

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** January 22, 2026 **Check all that apply:**  
**Bill Number:** HB 49 **Original**  **Correction**    
**Amendment**   **Substitute**  

**Agency Name  
and Code**

**Sponsor:** Garratt **Number:** NM Sentencing Commission – 354  
**Short** **Person Writing** Keri Thiel  
**Title:** Increase Felon Firearm Penalty **Phone:** 505-259-8763 **Email:** kthiel@unm.edu

**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>		

**REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>	<b>FY28</b>		

(Parenthesis ( ) indicate revenue decreases)

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

	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### Synopsis:

HB 49 amends Section 30-7-16 NMSA 1978, regarding transportation or possession of a firearm or destructive device by certain persons, to increase the sentence for a felon in possession of a firearm, apply the same penalty to a felon in possession of a destructive device and felons who receive or transport firearms or destructive devices, remove the differentiation between a felon and a serious violent felon, remove the definition of “serious violent felon”, and add an increased penalty applicable to second and subsequent offenses.

As proposed by HB 49, felons who receive, transport or possess firearms or destructive devices shall be guilty of a second degree felony for a first offense, and a first degree felony for a second or subsequent offense.

### **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**

In 2021, the New Mexico Sentencing Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the state’s Criminal Code for its strengths and weaknesses. One item of concern for the Robina Institute was that the Criminal Code has a number of special statutes that fall out of the normal penalty structure in the state. HB 49 would remove one of these special penalties from the Criminal Code, as it would remove the existing six-year third degree felony for serious violent felons in possession of a firearm or destructive device.

HB 49 would increase the basic term of years of imprisonment for felons in possession of a firearm, and would also apply the same penalty for felons in possession of a destructive device. HB 49 would also add an increased penalty for second or subsequent offenses of felons in possession of a firearm or destructive device. The bill would apply the same penalties to felons who receive or transport a firearm or destructive device.

While it is difficult to determine what the effect of passing HB 49 would be on the state’s prison population, it is likely that these changes would lead to more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state’s prison system is \$153.08/day; this average includes private and public facilities.

Section 30-7-16 NMSA 1978 has been amended several times in recent years to increase the penalty for felons in possession of firearms. In FY 2024, the most recent year for which NMSC has access to court data, there were 950 cases of felon in possession charges, and felon in possession was the lead offense in 682 of those cases. Of those cases that have been disposed,

there was a finding of guilt for the felon in possession charges 35% of the time. There were 932 cases where felon in possession was the most serious weapons offense in the case (not necessarily the lead offense), and for these cases, there was a finding of guilt for felon in possession 36% of the time. As of June 30, 2024, there were 92 people incarcerated in NM prisons for a felon in possession conviction. The mean expected length of stay for those individuals was 2.2 years, and median expected length of stay was 2.0 years.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**