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| LFC Requester: | |
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original _____ **Amendment** X
Correction _____ **Substitute** _____

Date Prepared: 01/30/2124

Bill No: SB 69

Sponsor: Joseph Cervantes and
Andrea Romero

**Agency Name and
Code Number:** 305 – New Mexico
Department of Justice

**Short
Title:** 14 Day Waiting Period for
Sale of Firearm

**Person Writing
Analysis:** AAG Brian Moffatt

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY24 | FY25 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY24 | FY25 | FY26 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Bill (“SB”) 69 would create a misdemeanor offense for transferring ownership, possession or control of a firearm from the seller to the buyer less than 14 business days after the initiation of a federal instant background check. With a few exceptions, this Bill would create a mandatory waiting period for gun purchases in New Mexico.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Bills criminalizing gun possession often raise a question of constitutionality. However, neither *D.C. v. Heller*, 554 U.S. 570 (2008), and *New York SRPAI v. Bruen*, 597 U.S. 1 (2022), specifically addressed a mandatory waiting period for firearms purchases. It should be noted that a ten-day waiting period for all firearms purchases was upheld by the Ninth Circuit Court of Appeals in *Silvester v. Harris*, 843 F.3d 816 (9th Cir. 2016). Additionally, in 2018, the Supreme Court declined to hear an appeal from the 9th Circuit Court of Appeals holding that California’s ten-day waiting period did not violate the second Amendment. *Silvester v. Becerra*, 138 S. Ct. 945 (2018).

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PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflict: HB58 (eliminating the background check requirement for firearm sales by repealing Section 30-7-7.1 NMSA 1978)

Relationship to: HB114 (enacting the Firearm Industry Accountability Act, which in part requires firearm sellers to implement reasonable controls and procedures regarding the sale of firearms, and to comply with state laws regarding gun sales and refrain from unlawful gun sales) SB 69 is identical to HB 100 which was introduced in the 2023 Regular Session but not enacted.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS