

LFC Requester:	
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**AGENCY BILL ANALYSIS
2026 REGULAR SESSION**

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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}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date February 2, 2026
Bill No: HB 228-280

Sponsor: Randall T. Pettigrew & John Block
Short Title: Firearms & Trafficking Controlled Substances

Agency Name and Code 280-LOPD
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/**Relates to:** HB 49, HB 146, seeking to increase the penalties of felon in possession of a firearm; SB 160, seeking to increase firearm enhancements to sentencing.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 228 is substantially similar to HB 549, 47, 59, 26, 81, and 114, unsuccessfully proposed in the 2025, 2024, 2023, 2022, 2021, and 2020 Legislative Sessions, respectively.

Subsection A seeks to create a new third-degree felony crime of carrying a firearm while trafficking drugs in Article 7 of the Criminal Code (Weapons and Explosives).

Subsection B of HB 228 defines “firearm” as “any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon.”

The legislation’s effective date would be July 1, 2026.

FISCAL IMPLICATIONS

Because a likely significant number of drug traffickers may possess a weapon, this bill would likely lead to a frequent “add-on” charge any time a person accused of trafficking is arrested in possession of their firearm, even if otherwise legally possessed. The additional third-degree felony carries a three-year sentence; consequently, defendants may be less likely to take a plea and prefer to take the matter to trial. If more higher-penalty trials result, LOPD may need to hire more trial attorneys with greater experience. Accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed higher-penalty scheme.

However, these felonies would be handled by, at a minimum, mid-level felony capable attorneys (Associate Trial Attorneys), but more likely higher-level attorneys (Trial Attorneys). The LOPD cost for experienced defense attorneys, including salary, benefits, operational costs, and support staff is \$292,080.16 annually in the Albuquerque/Santa Fe areas, and \$300,569.45 in outlying geographic areas.

A 2022 workload study by an independent organization and the American Bar Association concluded that New Mexico faces a critical shortage of public defense attorneys.

The study concluded, “A very conservative analysis shows that based on average annual caseload, the state needs an additional 602 full-time attorneys – more than twice its current level - to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment.”

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-moss-adams-nm-proj.pdf. Barring some other way to reduce indigent defense workload, any increase in the number of serious, complex felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep the LOPD’s workload crisis from spreading.

Depending on the volume of cases in the geographic location there may be a significant recurring increase in needed FTEs for the office and contract counsel compensation. Assessment of the impact on the LOPD upon enactment of this bill would be necessary after the implementation of the proposed higher-penalty scheme.

Any increase in trials would also increase litigation costs for the courts and District Attorneys’ offices. Moreover, precluding earned meritorious deductions is certain to impact the housing budget for the Department of Corrections.

SIGNIFICANT ISSUES

There has been no research that has found that increasing penalties has a deterrent effect on the commission of crimes. Therefore, this change would, at most, lead to an increase in incarceration, which would increase costs and population in Department of Corrections.

Use of a firearm during the commission of a felony is already addressed in NMSA 1978, § 31-18-16 (2022), the enhancements for which were just increased in 2022 under HB 68. Similarly, the separate crime of felon in possession of a firearm is already addressed in NMSA 1978, §§ 30-7-16 (2022). Both of these statutes underwent a comprehensive overhaul as part of the Governor’s crime package during both the 2020 and 2022 Legislative Sessions.

If a felon is caught trafficking while armed with a firearm, they face enhancements for using/brandishing/discharging a firearm during a felony under Section 31-18-16; separate prosecution for being a felon in possession if they have priors; and – for any prior felony finalized within the preceding 10 years and not already forming the basis of felon in possession – also habitual offender enhancements applicable to *each* new felony charged (including trafficking, felon in possession, and any other charge arising from the case). *See* NMSA 1978, § 31-18-17 (habitual offender act).

In sum, this conduct is already punishable under ample existing statutes that result in very high sentences when appropriate, and creating this new crime would have no cognizable impact on public safety.

PERFORMANCE IMPLICATIONS

See Fiscal Implications, above.

ADMINISTRATIVE IMPLICATIONS

See Fiscal Implications, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to HB 49, HB 146, seeking to increase the penalties of felon in possession of a firearm; and SB 160, seeking to increase firearm enhancements to sentencing.

TECHNICAL ISSUES

In addition, analyst is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill and analyst is unaware that it has been drawn pursuant to a special message of the Governor.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None noted.

AMENDMENTS

None noted.