain uncertain.

## PERFORMANCE IMPLICATIONS

SB381 may have implications for case processing times and judicial efficiency due to the potential increase in the number of charges filed per theft incident. The Administrative Office of the Courts reports that district courts track performance metrics related to case backlog and disposition rates, which could be affected if the bill results in an increase in trials or more complex case proceedings. An increase in separate charges for livestock and firearm larceny may also impact plea bargaining practices, potentially shifting more cases toward trial rather than early resolution.

Additionally, public safety and correctional agencies measure outcomes related to recidivism, incarceration rates, and supervised release effectiveness. Changes in the classification and prosecution of larceny offenses under SB381 could influence these measures by altering patterns in sentencing, probation eligibility, and post-incarceration supervision. The extent of these impacts will depend on how frequently separate charges are pursued and how judicial sentencing practices adapt to the bill’s provisions.

While the bill does not introduce new enforcement mandates, it clarifies prosecutorial guidelines

and sentencing structures, which could affect how law enforcement agencies and district attorneys allocate investigative and prosecutorial resources. Performance metrics related to case clearance rates, charging practices, and sentencing outcomes may need to be monitored to assess the bill's long-term effects on the criminal justice system.

## ADMINISTRATIVE IMPLICATIONS

SB381 may have administrative impacts on multiple state agencies involved in criminal case processing, including district courts, LOPD, and NMCD. For the judiciary, an increase in separately charged offenses for livestock and firearm larceny could require adjustments to case management systems, including updates to charging procedures, docket scheduling, and tracking of sentencing outcomes. Depending on case volume, court clerks and administrative staff may need to process additional filings and coordinate more jury trials.

For LOPD, the potential for multiple felony charges per theft incident could require adjustments to workload distribution and case management. Higher caseloads could increase the demand for indigent defense services, requiring administrative oversight to ensure adequate staffing and resource allocation.

NMCD may need to update classification and sentencing guidelines to align with the bill's changes. If SB381 results in longer sentences or a shift in the types of offenses leading to incarceration, the department may need to modify internal policies related to inmate classification, parole eligibility calculations, and supervision requirements for individuals sentenced under the new statutory framework.

District attorneys and law enforcement agencies are unlikely to experience significant new administrative burdens because the bill does not introduce additional reporting requirements or alter investigative procedures. However, district attorneys may need to adjust internal charging guidelines and case evaluation protocols to reflect the bill's modifications to larceny statutes.

## TECHNICAL ISSUES

The Administrative Office of the District Attorneys (AODA) identifies a possible conflict in the bill's language. Specifically, the use of the word "multiple" in two separate subsections of Section 30-16-1 NMSA 1978—Subsection G (page 5, line 9) and Subsection I (page 6, line 1)—may create ambiguity in how theft involving multiple livestock or firearms is charged. AODA suggests that removing the word "multiple" from these lines may help clarify the bill's intent and prevent conflicting interpretations. If the legislative intent is to ensure separate charges for each stolen animal or firearm, clarifying language could be considered to avoid conflicting statutory interpretations.

Additionally, NMDA questions whether the bill's language regarding the theft of livestock valued over \$20 thousand (page 5, lines 8-10) was intended to establish a first-degree felony classification rather than a second-degree felony, as currently written. If the intent was to impose a more severe penalty for high-value thefts, an amendment may be necessary to ensure consistency in sentencing provisions.