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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/16/2022

SPONSOR SJC LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Law Enforcement, Crime and Judge Changes SB CS/CS/SB231/  
SJCS/SJCS

ANALYST Rabin

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24		
NFI	NFI	(\$13,987.9)	Recurring	General Fund
NFI	NFI	\$4,806.4	Recurring	Law Enforcement Retention Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)<sup>1</sup>

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$503.0 to \$553.0	\$2,435.0 to \$2,583.2	\$2,657.5 to \$2,863.8	\$5,595.5 to \$6,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates House Bill 69, House Bill 79, House Bill 84, House Bill 86, House Bill 96, House Bill 124, and Senate Bill 34

Relates to House Bill 5, House Memorial 35, House Memorial 31, Senate Bill 225, Senate Memorial 13

Conflicts with House Bill 68, House Bill 141, House Bill 196, and Senate Bill 3  
Relates to Appropriations in the General Appropriation Act

<sup>1</sup> SB231 directs agencies to create several programs that are funded with nonrecurring appropriations in the GAA. However, because these programs distribute funds and could create an expectation that such distributions will continue, these costs are considered as recurring. Some of these costs do not appear in this table because the programs are funded for the years displayed here. Additionally, because this bill would both change sentences and sentencing enhancements for existing crimes, many of the relevant fiscal impacts will not be felt for several years. After all the nonrecurring appropriations been expended (in FY28), the total cost to maintain the programs created by this bill is \$16.7 million annually. After the changes in prison population resulting from this bill plateau (in FY35), the total cost of the changes to crimes in this bill is \$2.7 million to \$4.7 million annually. Overall, in FY35 and fiscal future years, this bill is anticipated to result in increased operating budget impacts of \$19.4 million to \$21.4 million annually.

## SOURCES OF INFORMATION

LFC Files

Responses to Prior Substitute Received From  
Administrative Office of the Courts (AOC)  
Attorney General's Office (NMAG)

## SUMMARY

### Synopsis of Bill

The Senate Judiciary Substitute for Senate Judiciary Substitute for Senate Bill 231 makes numerous changes to and creates new statutes related to policing, the judiciary, and the Criminal Code. SB231 amends and creates new statutes governing police and telecommunicator (dispatcher) training and certification, creates programs to improve police recruitment and retention, mandates the creation of a database to coordinate the sharing of information among law enforcement agencies concerning instances of excessive use of force and other misconduct related to law enforcement matters, expands crime reduction grants, creates a violence intervention program, provides increased distributions from the law enforcement protection fund to local law enforcement agencies and the New Mexico Law Enforcement Academy (NMLEA), and expands benefits for the families of fallen officers. SB231 further creates five new crimes (three crimes related to threats, the crime of operating a chop shop, and a crime related to metal theft) amends existing crimes and criminal penalties (including firearm enhancements), and makes changes to the sharing of electronic location monitoring (GPS/ankle bracelet) data for defendants on pretrial release.

The provisions of the bill have differing effective dates, and some provisions do not have effective dates. It is assumed that the effective date of those provisions is 90 days following adjournment of the Legislature.

More detailed summaries of the changes proposed by SB231, as well as the effective dates for those changes, are outlined below.

***Law Enforcement Recruitment and Retention.*** SB231 creates two new programs to provide recruitment and retention payments to officers.

The bill creates a program within the Department of Finance and Administration (DFA) to distribute funds to local law enforcement agencies for recruitment and retention stipends for officers. The bill states that DFA shall establish criteria for these funds, prioritizing increasing agencies' investigative capacity.

Additionally, SB231 creates the law enforcement retention fund to provide one-time retention differential payments to law enforcement officers equivalent to 5 percent of their annual salary on five-year intervals (at four, nine, 14, and 19 years of service), provided they remain employed for one additional year.

The effective date of these provisions is July 1, 2022.

***Law Enforcement Officer Training and Certification.*** The bill redefines the role and composition of the Law Enforcement Academy Board (LEAB) and implements new basic and in-service training requirements for law enforcement officers and dispatchers. SB231 splits the two functions of LEAB (training and certification) into two separate entities—one tasked with developing the standards and training for law enforcement officers and dispatchers (the New Mexico Law Enforcement Standards and Training Council) and one tasked with granting, denying, suspending, or revoking officers’ and dispatchers’ certifications (the Law Enforcement Certification Board).

The council is made up of the director of the NMLEA, the directors of all satellite law enforcement academies, and seven governor appointees:

- One attorney currently employed in a district attorney’s office;
- One attorney currently employed by the Public Defender Department (PDD);
- One certified police chief of a New Mexico Native American nation, tribe, or pueblo;
- Two members who have experience and specialize in providing adult education; and
- Two citizen-at-large members, one of whom shall have experience as a behavioral health provider and neither of whom shall have served as a police officer or have familial or financial connections to law enforcement officers or agencies.

The Certification Board is established as an independent board but administratively attached to DPS. The Certification Board would be authorized to oversee officer and dispatcher certification and misconduct previously under the purview of LEAB. The Certification Board is made up of nine members, of which no more than five shall be from the same political party, and must include

- A retired judge (who shall serve as chair);
- A municipal peace officer;
- A sheriff;
- A tribal law peace officer;
- An attorney in private practice who practices as a plaintiff’s attorney in the area of civil rights or who represents criminal defendants;
- An attorney in private practice who represents public entities in civil rights claims; and
- An attorney employed by PDD.

Additionally, SB231 requires the curriculum of basic and in-service training for officers and dispatchers to include crisis management and intervention, dealing with individuals who are experiencing mental health issues, methods of de-escalation, peer-to-peer intervention, stress management, racial sensitivity, reality-based situational training, and use of force that eliminates choke holds.

The bill also clarifies the director of the academy shall be under the supervision and direction of the DPS secretary.

The effective date of these provisions is July 1, 2023.

***Law Enforcement Officer Database.*** The bill mandates DPS create a database to coordinate the sharing of information among state, local, and federal law enforcement agencies concerning

instances of excessive use of force and other misconduct related to law enforcement matters, which shall be operational by June 30, 2022. The newly created Certification Board will take over administration of the database upon the board's creation on July 1, 2023. Agencies are required to report relevant information to the board and consult the database when considering hiring, promoting, disciplining, or firing an officer. DPS is also required to make annual reports to the governor and the Legislature, including aggregated and anonymized data from the database.

The effective date of these provisions is July 1, 2022.

***Law Enforcement Protection Fund Distributions and Survivors' Benefits.*** SB231 increases distributions from the law enforcement protection fund (LEPF) for NMLEA; increases distributions for municipal, county, university, school district, and tribal law enforcement agencies; increases benefits for law enforcement officers killed in the line of duty; and redirects all remaining balances in the LEPF from the general fund to the newly created law enforcement retention fund.

Effective in FY23, the distribution from the LEPF for NMLEA is increased by \$200 thousand to implement the provisions of the Law Enforcement Training Act.

Beginning in FY24, the bill increases the per-department distributions from the LEPF for municipal police departments, county sheriff's offices, school district police departments, and university police departments from \$45 thousand to \$95 thousand. SB231 further increases the per-officer distributions from the LEPF for municipal police departments, county sheriff's offices, school police departments, and tribal police departments from \$1,000 to \$1,500, and increases the per-officer distribution for school resource officers employed by municipal police departments, county sheriff's offices, and school district police departments from \$1,000 to \$1,500.

Additionally, starting in FY24, SB231 increases death benefits paid from the peace officers', New Mexico mounted patrol members', and reserve police officers' survivors fund for officers killed in the line of duty from \$250 thousand to \$1 million, and increases the minimum balance to be kept in that fund (provided by the LEPF) from \$350 thousand to \$1 million.

SB231 redirects remaining balances in excess of \$100 thousand in the LEPF at the end of the fiscal year from the general fund to the law enforcement retention fund; this also takes effect in FY24. SB231 makes law enforcement agencies' distributions from the law enforcement protection fund contingent on cooperation with statutory reporting requirements and the board's investigations.

***New Crimes.*** SB231 creates five new crimes:

- Threatening a judge or an immediate family member of a judge (a fourth-degree felony);
- Maliciously sharing personal information of a judge or an immediate family member of a judge (a misdemeanor);
- Making a shooting threat (a misdemeanor);
- Operating a chop shop (a third-degree felony); and
- Criminal damage to property by theft or attempted theft of regulated material (a crime

with tiered penalties ranging from a petty misdemeanor to a fourth-degree felony, depending on the value of the damage or loss due to the crime).

Threatening a judge: The crime of threatening a judge or immediate family member consists of issuing such threats with the intent to place the threatened individual in fear of great bodily harm, prevent or interrupt the judge’s ability to carry out their job duties, or retaliate against a judge on account of the performance of their official duties during their term of service.

Maliciously sharing information: The crime of maliciously sharing personal information of a judge or an immediate family member of a judge consists of sharing such information with the intent to cause harm to the judge or family member, place that individual in fear of great bodily harm, or prevent or interrupt the judge’s ability to carry out their job duties.

The bill establishes the following definitions:

- “immediate family member” is a spouse, child, sibling, parent, grandparent or grandchild, stepparent stepchild, stepsibling and an adoptive relationship.
- “judge” is a district court, appellate, metropolitan court, magistrate judge, probate judge, or supreme court justice. *This definition is changed by the HCPAC amendment.*
- “personal information” is a person’s physical address, phone number, email, or physical location. *This definition is changed by the HCPAC amendment.*

Shooting threat: The crime of making a shooting threat consists of falsely and maliciously stating to another person that the person making the threat intends to bring a firearm to a property or use the firearm with the intent to place a person or group of persons in fear of great bodily harm, prevent or interrupt the occupation or use of a public building, or cause a response to the threat by an official or volunteer agency organized to deal with emergencies.

Operating a chop shop: The crime of operating a chop shop consists of someone owning, operating, maintaining, controlling, or conducting operations in a chop shop, who knows or should have known it is a chop shop. A chop shop is defined as “a premises where a person possesses, receives, stores, disassembles or alters an unlawfully obtained motor vehicle or vehicle or motor vehicle engine or component as defined in the Motor Vehicle Code, including the alteration or concealment of any identifying feature or number, including the manufacturer’s serial number, engine number, decal or other distinguishing number or identification mark or number placed under assignment of the motor vehicle division of the taxation and revenue department.”

Damage to property by theft: The crime of criminal damage to property by theft or attempted theft of regulated material consists of “the unlawful taking or attempted taking of any regulated material from another that results in any damage to real or personal property.” The regulated materials are aluminum material; copper or brass material; steel material; a utility access cover; a water meter cover; a road or bridge guard rail; a highway or street sign; a traffic directional or control sign or signal; or a catalytic converter that is not part of an entire motor vehicle. The crime has tiered penalties based on the value of the damage or property loss resulting from the crime: less than \$1,000 is a petty misdemeanor, \$1,000 to less than \$2,500 is a misdemeanor, and \$2,500 or more is a fourth degree felony.

Relatedly, the bill also amends Section 57-30-2.4 NMSA 1978, regarding restricted transactions and the documentation required, so that a secondhand metal dealer must require both written

documentation indicating that the seller is the rightful owner or has permission from the rightful owner, and that the material was otherwise lawfully obtained (the present statute requires one or the other). The bill adds that “[a] secondhand metal dealer shall not purchase or otherwise receive any regulated material that the secondhand metal dealer knows is not lawfully possessed by the person offering to sell or provide the regulated material.”

There is no effective date of these provisions. It is assumed that the effective date is 90 days following adjournment of the Legislature.

***Changes to Existing Crimes and Penalties.*** SB231 abolishes the statute of limitations for second-degree murder, expands exceptions for the crime of unlawful possession of a handgun, creates more severe penalties for the existing crimes of felon in possession of a firearm and aggravated fleeing a law enforcement officer in certain circumstances, and creates additional sentencing enhancements for possessing and using or discharging a firearm in certain circumstances.

Statute of limitations: The statute of limitations for second-degree murder, which was previously six years, is eliminated. Without a statute of limitations, second-degree murder is treated like first-degree murder.

Unlawful possession of a handgun: The crime of unlawful possession of a handgun is amended to add a new exception for when the crime does not apply—while participating in a lawful shooting activity.

Felon in possession of a firearm: Under current law, it is a third-degree felony (carrying a basic sentence of three years) for a felon (defined as an individual convicted of a felony offense within ten years of completing their sentence who has not been pardoned or received a deferred sentence) to possess a firearm. Under SB231, this crime would have its basic sentence increased to six years for individuals whose felony offense constituted a serious violent offense (as defined in Section 33-2-34 NMSA 1978); however, the crime would remain a third-degree felony.

Aggravated fleeing a law enforcement officer: Under current law, a person who willfully or carelessly drives a vehicle in a manner that endangers the life of another person after being given a signal to stop by a law enforcement officer is guilty of a fourth-degree felony. Under SB231, if an incident of fleeing a law enforcement officer resulted in injury to another person, the crime would be elevated to a third-degree felony. If an incident resulted in great bodily harm to another person, the crime would be elevated to a second-degree felony. SB231 also broadens the types of vehicles that the officer must be in from an “appropriately marked law enforcement vehicle” to an “authorized emergency vehicle pursuant to Section 66-7-6 NMSA 1978.”

Firearm enhancements: Under current law, brandishing a firearm in the commission of a noncapital felony increases the basic sentence for the offense by three years, and a second or subsequent noncapital felony in which a firearm is brandished results in an additional five-year enhancement. Under SB231, a new, one-year enhancement is added for use of a firearm during a drug transaction, aggravated battery, or serious violent offense (as defined in Section 33-2-34 NMSA 1978), and a five-year enhancement is added for discharging a firearm during any noncapital felony. The bill provides for lesser enhancements for youthful offenders. The additional enhancement for a second or subsequent offense is broadened to apply in cases where a firearm was used or discharged (in addition to brandished) but narrowed to apply only to drug

transactions, aggravated battery, or serious violent offenses (rather than all noncapital felonies), and the enhancement is decreased from five years to three years.

There is no effective date of these provisions. It is assumed that the effective date is 90 days following adjournment of the Legislature.

**Electronic Monitoring.** SB231 requires any public agency in possession of global positioning system data on a defendant on pretrial release to make that data available to law enforcement without a warrant when requested as part of an ongoing and pending criminal investigation in which there is reasonable suspicion the data is probative. Section 29 of SB231 specifies the data provided to law enforcement shall be limited to data related to the criminal investigation and not more than one-year old. The data shall not be made a part of public record unless admitted as evidence in a criminal trial. Law enforcement may request immediate access to the data if it is relevant to an investigation of certain violent crimes, including first degree murder, first or second degree felony human trafficking of a child, first degree felony abuse of a child, sexual exploitation of a child in the second or first degree, a serious violent offense as provided in Subparagraphs A through N of Paragraph 4 of Subsection L of Section 33-2-24 NMSA 1978, a felony during which a firearm was discharged or brandished, and a felony resulting in great bodily harm or death.

There is no effective date of these provisions. It is assumed that the effective date is 90 days following adjournment of the Legislature.

**New Judgeships.** SB231 creates new judgeships in the 2<sup>nd</sup>, 5<sup>th</sup>, and 13<sup>th</sup> Judicial Districts. The effective date of these provisions is July 1, 2022.

**Pretrial Services.** The bill directs the Administrative Office of the Courts (AOC) to create a grant program to support pretrial services statewide and develop a framework for the standardization of pretrial services and supervision. The bill notes the framework and criteria for grant distribution must incorporate national best practices (modified as needed) and explore the use of GPS monitoring or other pretrial services to reduce impacts on jails and prisons. There is no effective date of these provisions. It is assumed that the effective date is 90 days following adjournment of the Legislature.

**Crime Reduction Grants.** SB231 amends the Crime Reduction Grant Act to expand the allowable purposes for which grants may be awarded to include:

- Developing or improving coordination of services between law enforcement agencies and treatment programs;
- Establish law enforcement crisis intervention teams;
- Coordinating access to programs for transitional or reentry homes for individuals recently released from incarceration;
- Recruiting or retaining law enforcement officers, prosecutors, public defenders, corrections officers and mental health workers;
- Developing or expanding data-driven policing programs; and
- Staffing a criminal justice coordinating council.

The effective date of these provisions is July 1, 2023.

***Violence Intervention Program.*** Senate Bill 231 creates the Violence Intervention Program Act. The Department of Health (DOH) will administer the act and award violence intervention program grants to eligible state agencies, counties, municipalities, or tribal governments. Grants are directed to entities that DOH finds are disproportionately impacted by violent crimes, including homicides, shootings, and aggravated assaults. DOH is limited to spending no more than 3 percent of the balance of the fund each fiscal year on administration of the act, must award grants to at least two counties, municipalities, or tribal governments with a population of 50 thousand or less, and must award at least 20 percent of the appropriation to counties or municipalities with a population of 540 thousand or greater. Grantees must use at least 50 percent of their grants to enter into contracts with community-based service providers for services that accomplish the purposes of the act. The act further establishes requirements for grant applications, conditions of the grants, and grantee reporting.

There is no effective date of these provisions. It is assumed that the effective date is 90 days following adjournment of the Legislature.

## **FISCAL IMPLICATIONS**

### **Revenue Impact**

SB231's diversion of LEPF revenue to increased distributions and the law enforcement retention fund result in a recurring reduction in general fund revenue of \$14 million in FY24, \$15.5 million in FY25, and \$17.2 million in FY26. For more details, see Attachment 1.

### **Additional Operating Budget Impact**

Overall, SB231 is anticipated to result in additional operating budget impacts to the state of \$503 thousand to \$553 thousand in FY23, \$2.4 million to \$2.6 million in FY24, and \$2.7 million to \$2.9 million in FY25. As nonrecurring appropriations for some of the programs created by its provisions run out, the total cost for those programs is anticipated to increase to \$16.7 million annually (beginning in FY28). As prison populations rise on account of new crimes and increased penalties under the bill, the total costs of incarceration are anticipated to rise to \$2.7 million to \$4.7 million annually (beginning in FY35). Overall, in FY35 and future fiscal years, additional operating budget impacts as a result of SB231 will total \$19.4 million to \$21.4 million.

SB231 contains numerous provisions that align with appropriations in the House Appropriations and Finance Committee substitute for House Bills 2 and 3, as amended by the Senate Finance Committee (hereafter, the General Appropriation Act, or GAA). A list of public safety appropriations in the GAA can be found in Attachment 2.

SB231 directs agencies to create several programs that are funded with nonrecurring appropriations in the GAA. Because these programs distribute funds and could create an expectation that such distributions will continue, these costs are considered as recurring. Overall, this analysis estimates the cost to implement and maintain the programs created by this bill will result in an additional operating budget impact of \$503 thousand to \$553 thousand in FY23, \$2.3 million in FY24 and FY25, \$6.7 million in FY26 and FY27, and \$16.7 million in FY28 and future fiscal years.



Incarceration drives costs in the criminal justice system, so and changes in the number of individuals in prison and the length of time served in prison 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 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 FY21 was \$49.6 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 \$23.4 thousand per inmate per year across all facilities. This bill will likely increase the number of individuals incarcerated and increase the time they spend incarcerated.

Overall, this analysis estimates will result in additional incarceration costs to the state of \$3.3 million to \$5 million per year. These additional costs will begin to be realized in FY24, rising over the next 10 years before leveling out at between \$3.3 million to \$5 million in FY35 (as impacted offenders begin to be released from prison) and future fiscal years. These costs are primarily driven by the changes to firearm enhancements, which are anticipated to result in increased costs of between \$1.8 million and \$3.6 million annually.

The creation of two new misdemeanor crimes in SB231 is anticipated to have some additional operating budget impact to counties for increased detention costs, totaling between \$33.6 thousand and \$67.3 thousand in FY23 and between \$67.2 thousand and \$134.5 thousand in FY24 and future fiscal years. However, for purposes of this analysis, since these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

Additional system costs beyond incarceration, such as additional costs to the judicial branch for increased trials or increased costs to law enforcement to investigate and arrest individuals for the new crimes under SB231 are not included in this analysis, but could be significant.

This analysis does not include potential benefits of crime deterrence due to increased punishment, as research shows sentence length has little to no deterrent effect. Certainty of being caught is a significantly more effective deterrent to criminal behavior than the severity of punishment if convicted.

Additional detail on the calculations and assumptions underlying these estimates are outlined below.

***Law Enforcement Recruitment and Retention.*** SB231 provides for the creation of a program at DFA to disburse recruitment and retention stipends. This aligns with an appropriation in HB2 of \$50 million to provide such stipends between FY23 and FY27, so this provision has no additional fiscal impact during those years; however, establishing a new program to distribute funds could create an expectation that the program will continue in future fiscal years, so this cost is considered a recurring general fund expense of \$10 million in FY28 and future fiscal years. These costs are not displayed in the table on page 1 because it only includes additional operating budget expenses through FY24.

Additionally, the \$50 million appropriation in the GAA is contingent on enactment of SB231. If this bill is not enacted, that appropriation will not be made.

The total cost to administer law enforcement retention differentials from the law enforcement retention fund over a five-year period is estimated to be \$17.3 million, an average of about \$3.5 million per year. Assumptions and data underlying these calculations, as well as estimated distributions to different law enforcement agencies, are outlined in Attachment 3.

SB231 states the law enforcement protection fund may be used to support administrative processes and reporting compliance related to the fund. DPS estimates a recurring cost of \$219.1 thousand for three positions to do this work, as well as a \$22.9 thousand nonrecurring cost in FY23 for needed equipment and furniture.

HB2 includes a nonrecurring appropriation of \$5 million from the general fund for the law enforcement retention fund, contingent on the enactment of legislation creating the fund. These funds would be sufficient to cover one year of these payments (in FY23), but would not fully cover the second year (an estimated \$2.4 million in additional funds would be required to fully fund the second year of the program, FY24). However, starting in FY24, remaining balances from the LEPF are redirected to the law enforcement retention fund, creating a recurring revenue stream that is projected to fully fund the costs related to the program (for more details, see Attachment 1). As a result, these provisions also do not have an additional fiscal impact.

***Law Enforcement Officer Training and Certification.*** Based on information provided by DPS related to Senate Bill 375 of the 2021 legislative session (which made similar changes to law enforcement training and certification), LFC estimates the cost to fully staff the new Certification Board is just over \$1 million, and the GAA provides slightly over \$1 million to DPS in FY23 “for costs related to the operation and activities of the law enforcement academy board *or other primary entity responsible for law enforcement officer certification*” (emphasis added). Although the Certification Board will not be created until FY24, it is anticipated that this funding will continue in future fiscal years, so these provisions do not create an additional operating budget impact. Notably, additional funds for NMLEA are provided elsewhere in the DPS budget.

***Law Enforcement Officer Database.*** In its analysis of 2020 SB375, DPS estimated the costs of the law enforcement officer database would be \$200 thousand to \$250 thousand to set up and \$30 thousand to \$37.5 thousand annually in maintenance. Because the database must be created in FY23, the costs to create the database would be incurred that year while the maintenance costs would be incurred in FY24 and future fiscal years. There is no funding in the GAA explicitly designated for this purpose, so this is considered as an additional operating budget impact of \$200 thousand to \$250 thousand in FY23 and \$30 thousand to \$37.5 thousand in FY24 and future fiscal years. However, it is worth noting that the GAA contains significant increases to the DPS budget, including \$650.1 thousand and 6 FTE for IT, so it may be possible for the agency to fulfill its duties under these provisions within its existing operating budget.

***Law Enforcement Protection Fund Distributions and Survivors’ Benefits.*** The LEPF intercepts general fund revenue and redirects it to distributions to local law enforcement agencies, NMLEA, and DPS. Under current law, remaining balances in excess of \$100 thousand at the end of the fiscal year revert to the general fund, so any changes to the fund's revenues or distributions impact the general fund. In addition to increasing LEPF distributions, SB231 would redirect those remaining balances from the general fund to the law enforcement retention fund. The fiscal impact of these changes is therefore considered a recurring reduction in general fund revenue.

LFC staff project SB231 will increase distributions to law enforcement agencies and survivors' benefits by \$9.2 million in FY24 and future fiscal years, and will result in additional reversion to the law enforcement retention fund of \$3.8 million in FY24, \$5.4 million in FY25, and \$7 million in FY26. Overall, these provisions will result in reductions to general fund revenue of \$14 million in FY24, \$15.5 million in FY25, and \$17.2 million in FY26.<sup>2</sup> For more details, see Attachment 1.

The requirements that agencies comply with statutory reporting requirements and the Certification Board's investigations is not anticipated to have a fiscal impact because the GAA includes \$100 thousand in recurring funds for DPS to help bring agencies into compliance with reporting requirements.

***New Crimes.*** SB231's creation of five new crimes is anticipated to have a small fiscal impact.

**Threatening a judge:** The newly created crime of threatening a judge or an immediate family member of a judge is a fourth-degree felony, which carries an 18-month prison sentence; the average length of time served by offenders released from prison in FY21 whose highest charge was for a fourth-degree felony was 516 days. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY21 was \$49.6 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 \$23.4 thousand per inmate per year across all facilities. Each offender sentenced to prison under this bill could therefore result in estimated increased costs of \$33.1 thousand to NMCD. The Administrative Office of the Courts (AOC) tracks threats made against courts and state judges and reports eight threats against courthouses and seven against judges in 2020. Assuming threats against courthouses would constitute threats against judges for purposes of SB231 and assuming slightly under half of these threats would result in an individual being admitted to prison, this analysis estimates this new crime will result in an additional seven individuals being admitted to prison each year, an increased cost of \$232 thousand annually. These additional costs will begin to be realized in FY24 (accounting for some time to adjudication) increasing the following year as an offender admitted in FY24 serves the remainder of their term, and another offender is admitted.

**Maliciously sharing information:** The newly created crime of maliciously sharing personal information of a judge or an immediate family member of a judge is a misdemeanor offense, which is punishable by up to a year in jail. For purposes of this analysis, it is estimated that an individual could spend between six months and one year incarcerated for this offense. LFC estimates a marginal cost (the cost per each additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. Each offender sentenced to jail under this bill could therefore result in estimated increased costs of \$9,614 to \$19.2 thousand per year to counties. This analysis assumes at least one individual per year is sentenced to jail for this offense. To account for time to adjudication, no costs are anticipated to be incurred until six months into FY23, so the cost for FY23 is prorated to account for this, while the costs in FY24 and future fiscal years are estimated at the full annual cost. However, for purposes of this analysis, since these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

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<sup>2</sup> The distribution to NMLEA of \$200 thousand proposed in SB231 is included in the GAA, and SB231 is therefore not considered to have an additional revenue impact from that distribution.

Shooting threat: The maximum penalty offered for making a shooting threat is a misdemeanor, which is punishable by up to one year in jail. For purposes of this analysis, it is estimated that an individual could spend between six months and one year incarcerated for this offense. LFC estimates a marginal cost (the cost per each additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. Each offender sentenced to jail under this bill could therefore result in estimated increased costs of \$9,614 to \$19.2 thousand per year to counties.

It is difficult to estimate how many individuals will be charged, convicted, and/or serve prison time based on the creation of a new crime. However, the Educator's School Safety Network reports there were 3,058 threats reported in K-12 schools nationally during the 2018-2019 school year, 28.2 percent of which were shooting threats (about 862). Assuming New Mexico schools receive a share of threats proportionate to the state's share of the national population, the number of shooting threats received by schools alone would be about five. If each of these five threats resulted in a prison sentence under the new crime of making a shooting threat, the costs of incarceration to counties would be \$48.1 thousand to \$96.1 thousand per year. To account for time to adjudication, no costs are anticipated to be incurred until six months into FY23, so the cost for FY23 is prorated to account for this, while the costs in FY24 and future fiscal years are estimated at the full annual cost. However, for purposes of this analysis, since these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

Significantly, this is likely an underestimate, as it only includes shooting threats against schools, while the definition of shooting threat in SB231 is much broader.

Operating a chop shop: Based on an estimated time served for third-degree property felonies of 703 days (based on actual length-of-sentence for individuals released from prison in FY21 whose highest charge was a third-degree property felony), each individual sentenced to prison for the crime of operating a chop shop could result in increased incarceration costs of \$45.2 thousand. Because the estimated time served is greater than one year, the costs of one year (\$23.4 thousand) would be incurred in the first year of incarceration, while the cost of the remaining 338 days would be incurred in the second year of incarceration. This analysis assumes at least one person will be admitted to prison each year for this crime.

Damage to property by theft: Based on an estimated time served for fourth-degree property felonies of 522 days (based on actual length-of-sentence for individuals released from prison in FY21 whose highest charge was a fourth-degree property felony), each individual sentenced to prison for the crime of damage to property by theft valued at \$2,500 or more could result in increased incarceration costs of \$33.5 thousand. Because the estimated time served is greater than one year, the costs of one year (\$23.4 thousand) would be incurred in the first year of incarceration, while the cost of the remaining 157 days would be incurred in the second year of incarceration. This analysis assumes at least one person will be admitted to prison each year for this crime.

For purposes of this analysis, it is estimated that an individual could spend between six months and one year incarcerated for the misdemeanor offense of criminal damage to property by theft valued at between \$1,000 and \$2,500. LFC estimates a marginal cost (the cost per each additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. Each offender sentenced to jail under this bill could

therefore result in estimated increased costs of \$9,614 to \$19.2 thousand per year to counties. This analysis assumes at least one individual per year is sentenced to jail for this offense. To account for time to adjudication, no costs are anticipated to be incurred until six months into FY23, so the cost for FY23 is prorated to account for this, while the costs in FY24 and future fiscal years are estimated at the full annual cost. However, for purposes of this analysis, since these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

The new petty misdemeanor of criminal damage to property by theft valued at less than \$1,000 would not result in additional incarceration costs.

***Changes to Existing Crimes and Penalties.*** The changes to existing crimes and criminal penalties outlined in this bill, especially changes to firearm enhancements, are anticipated to be significant.

Statute of limitations: This analysis estimates the elimination of the statute of limitations for second-degree murder will result in additional incarceration costs of \$260 thousand. These additional costs will begin to be realized in FY24, increasing over the following 11 years (as more individuals are admitted for and serve longer sentences for the crimes addressed by the bill), and leveling out at \$260 thousand million in FY35 (as offenders begin to be released from prison) and future fiscal years.

Unlawful possession of a handgun: The changes to this crime have no fiscal impact.

Felon in possession of a firearm: In FY21, 223 individuals were admitted to prison for serious violent offenses, 17 percent of overall admissions. Assuming a similar share of the 39 individuals admitted to prison with their highest charge being felon in possession of a firearm in FY21 were admitted for serious violent offenses, the increase from a third-degree felony to a second-degree felony for a serious violent felon in possession of a firearm would impact about seven individuals admitted to prison each year. Based on the difference between the average time served in prison for individuals released from prison whose highest charge was the third-degree felony of felon in possession of a firearm (484 days) and those whose highest charge was a second-degree felony (1,452 days) in FY21, the state would face increased incarceration costs of about \$435.3 thousand for the estimated seven individuals whose sentences would be increased each year.

Because many individuals convicted of felon in possession of a firearm may have been admitted to prison with a higher charge, this is likely an underestimate of the total cost.

Aggravated fleeing a law enforcement officer: In FY21, 10 individuals were admitted to prison with their highest charge being aggravated fleeing a law enforcement officer. It is unknown how many of these incidents resulted in injury or great bodily harm. Based on the difference between the average time served in prison for individuals released from prison whose highest charge was a the fourth-degree felony of aggravated fleeing a law enforcement officer (301 days), those whose highest charge was a third-degree felony (912 days), and those whose highest charge was a second-degree felony (1,452 days) in FY21, the state would face increased incarceration costs of about \$39.2 thousand for each offense that resulted in injury and \$73.9 thousand for each offense that resulted in great bodily harm. This analysis assumes one case per year will result in injury and one will result in great bodily harm.

Because many individuals convicted of aggravated fleeing a law enforcement officer may have been admitted to prison with a higher charge, this is likely an underestimate of the total cost.

Firearm enhancements: SB231 both expands the circumstances under which a firearm enhancement can be applied. Currently, the firearm enhancement applies a three-year enhancement to all noncapital felonies in which a firearm is brandished, although this analysis assumes the enhancement can also be applied to cases in which a firearm is discharged. The proposed changes in the bill would (1) add a one-year enhancement for possessing a firearm during an offense, which only applies to drug transactions (trafficking or distribution), aggravated burglary, or serious violent offenses and (2) increase the penalty for those who discharge a firearm (currently assumed to be included in the brandishing enhancement) from three years to five years.

According to a 2019 report from the U.S. Department of Justice’s Bureau of Justice Statistics, 20.9 percent of state prisoners possessed or used a firearm during the offense for which they were incarcerated, including 9.4 percent of offenders incarcerated for drug trafficking, 6.7 percent of offenders incarcerated for burglary, and 29.1 percent of offenders incarcerated for violent offenses. Of those who possessed a firearm during their offense, 32 percent did not use their firearm (possession only), 21.5 percent used but did not discharge their firearm (brandishing), and 46.5 percent discharged their firearm.<sup>3</sup>

Applying these rates to estimated FY21 prison admissions for noncapital felonies (1,160) and FY21 admissions of individuals whose highest charges were for drug trafficking (123), aggravated burglary (11), and serious violent offenses (223), this analysis estimates the new enhancement for possessing a firearm during one of the specified offenses could apply to up to 25 individuals, and the increased enhancement for discharging a firearm during a noncapital felony will impact up to 112 individuals. Because these enhancements may be partially or wholly suspended by the court, this analysis employs a low-end estimate in which the enhancements are applied to about half the eligible individuals (12 who possessed a firearm during the offense and 56 who discharged a firearm) and a high-end estimate in which the enhancements are applied to all eligible individuals. These changes in enhancement severity will increase the time served in prison for these offenders, increasing overall costs by an estimated \$1.8 million to \$3.6 million annually.

This analysis does not include the potential impact of the changes to the additional enhancement for second or subsequent offenses.

***Electronic Monitoring.*** Currently, electronic location monitoring is only conducted in the 2<sup>nd</sup> Judicial District, 6<sup>th</sup> Judicial District, San Juan County and Sandoval County. According to the Administrative Office of the Courts (AOC), an average of 144 defendants are monitored each day in the 2<sup>nd</sup> Judicial District (with a capacity of up to 160), while 25 to 30 are monitored in San Juan County (capacity of up to 35), 15 are monitored in Sandoval County (capacity up to 20), and six to eight are monitored in the 6<sup>th</sup> Judicial District.

SB231 would not change the nature or extent of electronic monitoring of pretrial defendants nor require additional judicial districts or counties to adopt electronic monitoring. Thus, this analysis

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<sup>3</sup> <https://bjs.ojp.gov/content/pub/pdf/suficspi16.pdf>

assumes it would not result in fiscal impacts due to the cost of electronic monitoring equipment or staffing required to monitor defendants and investigate potential violations. It also does not appear to substantially change current practices with respect to data sharing in the 2<sup>nd</sup> Judicial District and is therefore not expected to have a fiscal impact in that jurisdiction. However, at this time, it is unclear if and how Section 29 of SB231 would change data sharing practices in the other jurisdictions that employ electronic monitoring. In analysis submitted on SB225 prior to the Senate Judiciary Committee amendments, AOC noted the amount of staff time required to respond to each request is unknown, as are the number of cases the bill would impact on a daily, weekly, or monthly basis. If the volume of requests was significant, additional local or state pretrial staffing may be necessary. The requirement to provide data immediately for certain criminal investigations could result in additional costs (see technical issues).

***New Judgeships.*** SB231 creates three new judgeships. The GAA provides \$606 thousand in funding for two judgeships (a cost of \$303 thousand each) in the 5<sup>th</sup> and 13<sup>th</sup> Judicial Districts, but the budget does not provide funding for an additional judgeship in the 2<sup>nd</sup> Judicial District. This is therefore scored as a recurring additional operating budget impact of \$303 thousand beginning in FY23.

***Pretrial Services.*** SB231 directs AOC to create a grant program to support pretrial services statewide and develop a framework for the standardization of pretrial services and supervision. The GAA contains \$4 million in nonrecurring general for AOC to distribute as grants to support pretrial services between FY23 and FY25. These provisions therefore do not have an additional operating budget impact during that time; however, establishing a new grant program could create an expectation that the program will continue in future fiscal years, so this cost is considered a recurring general fund expense of \$1.3 million in FY26 and future fiscal years. These costs are not displayed in the table on page 1 because it only includes additional operating budget expenses through FY24.

***Crime Reduction Grants.*** The GAA includes a base budget increase of \$150 thousand and a \$2 million nonrecurring appropriation to the Sentencing Commission (NMSC) for crime reduction grants in FY22 and FY23. The \$2 million nonrecurring appropriation is contingent on legislation expanding the allowable uses of crime reduction grants to include specific uses, and SB231 satisfies that contingency. This nonrecurring appropriation constitutes a one-time expansion of the crime reduction grant program. However, expanding the program could create an expectation that this level of funding will be available for grants in future years, so this cost is considered a recurring general fund expense of \$2 million in FY24 and future fiscal years.

***Violence Intervention Program.*** The GAA appropriates \$1.7 million recurring and \$9 million nonrecurring general fund to DOH between FY23 and FY25 to establish a statewide grant program for violence intervention programs. Although the GAA does not specify future appropriations, establishing a new grant program could create an expectation that the program will continue in future fiscal years, therefore this cost is considered a recurring general fund expense of \$3 million in FY26 and future fiscal years. These costs are not displayed in the table on page 1 because the table only includes additional operating budget expenses through FY24.

## **SIGNIFICANT ISSUES**

NMAG raises concerns that the inclusion of the new judgeships in SB231 violates the constitutional prohibition of a bill embracing more than one subject (Article IV, Section 16 of the

New Mexico Constitution), as those provisions simply provide for the addition of one district judge in each of three districts and otherwise do not appear related to the general subject matter of SB231, which NMAG believes is law enforcement officers.

NMAG further notes it is not clear the extent to which the law enforcement officer database is subject to public records requests or if the database is exempt from the Inspection of Public Records Act. Providing for the disclosure of “aggregated and anonymized data from the database” could create confusion, while the database would otherwise be required to be disclosed in its entirety.

NMAG adds the database may have some unforeseen due process implications since the Certification Board and law enforcement agencies must consult it, and it could include information of unresolved cases. NMAG’s analysis suggests these issues can be fixed by the board and agencies affording officers the right to be heard regarding the information within the database before considering it; such processes can be implemented through rule and policy.

Finally, NMAG notes that the number of satellite law enforcement agencies is not fixed. Any fluctuations in the number of academies would impact the number of members of the New Mexico Standards and Training Council.

AOC provided the following information regarding the additional judgeships proposed in this bill:

According to the 2020 U.S. Census, Eddy County’s population grew 15.8 percent over the 2010 U.S. Census population; and Sandoval County’s population has grown by 7.14 percent since the 2010 census. Between FY13 and FY19, caseloads at the Eddy County District Court increased by 1483 cases for a total increase of 40.7 percent and an average increase of 6.7 percent per year. From FY14 to FY19 the Sandoval County District Court caseload grew 17.1 percent with a civil case increase of 37 percent. Caseload growth has slowed during the pandemic, but the courts anticipate the numbers to go back up when public health restrictions subside. The population of Bernalillo County has also seen a similar increase to the other districts. These new judgeships will help these districts address the needs of their growing populations to help ensure the citizens of these districts have timely access to justice.

The judicial workload study, conducted by the courts in 2019 – 2020, showed the need for an additional 5.7 judges in the 2<sup>nd</sup> judicial district, 2.1 in the 5<sup>th</sup> judicial district, and 3.5 in the 13<sup>th</sup> district.

## **CONFLICT, DUPLICATION, RELATIONSHIP**

SB231 almost entirely duplicates the House Judiciary Committee substitute for House Bill 68 as twice amended, but has some minor differences resulting in conflicting provisions.

SB231 conflicts with Senate Bill 3 and House Bill 141 (which are duplicate bills). While very similar, SB3 and HB141 direct residual balances in the LEPF to the peace officers’, New Mexico mounted patrol members’, and reserve police officers’ survivors fund, while SB231 directs those funds to the law enforcement retention fund. SB231 also provides that agencies’ distributions



from the LEPF are contingent on meeting statutory reporting requirements and cooperating with the Certification Board, which SB3 and HB141 do not do.

SB231 conflicts with House Bill 196, which removes the LEPF reversion to the general fund but does not redirect those funds.

Provisions of SB231 duplicate the following bills in their entirety: House Bill 69, House Bill 79 as amended, House Bill 84, House Bill 86 as amended, House Bill 96 as amended, House Bill 124 as amended, and Senate Bill 34 as amended.

SB231 relates to the House Judiciary Committee substitute for House Bill 5 and the Senate Health and Public Affairs Committee substitute for Senate Bill 225, both of which address electronic location monitoring while on pretrial release.

SB231 relates to House Memorial 35, which requests DPS convene a task force to study law enforcement officer retention.

SB231 relates to House Memorial 38 and Senate Memorial 13 (duplicate bills), which request DPS conduct a study to assess gaps in law enforcement training in the area of culturally and socially relevant responses to emergency situations.

## **TECHNICAL ISSUES**

Sections 32 and 33 expand the allowable uses of crime reduction grants, and the effective date of these provisions is July 1, 2023 (FY24). However, the GAA includes a \$2 million nonrecurring appropriation for the remainder of FY22 and FY23 for crime reduction grants that is contingent on legislation expanding the allowable uses of the grants. It is unclear if the later effective date would lead this contingency to fail; however, the purpose of the additional appropriation appears to be to fund the expanded uses of these grants, so it may be desirable to remove the effective date of these provisions (by striking “32 through” on line 7 of page 71) or give them an effective date of July 1, 2022 (FY23).

NMAG notes SB231 would authorize the Certification Board to “renew” a law enforcement officer’s certification, but these certifications are not subject to any statutory renewal requirements.

The phrase “a program” on page 60 line 23 may be confusing because it is not clear what program DPS is required to evaluate. NMAG notes that if the intent is to require DPS to evaluate the effectiveness of the law enforcement retention fund in achieving greater law enforcement retention, then the phrase “a program” should be replaced with “the fund.”

The bill requires entities conducting electronic monitoring to provide law enforcement with “immediate” access to data when it is requested as part of investigations into certain violent crimes. “Immediate” is not defined, which could lead to differing interpretations. It may be desirable to specify a timeframe for this reporting and to ensure the entities responsible for fulfilling the requests have the capacity to respond within that timeframe.

## OTHER SUBSTANTIVE ISSUES

Despite decreases in overall crime and a recent drop in violent crime, New Mexico had the highest overall crime rate of any state in the country in 2020 and the second highest violent crime rate. A broader view of the many factors affecting community safety is necessary to identify the best ways to leverage state resources to create better outcomes. An effective system to truly improve public safety should prioritize treatment over punishment for low-level offenders, ensure swift and certain justice for serious violent crimes, and effectively address the needs of victims and communities who have suffered the most from the failures of the existing system.

Research shows the certainty of punishment is a significantly more effective deterrent to criminal behavior than the severity of punishment, with severity of punishment having no impact on crime reduction beyond the certainty of being caught. In New Mexico, however, punishment has grown less certain as crime has increased, with fewer violent crimes solved and more violent felony cases dismissed. 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.

For additional details and analysis, see [LFC's Volume 1, pages 55 – 64](#).

### Attachments

1. LEPF and LERF Sources and Uses, FY20 – FY26
2. Public Safety Package – Summary of Relevant Appropriations, 2022 Legislative Session
3. Estimated Costs to Provide Retention Differentials Under SB231

ER/al

## Law Enforcement Protection Fund Projected Revenues & Expenditures

FY20 to FY26

	ACTUALS	ACTUALS	PROJECTED	PROJECTED	PROJECTED	PROJECTED	PROJECTED
	FY20	FY21	FY22	FY23	FY24	FY25	FY26
<b>BEGINNING BALANCE</b>	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
<b>REVENUE</b>							
Fees, Licenses, Penalties, and Taxes	\$ 19,894,279	\$ 23,149,303	\$ 24,073,082	\$ 25,311,144	\$ 26,840,444	\$ 28,358,873	\$ 30,022,166
<b>TOTAL REVENUE</b>	<b>\$ 19,894,279</b>	<b>\$ 23,149,303</b>	<b>\$ 24,073,082</b>	<b>\$ 25,311,144</b>	<b>\$ 26,840,444</b>	<b>\$ 28,358,873</b>	<b>\$ 30,022,166</b>
<b>EXPENDITURES</b>							
Base Distribution	\$ 5,289,943	\$ 5,790,464	\$ 5,593,129	\$ 5,593,300	\$ 5,593,300	\$ 5,593,300	\$ 5,593,300
Additional Distribution due to 2020 HB184 (FY23 Implementation)	\$ -	\$ -	\$ -	\$ 7,259,200	\$ 7,259,200	\$ 7,259,200	\$ 7,259,200
Additional Distribution due to Proposed Bill	\$ -	\$ -	\$ -	\$ 200,000	\$ 10,131,500	\$ 10,131,500	\$ 10,131,500
<b>TOTAL EXPENDITURES</b>	<b>\$ 5,289,943</b>	<b>\$ 5,790,464</b>	<b>\$ 5,593,129</b>	<b>\$ 13,052,500</b>	<b>\$ 22,984,000</b>	<b>\$ 22,984,000</b>	<b>\$ 22,984,000</b>
<b>ENDING BALANCE</b>	<b>\$ 14,704,336</b>	<b>\$ 17,458,839</b>	<b>\$ 18,579,953</b>	<b>\$ 12,358,644</b>	<b>\$ 3,956,444</b>	<b>\$ 5,474,873</b>	<b>\$ 7,138,166</b>
Retention Fund Reversion Amount due to Proposed Bill	\$ -	\$ -	\$ -	\$ -	\$ 3,856,444	\$ 5,374,873	\$ 7,038,166
General Fund Reversion Amount	\$ 14,604,336	\$ 17,358,839	\$ 18,479,953	\$ 12,258,644	\$ -	\$ -	\$ -

Source: SHARE, DFA website, DFA audits, LFC files (LFC economist projections as of November 3, 2021)

## Law Enforcement Retention Fund Projected Revenues & Expenditures

FY20 to FY26

	ACTUALS	ACTUALS	PROJECTED	PROJECTED	PROJECTED	PROJECTED	PROJECTED
	FY20	FY21	FY22	FY23	FY24	FY25	FY26
<b>BEGINNING BALANCE</b>	\$ -	\$ -	\$ -	\$ -	\$ 1,289,949	\$ 1,655,442	\$ 3,539,364
<b>REVENUE</b>							
General Fund Appropriations (2022 GAA) (contingent on proposed bill)	\$ -	\$ -	\$ -	\$ 5,000,000	\$ -	\$ -	\$ -
LEPF Transfers due to Proposed Bill	\$ -	\$ -	\$ -	\$ -	\$ 3,856,444	\$ 5,374,873	\$ 7,038,166
<b>TOTAL REVENUE</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 5,000,000</b>	<b>\$ 3,856,444</b>	<b>\$ 5,374,873</b>	<b>\$ 7,038,166</b>
<b>EXPENDITURES</b>							
Distributions to Law Enforcement Agencies due to Proposed Bill	\$ -	\$ -	\$ -	\$ 3,468,051	\$ 3,468,051	\$ 3,468,051	\$ 3,468,051
Administrative Expenses	\$ -	\$ -	\$ -	\$ 242,000	\$ 22,900	\$ 22,900	\$ 22,900
<b>TOTAL EXPENDITURES</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 3,710,051</b>	<b>\$ 3,490,951</b>	<b>\$ 3,490,951</b>	<b>\$ 3,490,951</b>
<b>ENDING BALANCE</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,289,949</b>	<b>\$ 1,655,442</b>	<b>\$ 3,539,364</b>	<b>\$ 7,086,579</b>

Source: LFC files

Note: Law enforcement protection fund (LEPF) revenues are ten percent of all money received for fees, licenses, penalties and taxes from life, general casualty and title insurance business (except for money received from health insurance) collected by the New Mexico Public Regulation Commission. Under current law, balances in excess of \$100 thousand revert to the general fund at the end of the fiscal year. SB231 proposes to redirect those reversions to the law enforcement retention fund.

Projection as of 2/13/2022

Goal	Agency	SFC Recurring		SFC Nonrecurring	
		GF	Other	GF	Other
<b>Prioritize Treatment</b>					
Increase behavioral health workforce	HED			\$ 50,000.0	
Evidence-based and trauma responsive behavioral health and child welfare capacity building and training	HSD			\$ 20,000.0	
988/Crisis response system and evidence-based behavioral healthcare (Note A)	HSD	\$ 2,350.0		\$ 2,325.0	
Expand community schools	PED				\$ 8,000.0
NMCD reinvestment into evidence-based programs and supportive housing (Note B)	NMCD	\$ 2,100.0			
Compensation increase for correctional officers (7 percent) (Note C)	NMCD	\$ 3,674.4	\$ 614.7		
Subtotal	Subtotal	\$ 8,124.4	\$ 614.7	\$ 72,325.0	\$ 8,000.0
<b>Ensure Swift and Certain Justice</b>					
<b>Improve Policing</b>					
Increase state police officer compensation (15.9 percent) (Notes D & E)	DPS	\$ 8,375.5	\$ 461.0		
Add support staff for the forensic laboratory and increase compensation for forensic scientists and technicians, dispatchers, and other DPS employees (Note F)	DPS	\$ 2,420.9	\$ 300.4		
Increase funding for training statewide through the New Mexico Law Enforcement Academy and increase staff and resources to oversee certification (partially contingent on SB231) (Note E)	DPS	\$ 693.1	\$ 200.0		
Grants to law enforcement agencies for evidence-based police training	DFA			\$ 4,000.0	
Expand state police recruit and lateral schools	DPS	\$ 2,000.0			
Retention differentials for law enforcement officers (contingent on HB86/SB231) (Note G)	DFA			\$ 5,000.0	
Recruitment and retention stipends for local law enforcement agencies (contingent on SB231)	DFA			\$ 50,000.0	
Increase state police advanced training initiatives, including establishing a law enforcement assisted diversion (LEAD) program within state police	DPS	\$ 140.0		\$ 892.8	
Expand intelligence-led policing capabilities (IT)	DPS			\$ 3,380.0	
Increase civilian support for state police	DPS	\$ 1,299.6			
Job task analysis for law enforcement officers statewide	DPS			\$ 250.0	
State police vehicles	DPS			\$ 9,000.0	
<b>Increase Cooperation and Coordination among Criminal Justice Partners</b>					
Expand crime reduction grant program (partially contingent on HB84/SB231) (Note H)	NMSC	\$ 150.0		\$ 2,000.0	
Help bring local law enforcement agencies into compliance with statutory reporting requirements	DPS	\$ 100.0			
Statewide criminal justice data sharing system (DataXchange)	AOC		\$ 350.0		
Expand criminal justice data integration work	NMSC	\$ 50.0			
Expand county detention fund	DFA	\$ 2,612.5			
<b>Increase Resources for Courts and Pretrial Services</b>					
Strengthen pretrial services and supervision and ensure 24/7 coverage (Note I)	AOC	\$ 289.2		\$ 4,500.0	
Create additional judgeships (contingent on HB124/SB231)	AOC	\$ 606.0			
Raises for district, magistrate, and statewide judges (17 percent) and all court personnel (9 percent)	AOC	\$ 7,646.1			
IT enhancements for remote court appearances	AOC			\$ 135.0	
Clear backlogged jury trials	PDD			\$ 200.0	
Subtotal	Subtotal	\$ 26,382.9	\$ 1,311.4	\$ 79,357.8	\$ -
<b>Address Victim and Community Needs</b>					
Establish a Violence Prevention Office and provide grants to implement violence intervention programs statewide (relates to HB96/SB231)	DOH	\$ 2,000.0		\$ 9,000.0	
Increase funding for sexual assault programs (partially contingent on SB118) and for survivors of human trafficking (Note J)	CVRC	\$ 2,258.5	\$ 1,300.0	\$ 1,000.0	
Increase funding for domestic violence programs (partially contingent on SB118) (Note K)	CYFD	\$ 3,500.0	\$ 1,000.0	\$ 500.0	
Youth re-employment and apprenticeships	WSD			\$ 5,000.0	
Establish Job Challenge Academy for at-risk youth	DMA	\$ 500.0	\$ 1,500.0	\$ 250.0	\$ 750.0
Subtotal	Subtotal	\$ 8,258.5	\$ 3,800.0	\$ 15,750.0	\$ 750.0
<b>Total HAFS Substitute for HB2 &amp; 3</b>		\$ 42,765.8	\$ 5,726.1	\$ 167,432.8	\$ 8,750.0
<b>SB212 (STB Bill): State Police Command Center (Albuquerque)</b>	DPS			\$ 20,000.0	
<b>SB212 (STB Bill): Public Safety Radio Communications (P25)</b>	DoIT			\$ 26,000.0	

**Legend**

- Directly ties to the provisions of SB231
- Provides tools to support mandates of SB231

**Notes**

- A Nonrecurring funding reflects FY22 supplemental appropriation.
- B Funds are reallocated from savings elsewhere in the Corrections Department budget due to population reductions.
- C Only includes 7 percent state employee compensation package in Section 8.
- D HAFS substitute for HB2 includes \$520.2 thousand in other state funds from the law enforcement retention fund, which is contingent on enactment of legislation creating the fund. These funds are not included in the staff scenario in line 11, as they would be appropriated from the \$5 million appropriation in line 16, and including them in line 11 would count those funds twice.
- E Includes targeted compensation in Section 4 and 7 percent state employee compensation package in Section 8.
- F Source of recurring other funds is the law enforcement protection fund (LEPF). This appropriation is contingent on enactment of legislation to allow the use of the LEPF by the Department of Public Safety and the New Mexico Law Enforcement Academy to implement the provisions of the Law Enforcement Training Act (SB231).
- G Funds are appropriated to DFA to fill the proposed law enforcement retention fund, which will provide 5 percent raises to all law enforcement officers statewide at five-year milestones. This appropriation is contingent on enactment of HB86 or similar legislation (such as SB231) to create such a fund. The full cost to fund a five-year cycle of the proposed retention differentials is estimated to be \$17.3 million; SB231 provides a recurring funding stream from the LEPF.
- H \$2 million special appropriation from the general fund is contingent on enactment of HB84 or similar legislation (such as SB231) expanding the allowable uses of crime reduction grants to include developing or improving coordination of services between law enforcement agencies and treatment programs, establishing law enforcement crisis intervention teams, providing access to transitional or reentry homes for individuals recently released from incarceration, or developing or expanding data-driven policing programs.
- I House Bill 2 of the 2021 second special session also appropriated \$500 thousand from American Rescue Plan Act funds for this purpose.
- J Other funds are from the early childhood education and care fund, contingent on enactment of SB118 or similar legislation expanding the allowable uses of the fund.

**Estimated Costs to Provide Retention Differentials under SB231**

Employing Agency	Number of FTE (Filled)	Average Salary (Filled Positions)	Employer Tax Contribution	Est. Payment per Officer	Est. Total Payment (over 5 years)	Est. Annual Payment
New Mexico State Police <sup>1</sup>	647	\$70,315.59	1.45%	\$3,566.76	\$2,307,692.64	\$461,538.53
County Sheriffs' Offices <sup>2,3</sup>	1,306	\$70,315.59	1.45%	\$3,566.76	\$4,658,186.37	\$931,637.27
Municipal Police Departments <sup>2,3</sup>	2,540	\$70,315.59	1.45%	\$3,566.76	\$9,059,566.14	\$1,811,913.23
Tribal Police Departments <sup>2,3</sup>	91	\$70,315.59	1.45%	\$3,566.76	\$324,575.01	\$64,915.00
University Police Departments <sup>2,3</sup>	91	\$70,315.59	1.45%	\$3,566.76	\$324,575.01	\$64,915.00
Attorney General's Office <sup>4</sup>	33	\$73,862.18	7.65%	\$3,975.63	\$131,195.85	\$26,239.17
Livestock Board <sup>4</sup>	49	\$38,908.29	7.65%	\$2,094.24	\$102,617.69	\$20,523.54
Department of Game and Fish <sup>4</sup>	126	\$46,561.23	7.65%	\$2,506.16	\$315,775.93	\$63,155.19
Energy, Minerals and Natural Resources Department <sup>5</sup>	43	\$50,150.00	7.65%	\$2,699.32	\$116,070.92	\$23,214.18
<b>Estimated Total</b>	<b>4,926</b>	<b>\$69,243.30</b>		<b>\$3,520.15</b>	<b>\$17,340,255.56</b>	<b>\$3,468,051.11</b>

1. FTE and salary information based on the agency's FY23 budget request (August 2021); excludes state police recruits.
2. FTE information based on FY21 law enforcement protection fund (LEPF) distributions.
3. State police average salary is used to estimate the average salaries for officers employed by county sheriffs' offices, municipal police departments, tribal police departments, and university police departments, because detailed salary information for those agencies is not available at this time.
4. FTE and salary information based on the agency's FY23 budget request (August 2021).
5. FTE and salary information provided by the agency on 2/6/2022 and 2/7/2022.

Source: State agency FY23 budget requests (BFM), Department of Finance and Administration (LEPF distributions), agency analysis for HB86