

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)).

## FISCAL IMPACT REPORT

SPONSOR HJC ORIGINAL DATE 2/10/2022 68/HJCS/aHF1#1/aSJC/  
 LAST UPDATED 3/7/2022 HB aSF1#1/aSF1#2

SHORT TITLE Criminal Code Changes SB \_\_\_\_\_

ANALYST Rabin

### REVENUE (dollars in thousands)

| Estimated Revenue |      |              | Recurring or Nonrecurring | Fund Affected                  |
|-------------------|------|--------------|---------------------------|--------------------------------|
| FY22              | FY23 | FY24         |                           |                                |
| NFI               | NFI  | (\$13,787.9) | Recurring                 | General Fund                   |
| NFI               | NFI  | \$3,856.4    | Recurring                 | Law Enforcement Retention Fund |
| NFI               | NFI  | \$750.0      | Recurring                 | Peace Officers' Survivors 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> | \$306.0 | \$2,544.6 | \$2,801.8 | \$5,652.3         | 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, Senate Bill 34, Senate Bill 225

Relates to House Memorial 35, House Memorial 38, Senate Memorial 13

Conflicts with House Bill 5, House Bill 141, House Bill 196, Senate Bill 3, and Senate Bill 231

<sup>1</sup> HB68 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 recurring. Costs for programs already funded through FY25 do not appear in the table. After all the nonrecurring appropriations have been expended in FY28, the total cost to maintain the programs created by this bill is anticipated to be \$16.6 million annually. Additionally, because HB68 would change sentences and sentencing enhancements for certain crimes, many fiscal impacts will not be felt for several years. After the changes in prison population resulting from this bill plateau in FY35, the total cost of the sentencing changes and the creation of new crimes is anticipated to be \$2.8 million to \$4.6 million annually. Overall, in FY35 and fiscal future years, HB68 is anticipated to result in increased operating budget costs of \$19.4 million to \$21.2 million annually. Additional details are included in Fiscal Implications, and tables outlining the cost impacts for each provision of the bill by year between FY23 and FY37 are included as Attachments 1 and 2.

Relates to appropriations in the General Appropriation Act

## SOURCES OF INFORMATION

LFC Files

### Responses to Related Bill (Senate Bill 231) Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (NMAG)

Corrections Department (NMCD)

Department of Public Safety (DPS)

## SUMMARY

### Synopsis of Final Bill (incorporating all amendments)

This bill was amended several times during the 2022 legislative session, including two amendments that struck all existing provisions and inserted significant amounts of new text. This analysis considers only the final version of the bill, incorporating all amendments.

The House Judiciary Committee substitute for House Bill 68 (as amended) makes numerous changes to existing law and creates new statutes related to policing, the judiciary, and the Criminal Code. HB68 amends and creates new statutes governing police and telecommunicator (dispatcher) training and certification, creates programs to improve police recruitment and retention, 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. HB68 further creates five new crimes: three crimes related to threats, the crime of operating a chop shop, and the crime of damage to property by theft or attempted theft of regulated material. The bill also 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. Finally, the bill prohibits the use of a criminal defense strategy called “gay panic” or “trans panic.”

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 HB68, as well as the effective dates for those changes, are outlined below.

***Law Enforcement Recruitment and Retention.*** HB68 creates two new recruitment and retention programs for law enforcement officers. A program within the Department of Finance and Administration (DFA) would distribute funds to local law enforcement agencies for recruitment and retention stipends for officers. The bill directs DFA to establish criteria for the distribution of these funds, prioritizing increasing agencies' investigative capacity. Additionally, HB68 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, provided they remain employed for one additional year. Officers would receive the payments at four, nine, 14, and 19 years of service.

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

***Law Enforcement Officer Training and Certification.*** HB68 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. HB68 splits the two functions of LEAB—training and certification—into two separate entities. One, the New Mexico Law Enforcement Standards and Training Council, would be tasked with developing the standards and training for law enforcement officers and dispatchers, and the other, the Law Enforcement Certification Board, would be tasked with granting, denying, suspending, or revoking officers' and dispatchers' certifications.

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

- 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 the Department of Public Safety (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, HB68 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, and reality-based situational training. Officer training is also required to include use of force that eliminates choke holds.

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

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

***Law Enforcement Protection Fund Distributions and Survivors' Benefits.*** HB68 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 survivors' benefits for law enforcement officers killed in the line of duty; and redirects all remaining balances in the LEPF in excess of \$100 thousand 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. HB68 further increases the per-officer distributions from the LEPF for these agencies 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, HB68 increases death benefits paid from the peace officers', New Mexico mounted patrol members', and reserve police officers' survivors fund ("peace 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.

HB68 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.

The bill further restricts the conditions under which distributions can be used for recruitment or retention payments to align with the conditions on such payments established in the other two recruitment and retention programs in the bill.

HB68 makes law enforcement agencies' distributions from the law enforcement protection fund contingent on cooperation with statutory reporting requirements and the Certification Board's investigations.

***New Crimes.*** HB68 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 a 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.

Shooting threat: The crime of making a shooting threat consists of intentionally communicating to another person an intent 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 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 required documentation, so that a secondhand metal dealer must require both written documentation indicating the seller is the rightful owner or has permission from the rightful owner, and 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.*** HB68 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 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.

Unlawful possession of a handgun: The crime of unlawful possession of a handgun by a person under 19 years old 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 to possess a firearm, and a felon is defined as an individual convicted of a felony offense within 10 years of completing their sentence who has not been pardoned or received a deferred sentence. Under HB68, this crime would have its basic sentence increased to six years for individuals whose felony offense constituted a serious violent offense (as defined in Subparagraphs A through N of Paragraph 4 of Subsection L of 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 HB68, if fleeing a law enforcement officer results in injury to another person, the crime would be elevated to a third-degree felony. HB68 also broadens the types of vehicles that the officer can 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 HB68, 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 Subparagraphs A through N of Paragraph 4 of Subsection L of Section 33-2-34 NMSA 1978), and a five-year enhancement is added for discharging a firearm during any noncapital felony. 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). The bill provides for lesser enhancements for youthful offenders.

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

***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.

***Electronic Monitoring.*** HB68 requires any entity in possession of GPS monitoring data on a

defendant on pretrial release to make that data available to law enforcement without a warrant if the information is part of an ongoing and pending criminal investigation and there is reasonable suspicion the data is probative. Section 28 of HB68 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 defined 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.*** HB68 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.

***Crime Reduction Grants.*** HB68 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;
- Establishing 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.

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

***Violence Intervention Program.*** HB68 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.

***Gay and Trans Panic Defense.*** HB68 would prohibit the use by a defendant of a strategy called “gay panic” or “trans panic” as a defense, justification, or excuse for a crime. The “gay panic” or “trans panic” defense refers to the assertion by defendants that they acted in the belief or knowledge that they had been propositioned in a nonthreatening, nonviolent manner by someone thought to be or known to be gay, bisexual, or transgender.

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**

HB68’s diversion of LEPF revenue to increased distributions, the peace officers’ survivors fund, and the law enforcement retention fund result in a recurring reduction in general fund revenue of \$13.8 million in FY24, \$15.3 million in FY25, and \$17 million in FY26. HB68 is projected to increase distributions to law enforcement agencies by \$9.2 million in FY24 and future fiscal years, increase distributions to the peace officers’ survivors fund by \$750 thousand in FY24 and future fiscal years, and result in additional reversions to the law enforcement retention fund of \$3.9 million in FY24, \$5.4 million in FY25, and \$7 million in FY26. For more details, see Attachment 3.<sup>2</sup>

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 to agencies and the peace officers’ survivors fund, HB68 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.

Starting in FY24, HB68 would redirect residual LEPF balances in excess of \$100 thousand to the law enforcement retention fund, creating a recurring revenue increase for that fund.

The peace officers’ survivors fund may only be used to pay death benefits for officers killed in the line of duty. Between 2011 and 2020, nine New Mexico law enforcement officers were killed in the line of duty (either accidentally or feloniously), an average of less than one per year. Assuming an average of one officer is killed in future years, the fund would pay a total of \$1 million in FY24 and future years under HB68, necessitating an additional \$750 thousand transfer from the LEPF each year to maintain the minimum balance of \$1 million, and increasing revenue to the peace officers’ survivors fund by \$750 thousand annually.

---

<sup>2</sup> The distribution to NMLEA of \$200 thousand proposed in HB68 is included in the GAA, so that distribution is therefore not considered as an additional operating budget impact.



### **Additional Operating Budget Impact**

Overall, HB68 is anticipated to result in additional operating budget impacts to the state of \$306 thousand in FY23, \$2.5 million in FY24, and \$2.8 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 \$16.6 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 \$2.8 million to \$4.6 million annually (beginning in FY35). Overall, in FY35 and future fiscal years, additional operating budget impacts as a result of HB68 will total \$19.4 million to \$21.2 million. Attachments 1 and 2 contain tables laying out the impact of each of the bill's provisions by year between FY23 and FY37.

HB68 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 and Conference Committee (hereafter, the General Appropriation Act, or GAA). A list of public safety appropriations in the GAA can be found in Attachment 4.

HB68 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 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 \$306 thousand in FY23, \$2.3 million in FY24 and FY25, \$6.6 million in FY26 and FY27, and \$16.6 million in FY28 and future fiscal years. For more details, see Attachment 1.

Incarceration drives costs in the criminal justice system, so any 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 for new crimes to send more individuals to prison, longer sentences could result in fewer releases relative to admissions, driving up the overall population. 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. HB68 will likely increase the number of incarcerated individuals and increase the time they spend incarcerated.

Overall, this analysis estimates HB68 will result in additional incarceration costs to the state of \$2.8 million to \$4.6 million per year. These additional costs will begin to be realized in FY24, rising over the next 10 years before leveling out 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 \$1.8 million to \$3.6 million annually. For more details, see Attachment 2.

The creation of two new misdemeanors and one petty misdemeanor in HB68 is anticipated to have some additional operating budget impact to counties for increased detention costs, totaling between \$36 thousand and \$72 thousand in FY23 and between \$72 thousand and \$144 thousand in FY24 and future fiscal years. This relies on an estimated marginal cost (the cost per each

additional inmate) of \$19.2 thousand per county jail inmate per year, which is based on incarceration costs at the Metropolitan Detention Center. Because these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

Additional increased system costs beyond incarceration, such as costs to the judicial branch for increased trials or to law enforcement to investigate and arrest individuals for the new crimes under HB68 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 additional operating budget impact estimates are outlined below.

***Law Enforcement Recruitment and Retention.*** HB68 provides for the creation of a program at DFA to disburse recruitment and retention stipends. This aligns with an appropriation in the GAA 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 Additional Operating Budget Impact table on page 1 because it only includes additional operating budget expenses through FY25.

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 5.

HB68 states the law enforcement retention 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.

The GAA 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 retention payments in FY23, but would not fully cover the second year (FY24), when an estimated \$2.4 million in additional funds would be required. However, starting in FY24, HB68 would redirect residual LEPF balances in excess of \$100 thousand 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 3). 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 its FY22 budget request and 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 recur in future fiscal years, so these provisions do not create an additional operating budget impact.

Funds for the academy itself are also provided for in the DPS budget, and HB68 further provides for a \$200 thousand recurring transfer to NMLEA to implement the provisions of the Law Enforcement Training Act (including new training requirements), which takes effect in FY23.

***Law Enforcement Protection Fund Distributions and Survivors’ Benefits.*** 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. The other fiscal impacts of these provisions relate to revenue and do not have an additional operating budget impact.

***New Crimes.*** HB68’s creation of five new crimes is anticipated to have a small fiscal impact to the state and minor fiscal impacts to counties for detention costs.

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. Based on the marginal cost of each additional inmate in New Mexico’s prison system (see page 9), each offender sentenced to prison for this crime could therefore result in estimated increased costs of \$33.1 thousand to NMCD.

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 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. Because the estimated time served is greater than one year, the costs of one year (\$164.1 thousand) would be incurred in the first year of incarceration, while the cost of the remaining 151 days (\$67.9 thousand) would be incurred in the second year of incarceration.

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 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. Based on the marginal cost of each additional inmate in New Mexico’s jail system (see pages 9 and 10), each offender sentenced to jail for this crime could therefore result in estimated increased costs of \$9,600 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 while the costs in FY24 and future fiscal years are estimated at the full annual cost. Because these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

Shooting threat: The newly created crime of making a shooting threat is a misdemeanor offense, 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. Based on the marginal cost of each additional inmate in New Mexico's jail system (see pages 9 and 10), 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, 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.

Significantly, this is likely an underestimate, as it only includes shooting threats against schools, while the definition of shooting threat in HB68 is much broader. As a result, it is assumed at least five threats result in individuals being admitted to prison. If each of these five threats resulted in a prison sentence, 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 while the costs in FY24 and future fiscal years are estimated at the full annual cost. Because these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

Operating a chop shop: The newly created crime of operating a chop shop is a third-degree felony, which carries a three-year prison sentence; the Sentencing Commission (NMSC) estimates the average length of time served by offenders released from prison in FY21 whose highest charge was for a third-degree *property* felony was 703 days. Based on the marginal cost of each additional inmate in New Mexico's prison system (see page 9), each offender sentenced to prison for this crime could therefore result in estimated increased costs of \$45.2 thousand to NMCD.

This analysis assumes at least one person will be admitted to prison each year for this crime. 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 (\$21.7 thousand) would be incurred in the second year of incarceration.

Damage to property by theft: The newly created crime of damage to property by theft or attempted theft of regulated material valued at \$2,500 or more is a fourth-degree felony, which carries an 18-month prison sentence; NMSC estimates the average length of time served by offenders released from prison in FY21 whose highest charge was for a fourth-degree *property* felony was 522 days. Based on the marginal cost of each additional inmate in New Mexico's prison system (see page 9), each offender sentenced to prison for this crime could therefore result in estimated increased costs of \$33.5 thousand to NMCD.

This analysis assumes at least one person will be admitted to prison each year for this crime. 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 (\$10.1 thousand) would be incurred in the second year of incarceration.

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 or attempted theft of regulated material valued at between \$1,000 and \$2,500. Based on the marginal cost of each additional inmate in New Mexico's jail system (see pages 9 and 10), each offender sentenced to jail for this crime could therefore result in estimated increased costs of \$9,600 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 while the costs in FY24 and future fiscal years are estimated at the full annual cost. Because these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

It is further estimated that an individual could spend between three months and six months incarcerated for the petty misdemeanor offense of criminal damage to property by theft or attempted theft of regulated material valued at less than \$1,000. Based on the marginal cost of each additional inmate in New Mexico's jail system (see pages 9 and 10), each offender sentenced to jail for this crime could therefore result in estimated increased costs of \$4,800 to \$9,600 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 while the costs in FY24 and future fiscal years are estimated at the full annual cost. Because these costs would not be borne by the state, they are not reflected in the Additional Operating Budget Impact table on page 1.

***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 result in a moderate fiscal impact to the state.

Statute of limitations: Eliminating the statute of limitations for second-degree murder would increase the number of people admitted to prison for that crime; the average length of time served by offenders released from prison in FY21 whose highest charge was for second-degree murder was 4,047 days. Based on the marginal cost of each additional inmate in New Mexico's prison system (see page 9), each offender sentenced to prison for this crime could therefore result in estimated increased costs of \$260 thousand to NMCD.

This change is unlikely to impact many cases, as very few homicide cases of any degree are solved outside the current statute of limitations (six years). After examining all New Mexico State Police (NMSP) homicide cases initiated between 2006 and 2016, DPS reported no arrests were made more than five years after the incident date, with the majority of arrests occurring within two years of the incident. DPS reported no NMSP homicide cases that were not charged because they exceeded the statute of limitations, and estimated no more than one to two cases statewide would be impacted by this statutory change. This analysis assumes at least one additional person will be admitted to prison each year for this crime under the provisions of this bill. Because the estimated time served is greater than one year, the costs of one year (\$23.4 thousand) would be incurred in each of the first 11 years of incarceration (a total of \$258 thousand), while the cost of the remaining 32 days (\$2,057) would be incurred in the 12<sup>th</sup> year of incarceration.

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

Felon in possession of a firearm: The change to the basic sentence for felon in possession of a firearm would add three years to the sentences of offenders sentenced to prison for this crime; NMSC estimates an additional three-year sentence for serious violent felons in FY21 resulted in an additional 872 days of incarceration. Based on the marginal cost of each additional inmate in New Mexico's prison system (see page 9), each offender sentenced to prison under the enhanced sentences proposed in this bill could therefore result in estimated increased costs of \$56 thousand to NMCD.

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, this change would increase the sentences of about seven individuals each year, an increased cost of \$391.9 thousand annually. Because the proposed bill increases the sentence for an existing crime, additional costs would not be incurred until after the term the offender would have served under current law has elapsed (484 days). As a result, the cost of the first year of an offender's incarceration would not result in additional costs, the costs of the additional 246 days served in the second year of incarceration (\$15.8 thousand) would be incurred that year, and the cost of the remaining 238 days (\$15.3 thousand) would be incurred in the third year of incarceration.

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: The creation of a higher penalty for cases resulting in injury increases the penalty for some individuals sentenced for aggravated fleeing a law enforcement officer from a fourth-degree felony, which carries an 18-month prison sentence, to a third-degree felony, which carries a three-year prison sentence; the average length of time served by offenders released from prison in FY21 whose highest charge was for a third-degree felony was 912 days, compared with 301 days for the existing fourth-degree felony of aggravated fleeing a law enforcement officer. Based on the marginal cost of each additional inmate in New Mexico's prison system (see page 9), each offender sentenced to prison under the enhanced sentences proposed in this bill could therefore result in estimated increased costs of \$39.2 thousand to NMCD.

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. This analysis assumes one case per year will result in injury. Because the proposed bill increases the sentence for an existing crime, additional costs would not be incurred until after the term the offender would have served under current law has elapsed (301 days). As a result, only the costs of the additional 64 days served in the first year of incarceration (\$4,111) would be incurred that year, the full cost of one year (\$23.4 thousand) would be incurred in the second year of incarceration, and the cost of the remaining 182 days (\$11.7 thousand) would be incurred in the third year of incarceration.

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: HB68 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, which this analysis assumes includes cases in which a firearm is discharged. The proposed changes in the bill would (1) add a one-year enhancement for using a firearm during an offense, which only applies to cases involving 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.

NMSC estimates an additional one-year sentence resulted in an additional 291 days of incarceration for serious violent felons and 192 days for other offenders in FY21; an additional two-year sentence resulted in 581 more days of incarceration for serious violent felons and 383 days for other offenders.

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 brandish or discharge their firearm (use only), 21.5 percent used but did not discharge their firearm (brandishing), and 46.5 percent discharged their firearm.

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 using 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 increased enhancements are applied to about half the eligible individuals (12 who used a firearm during the offense and 56 who discharged a firearm) and a high-end estimate in which the increased 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.

Because the proposed bill would increase sentences for existing crimes, additional costs would not be incurred until after the term the offender would have served under current law. The changes to enhancements proposed in this bill would begin to impact costs in the third year of incarceration for some offenders, but would not have its full impact on all offenders until the ninth year of incarceration.

This analysis does not include the potential impact of the changes to the additional enhancement for second or subsequent offenses. However, it is worth noting the bill narrows the types of cases for which this additional enhancement applies, so this further five-year enhancement could only be applied to second or subsequent offenses for cases involving drug transactions, aggravated burglary, or serious violent offenses, rather than all noncapital felonies (as it does under current law). This could result in fewer cases having this additional enhancement applied, resulting in shorter prison sentences for some offenders and potentially reducing costs. At the time of this analysis, there was insufficient information available to estimate this impact.

***Pretrial Services.*** HB68 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 fund appropriations for AOC to distribute as grants to support pretrial services and ensure 24/7 supervision 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 Additional Operating Budget Impact table on page 1 because it only includes additional operating budget expenses through FY25.

Notably, the GAA also includes an additional \$500 thousand for pretrial supervision and \$648 thousand for training for local pretrial programs, courts, and staff (both of which are nonrecurring appropriations from the general fund).

**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 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.

HB68 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 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 28 of HB68 would change data sharing practices in the other jurisdictions that employ electronic monitoring. In analysis submitted on another bill that contained similar provisions (Senate Bill 225), 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 also result in additional costs (see Technical Issues).

**New Judgeships.** HB68 creates three new judgeships. The GAA provides \$612 thousand in recurring general fund appropriations for two judgeships (a cost of \$306 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 \$306 thousand beginning in FY23.

**Crime Reduction Grants.** The GAA includes a base budget increase of \$150 thousand and a \$2 million nonrecurring appropriation to 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 HB68 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 in recurring and \$9 million in nonrecurring general fund to DOH between FY23 and FY25 to establish a statewide grant program for violence intervention programs. Although the recurring appropriations for this program are only \$1.7 million, establishing the program at a level of \$4.7 million per year for the first three years could create an expectation that the program will continue in future fiscal years. This cost is therefore scored as a recurring general fund expense of \$3 million in FY26 and future fiscal years. These costs are not displayed in the Additional Operating Budget Impact table on page 1 because the table only includes additional operating budget expenses through FY25.

**Gay and Trans Panic Defense.** The provisions of HB68 related to banning these defense strategies are not anticipated to result in any additional operating budget impacts.

## **SIGNIFICANT ISSUES**

The Attorney General’s Office (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% over the 2010 U.S. Census population; and Sandoval County’s population has grown by 7.14% 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% and an average increase of 6.7% per year. From FY14 to FY19 the Sandoval County District Court caseload grew 17.1%, with a civil case increase of 37%. 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**

HB68 largely duplicates the Senate Judiciary Committee substitute for the Senate Judiciary Committee substitute for Senate Bill 231, but has some differences resulting in conflicting provisions.

HB68 conflicts with Senate Bill 3 and House Bill 141 (which are duplicate bills). While very similar to some of the provisions included in HB68, SB3 and HB141 direct residual balances in the LEPF to the peace officers’ survivors fund, while HB68 directs those funds to the law enforcement retention fund. HB68 also provides that agencies’ distributions from the LEPF are

contingent on meeting statutory reporting requirements and cooperating with the Certification Board and increases distributions to NMLEA, which SB3 and HB141 do not do. The relevant provisions of HB68 also have different effective dates than SB3 and HB141.

HB68 conflicts with the House Judiciary Committee substitute for House Bill 5, which also addresses GPS monitoring for individuals on pretrial release, with some differing provisions and requirements than HB68.

HB68 conflicts with House Bill 196, which removes the LEPF reversion to the general fund but does not redirect those funds.

Provisions of HB68 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, Senate Bill 34 as amended, and Senate Bill 225 as amended.

HB68 relates to House Memorial 35, which requests DPS convene a task force to study law enforcement officer retention.

HB68 relates to House Memorial 38 and Senate Memorial 13 (duplicate memorials), 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**

NMAG and DPS note the Certification Board is authorized to “renew” a law enforcement officer’s certification, but these certifications are not subject to any statutory renewal requirements.

The phrase “a program” in Subsection I of Section 36 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.”

Section 28 requires entities conducting GPS 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.

In its analysis of another bill banning the “gay panic” and “trans panic” defenses (2021 Senate Bill 213), NMAG stated, “The lack of definition of ‘romantically propositioned in a nonviolent or nonthreatening manner’ could expose SB 213 to a charge of vagueness. Because criminal statutes are strictly construed in favor of a defendant, definitions of the terms would be helpful.”

## **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. Estimated Additional Operating Budget Impact of New and Expanded Programs under HB68
2. Estimated Additional Operating Budget Impact of New Crimes and Penalty Changes under HB68
3. Law Enforcement Protection Fund and Law Enforcement Retention Fund Sources and Uses, FY20 – FY26
4. Public Safety Package – Summary of Relevant Appropriations, 2022 Legislative Session
5. Estimated Costs to Provide Retention Differentials Under HB68

ER/rl

**Estimated Additional Operating Budget Impact of New and Expanded Programs under HB68**  
(dollars in thousands)

| Fiscal Year                   | Recruitment and Retention Stipends | New Judgeships    | Pretrial Services  | Crime Reduction Grants | Violence Intervention Program | Total               |
|-------------------------------|------------------------------------|-------------------|--------------------|------------------------|-------------------------------|---------------------|
| FY23                          | \$ -                               | \$ 306.0          | \$ -               | \$ -                   | \$ -                          | \$ 306.0            |
| FY24                          | \$ -                               | \$ 306.0          | \$ -               | \$ 2,000.0             | \$ -                          | \$ 2,306.0          |
| FY25                          | \$ -                               | \$ 306.0          | \$ -               | \$ 2,000.0             | \$ -                          | \$ 2,306.0          |
| FY26                          | \$ -                               | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 6,639.3          |
| FY27                          | \$ -                               | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 6,639.3          |
| FY28                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY29                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY30                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY31                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY32                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY33                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY34                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY35                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY36                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| FY37                          | \$ 10,000.0                        | \$ 306.0          | \$ 1,333.3         | \$ 2,000.0             | \$ 3,000.0                    | \$ 16,639.3         |
| <b>15-Year Fiscal Impact:</b> | <b>\$ 100,000.0</b>                | <b>\$ 4,590.0</b> | <b>\$ 16,000.0</b> | <b>\$ 28,000.0</b>     | <b>\$ 36,000.0</b>            | <b>\$ 184,590.0</b> |

Source; LFC analysis of NMSC data

**Estimated Additional Operating Budget Impact of New Crimes and Penalty Changes under HB68**  
(dollars in thousands)

**Low-End Estimate**

| Fiscal Year                   | Statute of Limitations - 2nd Degree Murder | Felon in Possession of a Firearm | Aggravated Fleeing a Law Enforcement Officer | Firearm Enhancements | Operating a Chop Shop | Damage to Property by Theft over \$2,500 | Threatening a Judge | Total              |
|-------------------------------|--|----------------------------------|--|----------------------|-----------------------|--|---------------------|--------------------|
| FY23                          | \$ -                                       | \$ -                             | \$ -   | \$ -                 | \$ -                  | \$ -                                     | \$ -                | \$ -               |
| FY24                          | \$ 23.4                                    | \$ -                             | \$ 4.1                                       | \$ -                 | \$ 23.4               | \$ 23.4                                  | \$ 164.1            | \$ 238.6           |
| FY25                          | \$ 46.9                                    | \$ 110.6                         | \$ 27.6                                      | \$ -                 | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 495.8           |
| FY26                          | \$ 70.3                                    | \$ 274.7                         | \$ 39.2                                      | \$ 579.0             | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 1,274.1         |
| FY27                          | \$ 93.8                                    | \$ 391.9                         | \$ 39.2                                      | \$ 1,034.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 1,869.6         |
| FY28                          | \$ 117.2                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,034.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 1,893.1         |
| FY29                          | \$ 140.7                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,034.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 1,916.5         |
| FY30                          | \$ 164.1                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,034.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 1,940.0         |
| FY31                          | \$ 187.6                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,549.2           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,478.6         |
| FY32                          | \$ 211.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,780.5           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,733.4         |
| FY33                          | \$ 234.5                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,780.5           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,756.9         |
| FY34                          | \$ 257.9                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,780.5           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,780.3         |
| FY35*                         | \$ 260.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,780.5           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,782.4         |
| FY36                          | \$ 260.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,780.5           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,782.4         |
| FY37                          | \$ 260.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 1,780.5           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,782.4         |
| <b>15-Year Fiscal Impact:</b> | <b>\$ 2,327.4</b>                          | <b>\$ 4,696.5</b>                | <b>\$ 502.6</b>                              | <b>\$ 16,947.2</b>   | <b>\$ 610.5</b>       | <b>\$ 459.4</b>                          | <b>\$ 3,180.4</b>   | <b>\$ 28,724.0</b> |

\* In FY35, impacted offenders begin leaving prison, resulting in steady ongoing costs.

Source: LFC analysis of NMSC data

**High-End Estimate**

| Fiscal Year                   | Statute of Limitations - 2nd Degree Murder | Felon in Possession of a Firearm | Aggravated Fleeing a Law Enforcement Officer | Firearm Enhancements | Operating a Chop Shop | Damage to Property by Theft over \$2,500 | Threatening a Judge | Total              |
|-------------------------------|--|----------------------------------|--|----------------------|-----------------------|--|---------------------|--------------------|
| FY23                          | \$ -                                       | \$ -                             | \$ -   | \$ -                 | \$ -                  | \$ -                                     | \$ -                | \$ -               |
| FY24                          | \$ 23.4                                    | \$ -                             | \$ 4.1                                       | \$ -                 | \$ 23.4               | \$ 23.4                                  | \$ 164.1            | \$ 238.6           |
| FY25                          | \$ 46.9                                    | \$ 110.6                         | \$ 27.6                                      | \$ -                 | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 495.8           |
| FY26                          | \$ 70.3                                    | \$ 274.7                         | \$ 39.2                                      | \$ 1,158.1           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 1,853.1         |
| FY27                          | \$ 93.8                                    | \$ 391.9                         | \$ 39.2                                      | \$ 2,068.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,903.6         |
| FY28                          | \$ 117.2                                   | \$ 391.9                         | \$ 39.2                                      | \$ 2,068.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,927.1         |
| FY29                          | \$ 140.7                                   | \$ 391.9                         | \$ 39.2                                      | \$ 2,068.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,950.5         |
| FY30                          | \$ 164.1                                   | \$ 391.9                         | \$ 39.2                                      | \$ 2,068.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 2,974.0         |
| FY31                          | \$ 187.6                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,117.0           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,046.5         |
| FY32                          | \$ 211.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,579.7           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,532.6         |
| FY33                          | \$ 234.5                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,579.7           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,556.0         |
| FY34                          | \$ 257.9                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,579.7           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,579.5         |
| FY35*                         | \$ 260.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,579.7           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,581.5         |
| FY36                          | \$ 260.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,579.7           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,581.5         |
| FY37                          | \$ 260.0                                   | \$ 391.9                         | \$ 39.2                                      | \$ 3,579.7           | \$ 45.2               | \$ 33.5                                  | \$ 232.0            | \$ 4,581.5         |
| <b>15-Year Fiscal Impact:</b> | <b>\$ 2,327.4</b>                          | <b>\$ 4,696.5</b>                | <b>\$ 502.6</b>                              | <b>\$ 34,024.9</b>   | <b>\$ 610.5</b>       | <b>\$ 459.4</b>                          | <b>\$ 3,180.4</b>   | <b>\$ 45,801.8</b> |

\* In FY35, impacted offenders begin leaving prison, resulting in steady ongoing costs.

Source: LFC analysis of NMSC data

**Law Enforcement Protection Fund Projected Revenues & Expenditures**  
FY20 to FY26

|   | ACTUALS       | ACTUALS       | PROJECTED     | PROJECTED     | PROJECTED     | PROJECTED     | PROJECTED     |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
|   | FY20          | FY21          | FY22          | FY23          | FY24          | FY25          | FY26          |
| BEGINNING BALANCE   | \$ 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>  | \$ 19,894,279 | \$ 23,149,303 | \$ 24,073,082 | \$ 25,311,144 | \$ 26,840,444 | \$ 28,358,873 | \$ 30,022,166 |
| <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 (Effective in FY23) | \$ -          | \$ -          | \$ -          | \$ 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>                                     | \$ 5,289,943  | \$ 5,790,464  | \$ 5,593,129  | \$ 13,052,500 | \$ 22,984,000 | \$ 22,984,000 | \$ 22,984,000 |
| ENDING BALANCE  | \$ 14,704,336 | \$ 17,458,839 | \$ 18,579,953 | \$ 12,358,644 | \$ 3,956,444  | \$ 5,474,873  | \$ 7,138,166  |
| 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         |
| BEGINNING BALANCE  | \$ -    | \$ -    | \$ -      | \$ -         | \$ 1,289,949 | \$ 1,459,242 | \$ 3,146,964 |
| <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>   | \$ -    | \$ -    | \$ -      | \$ 5,000,000 | \$ 3,856,444 | \$ 5,374,873 | \$ 7,038,166 |
| <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   | \$ 219,100   | \$ 219,100   | \$ 219,100   |
| <b>TOTAL EXPENDITURES</b>  | \$ -    | \$ -    | \$ -      | \$ 3,710,051 | \$ 3,687,151 | \$ 3,687,151 | \$ 3,687,151 |
| ENDING BALANCE   | \$ -    | \$ -    | \$ -      | \$ 1,289,949 | \$ 1,459,242 | \$ 3,146,964 | \$ 6,497,979 |

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. HB68 proposes to redirect those reversions to the law enforcement retention fund.

Projections as of 3/4/2022

| Goal   | Agency   | SFC/Final Recurring |                       | SFC/Final Nonrecurring |             |
|--|----------|---------------------|-----------------------|------------------------|-------------|
|  |          | GF                  | Other                 | GF                     | Other       |
| <b>1 Prioritize Treatment</b>  |          |                     |                       |                        |             |
| 2 Increase behavioral health workforce   | HED      |                     |                       | \$ 50,000.0            |             |
| 3 Evidence-based and trauma responsive behavioral health and child welfare capacity building and training  | HSD      |                     |                       | \$ 20,000.0            |             |
| 4 988/Crisis response system and evidence-based behavioral healthcare (Note A)   | HSD      | \$ 2,350.0          |                       | \$ 2,325.0             |             |
| 5 Expand community schools   | PED      |                     |                       |                        | \$ 8,000.0  |
| 6 NMCD reinvestment into evidence-based programs and supportive housing (Note B)   | NMCD     | \$ 2,100.0          |                       |                        |             |
| 7 Compensation increase for correctional officers (7 percent)  | NMCD     | \$ 3,674.4          | \$ 614.7              |                        |             |
| 8 Subtotal   | Subtotal | \$ 8,124.4          | \$ 614.7              | \$ 72,325.0            | \$ 8,000.0  |
| <b>9 Ensure Swift and Certain Justice</b>  |          |                     |                       |                        |             |
| <b>10 Improve Policing</b>   |          |                     |                       |                        |             |
| 11 Increase state police officer compensation (15.9 percent) (Note C)  | DPS      | \$ 8,375.5          | \$ 461.0              |                        |             |
| 12 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              |                        |             |
| 13 Increase funding for training statewide through the New Mexico Law Enforcement Academy and increase staff and resources for the Law Enforcement Academy Board (partially contingent on HB68) (Note D) | DPS      | \$ 693.1            | \$ 200.0              |                        |             |
| 14 Grants to law enforcement agencies for evidence-based police training   | DFA      |                     |                       | \$ 4,000.0             |             |
| 15 Expand state police recruit and lateral schools   | DPS      | \$ 2,000.0          |                       |                        |             |
| 16 Retention differentials for law enforcement officers (contingent on HB86/HB68) (Note E)   | DFA      |                     |                       | \$ 5,000.0             |             |
| 17 Recruitment and retention stipends for local law enforcement agencies   | DFA      |                     |                       | \$ 50,000.0            |             |
| 18 Increase state police advanced training initiatives, including establishing a law enforcement assisted diversion (LEAD) program within state police   | DPS      | \$ 140.0            |                       | \$ 892.8               |             |
| 19 Expand intelligence-led policing capabilities (IT)  | DPS      |                     |                       | \$ 3,380.0             |             |
| 20 Increase civilian support for state police  | DPS      | \$ 1,299.6          |                       |                        |             |
| 21 Job task analysis for law enforcement officers statewide  | DPS      |                     |                       | \$ 250.0               |             |
| 22 State police vehicles   | DPS      |                     |                       | \$ 9,000.0             |             |
| 23 Increase Cooperation and Coordination among Criminal Justice Partners   |          |                     |                       |                        |             |
| 24 Expand crime reduction grant program (partially contingent on HB84/HB68) (Note F)   | NMSC     | \$ 150.0            |                       | \$ 2,000.0             |             |
| 25 Help bring local law enforcement agencies into compliance with statutory reporting requirements   | DPS      | \$ 100.0            |                       |                        |             |
| 26 Statewide criminal justice data sharing system (DataXchange)  | AOC      |                     | \$ 350.0              |                        |             |
| 27 Expand criminal justice data integration work   | NMSC     | \$ 50.0             |                       |                        |             |
| 28 Expand county detention fund  | DFA      | \$ 2,612.5          |                       |                        |             |
| 29 Increase Resources for Courts and Pretrial Services   |          |                     |                       |                        |             |
| 30 Strengthen pretrial services and supervision and ensure 24/7 coverage (Note G)  | AOC/     | \$ 289.2            |                       | \$ 4,500.0             |             |
| 31 Training for local pretrial programs, courts, and staff   | AOC      |                     |                       | \$ 648.0               |             |
| 32 Create additional judgeships (contingent on HB124/HB68) (Note H)  | AOC      | \$ 612.0            |                       |                        |             |
| 33 Raises for district, magistrate, and statewide judges (30 percent) and all court personnel (9 percent)  | AOC      | \$ 7,646.1          |                       |                        |             |
| 34 IT enhancements for remote court appearances  | AOC      |                     |                       | \$ 135.0               |             |
| 35 Clear backlogged jury trials  | PDD      |                     |                       | \$ 200.0               |             |
| 36 Subtotal  | Subtotal | \$ 26,388.9         | \$ 1,311.4            | \$ 80,005.8            | \$ -        |
| 37 Address Victim and Community Needs  |          |                     |                       |                        |             |
| 38 Establish an Violence Prevention Office and provide grants to implement violence intervention programs statewide (relates to HB96/HB68)   | DOH      | \$ 2,000.0          |                       | \$ 9,000.0             |             |
| 39 Increase funding for sexual assault programs and other victim services (partially contingent on SB118 - failed contingency) (Note I)  | CVRC     | \$ 2,258.5          | <del>\$ 1,300.0</del> | \$ 1,500.0             |             |
| 40 Increase funding for domestic violence programs (partially contingent on SB118 - failed contingency) (Note I)   | CYFD     | \$ 3,500.0          | <del>\$ 1,000.0</del> | \$ 500.0               |             |
| 41 Youth re-employment and apprenticeships   | WSD      |                     |                       | \$ 5,000.0             |             |
| 42 Establish Job Challenge Academy for at-risk youth   | DMA      | \$ 500.0            | \$ 1,500.0            | \$ 250.0               | \$ 750.0    |
| 43 Subtotal  | Subtotal | \$ 8,258.5          | \$ 1,500.0            | \$ 16,250.0            | \$ 750.0    |
| 44 Total HAFS Substitute for HB2 & 3   |          | \$ 42,771.8         | \$ 3,426.1            | \$ 168,580.8           | \$ 8,750.0  |
| 45 SB212 (STB Bill): State Police Command Center (Albuquerque)   | DPS      |                     |                       |                        | \$ 20,000.0 |
| 46 SB212 (STB Bill): Public Safety Radio Communications (P25)  | DoIT     |                     |                       |                        | \$ 26,000.0 |

**Legend**

- Failed Contingency
- Directly ties to the provisions of HB68
- Provides tools to support mandates of HB68

**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 HAFS substitute for HB2 and 3 includes \$520.2 thousand in other state funds from the law enforcement retention fund, which is contingent on enactment of legislation creating the fund (HB86/HB68). These funds are not included in line 11, as they would be appropriated from the \$5 million appropriation in line 11.
- D Source of recurring other funds is the law enforcement protection fund (LEPF). This \$200 thousand appropriation is contingent on enactment of legislation expanding allowable uses of the LEPF (HB68).
- E 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 (HB68) to create such a fund.
- F \$2 million special appropriation from the general fund is contingent on enactment of HB84 or similar legislation (HB68) expanding the allowable uses of crime reduction grants.
- G House Bill 2 of the 2021 second special session also appropriated \$500 thousand from American Rescue Plan Act funds for this purpose.
- H Funds are contingent on enactment of HB124 or similar legislation (HB68) to create additional judgeships in the 5th and 13th Judicial Districts.
- I 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. Neither SB118 nor any similar legislation passed during the 2022 legislative session; these are failed contingencies.

**Estimated Costs to Provide Retention Differentials under HB68**

| 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