

LFC Requester:	Chavez, Felix
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/28/25 *Check all that apply:*
Bill Number: SB 155 Original Correction
 Amendment Substitute

Sponsor: Sen. Antonio Maestas **Agency Name and Code:** AOC 218
Short Title: Determination of Embezzlement Penalty **Person Writing:** Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 155 amends Section 30-16-8 NMSA 1978, within the Criminal Code and governing embezzlement, to allow for the aggregation of incidents of embezzlement over a twelve-month period to determine the penalty for the crime.

The SB 155 amendments provide for the following penalties:

- **Petty misdemeanor:** when the value of the thing embezzled or converted is \$250 or less in any consecutive twelve-month period.
- **Misdemeanor:** when the value of the thing embezzled or converted is more than \$250 but not more than \$500 in any consecutive twelve-month period.
- **Fourth degree felony:** when the value of the thing embezzled or converted is more than \$500 but not more than \$2,500 or in any consecutive twelve-month period.
- **Third degree felony:** when the value of the thing embezzled or converted is more than \$2,500 but not more than \$20,000 in any consecutive twelve-month period.
- **Second degree felony:** when the value of the thing embezzled or converted is more than \$20,000 in any consecutive twelve-month period.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Increased penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

SIGNIFICANT ISSUES

- 1) Increased penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.
- 2) SB 155 is identical to SB 264, introduced in 2023. In the FIR for SB 264, at <https://www.nmlegis.gov/Sessions/23%20Regular/firs/SB0264.PDF>, concerns are raised by the NM Attorney General and the Administrative Office of the District Attorneys, including to note potential double jeopardy concerns, where prosecution for other property embezzled within the 12-month period, but discovered after conviction or acquittal, may be precluded by this bill on double jeopardy grounds. The Public Defender Department also notes that SB 264's cap of penalties at a second degree felony would preclude multiple second degree felonies being charged in some cases. Although the PDD explains that this "seems appropriate for a non-violent offense already subject to

restitution.”

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

- 1) Although Section 30-16-8 NMSA 1978, Subsections B through F, allow for aggregation of incidents of embezzlement (which will mean multiple “things” were embezzled or converted), the language in the subsections is not changed to reflect that, instead still referring to “the value of the thing embezzled or converted”, in each subsection, rather than referring to the “*combined [or total]* value of the *things* embezzled or converted” or something similar.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

- 1) See “Technical Issues,” #1, above.