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## FISCAL IMPACT REPORT

**SPONSOR** Cotter **ORIGINAL DATE** 1/19/2015  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Larceny of Vehicle Parts Penalties **SB** 74

**ANALYST** Chenier

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Administrative Office of the Courts (AOC)
- New Mexico Corrections Department (NMCD)
- Attorney General’s Office (AGO)
- Administrative Office of the District Attorney (AODA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 74 would expand the current larceny statute to include accessories or pieces of motor vehicles stolen, regardless of value. The penalty for this type of larceny would not be based on the value of the items stolen and would be a fourth degree felony offense.

### FISCAL IMPLICATIONS

NMCD stated that the bill “would ultimately result in more fourth degree felony convictions (carrying the potential of an 18 month sentence within NMCD custody) for larceny instead of misdemeanor convictions for the theft of car parts or items of \$500 or less. Under current law misdemeanor offenders serve any incarceration period imposed by the judge in a county jail, not in NMCD custody.

NMCD stated further that “the bill would also result in less second and third degree felony convictions for larceny. Third degree felonies carry a potential three year prison term, and second degree felonies carry a potential nine year prison term.”

Any increase in the number of fourth degree felonies may be offset by a decrease in the number of third and second degree felony convictions. Any increase or decrease in prison days is difficult to estimate.

The classification of an inmate determines his or her custody level, and the incarceration cost varies based on the custody level and particular facility. The average cost to incarcerate a male inmate is \$43,603 per year in a state-owned and operated prison, and the average annual cost in a privately operated prison is \$29,489 (where primarily only level III or medium custody inmates are housed).

AODA stated that this bill “would affect the courts, district attorneys’ offices and public defenders because of the increased number of felony crimes. Convictions of more felonies could give rise to more sentences being enhanced under the habitual offender statutes.”

### **SIGNIFICANT ISSUES**

AOC stated that “In reviewing other criminal statutes nationwide, AOC was unable to find statutes similar to this bill. It is unclear whether this bill would fix a loop-hole in the statute by specifying that “a part, accessory or piece of equipment installed on a vehicle” is considered larceny or whether the intent is to increase the penalty for these items if they are worth less than \$500.”

AOC also stated that “it can be presumed that most accessories or equipment installed on vehicles (after market) would probably be worth at least a couple hundred dollars. The statute currently provides that stolen property valued at \$250 or less is a petty misdemeanor and stolen property valued between \$250 to \$500 is a misdemeanor offense.”

### **TECHNICAL ISSUES**

The AODA stated that “since “part, accessory or piece of equipment” are not defined in SB74 anyone who stole something as minimal as a single nut or bolt from a junked car or a farm tractor, or any of the other “vehicles” or “motor vehicles” listed in the motor vehicle code could, arguably, be charged with a fourth degree felony. If so they would face the same penalty as someone who stole a brand new automobile or truck—if that offense was their first car theft, or stole something that wasn’t livestock or a gun but was worth up to \$2,500. If so the bill could be challenged on constitutional grounds that the punishment is excessive.”

EC/bb