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FISCAL IMPACT REPORT

SPONSOR <u>Reeb/Chavez, N./Terrazas</u>	LAST UPDATED _____
<u>Firearm at Polling Place for Law</u>	ORIGINAL DATE <u>2/4/2025</u>
SHORT TITLE <u>Enforcement</u>	BILL NUMBER <u>House Bill 101</u>
	ANALYST <u>Gygi</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Courts, Law Enforcement	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Court (AOC)
 Administrative Office of the District Attorneys (AODA)
 Department of Health (DOH)
 Law Offices of the Public Defender (LOPD)
 New Mexico Attorney General (NMAG)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)

SUMMARY

Synopsis of House Bill 101

House Bill 101 (HB101) amends Section 1-20-24 NMSA of the election code regarding unlawful possession of a firearm at a polling place to include two additional exceptions: 1) a commissioned law enforcement officer with the power to arrest in performance of the officer’s official duties and 2) a commissioned law enforcement officer with the power to arrest acting in accordance with the policies of the officer’s law enforcement agency.

Currently, the statute has four exceptions: 1) a certified law enforcement officer in performance of the officer’s official duties; 2) a law enforcement officer who is certified pursuant to the Law Enforcement Training Act acting in accordance with the policies of the officer’s law enforcement agency; 3) a person in a private automobile or other private means of conveyance; and 4) a person carrying a concealed firearm who has a valid concealed handgun license.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

None of the agencies submitting analyses anticipate a fiscal impact from the proposed exemptions in HB101.

SIGNIFICANT ISSUES

Agencies are uncertain about how to interpret who is included in the proposed exemptions in HB101. There are no definitions in the bill clarifying the difference between “commissioned” officers and “certified” officers already covered by statute. The Administrative Office of the Court (AOC) notes that commissioned officers may not have been certified or trained by the New Mexico Law Enforcement Academy but does not explain why this matters in the case of officers carrying firearms into polling places. The Office of the Attorney General reports there is no agreed definition for “commissioned law enforcement officer” across NMSA:

“Commissioned law enforcement officer” is a general phrase that could include all State of New Mexico commissioned law enforcement officers with arresting authority, commissioned federal law enforcement officers with arresting authority, and other states’ commissioned law enforcement officers (*see* Section 31-2-1); additional definitions could help clarify the application of the section.

Based on the definition of “police officer” in the Law Enforcement Training Act (Section 29-7-1 NMSA), the New Mexico Sentencing Commission concludes:

It seems that all police officers are commissioned even if not all commissioned officers are certified, and thus that specifying both “commissioned law enforcement officer with the power to arrest” and “certified law enforcement officer” separately may be redundant.

There is further confusion due to HB101’s mirroring the existing exceptions for a certified law enforcement officer that distinguish between an officer “in performance of the officer’s official duties” and “acting in accordance with the policies of the officer’s law enforcement agency.” The Law Offices of the Public Defender interprets the latter to mean off-duty officers.

The Department of Health reports that New Mexico’s firearm death rate ranking among U.S. states increased from 10th highest to 3rd highest in the U.S. over the past decade. Between 2018 to 2023, New Mexico was 400 percent higher than the United States in legal interventions involving a firearm. Twenty-two states and Washington, D.C. explicitly limit firearms at voting sites; in 15 states and D.C., civilians can neither openly nor concealed carry a firearm at polling locations.

According to the AOC, there are other state laws that prohibit handguns within a number of areas where polls are located; i.e. schools (Sections 30-7-2.1 and 29-19-8 NMSA 1978), universities (Section 30-7-2.4 NMSA 1978), court facilities (Section 29-19-11 NMSA 1978), and hospitals that may contain the same exemption. Also, concealed carry licenses do not allow guns where they are otherwise prohibited by state law. In addition, Section 1-20-14 NMSA 1978 prohibits voters from being intimidated at polling locations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 5 enacted in 2024 amended the elections code to prohibit the possession of a firearm at a polling place, provide a penalty for a person found guilty of a petty misdemeanor, and made exceptions for law enforcement officers.

KG/sgs/hj