

LFC Requester:	
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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1-27-26 *Check all that apply:*
Bill Number: HJR-2 Original Correction
 Amendment Substitute

Sponsor: Nicole Chavez, Andrea Reeb **Agency Name and Code** AODA 264
Short Title: Denial of Bail, CA **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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

BILL SUMMARY

HJR 2 amends Article 2, Section 13 of the New Mexico Constitution to restore meaningful preventive detention authority in felony cases. The amendment allows courts to deny bail when the State proves by clear and convincing evidence that release conditions will not reasonably protect the public or that the defendant is a flight risk. For felony offenses designated by statute as dangerous or violent, the court may apply a presumption that no release conditions will protect the community, which the defendant may rebut by a preponderance of the evidence. The measure preserves existing protections against detention based solely on inability to pay and maintains expedited review of detention appeals.

FISCAL IMPLICATIONS

HJR 2 is likely to produce a modest short-term increase in county detention costs as more high risk defendants charged with dangerous or violent felonies are held pretrial, but the overall fiscal impact would be mitigated or cost-saving when viewed across the entire justice system. Because a small number of offenders commit a disproportionate share of serious and repeat crime, detaining that recidivist group prevents new offenses that would otherwise generate substantial costs for law enforcement, courts, emergency services, and victim support systems. Any additional workload for prosecutors, public defenders, and courts is expected to be absorbed within existing resources, and the avoided costs from reduced reoffending would likely outweigh the incremental expenses associated with pretrial detention.

SIGNIFICANT ISSUES

HJR 2 addresses a significant problem in New Mexico's preventive detention framework by allowing courts to apply a rebuttable presumption of dangerousness for statutorily defined dangerous or violent felonies and by clarifying the State's authority to seek detention based on clear and convincing evidence of risk to the community or flight. This change aligns with federal constitutional standards and reflects the reality that a small number of high-risk offenders commit a disproportionate share of serious and repeat crime. While the amendment may increase the number and complexity of detention hearings, these impacts would be likely absorbed within existing resources, and any short term increase in county detention costs is offset by the substantial system-wide savings associated with preventing new offenses, reducing victimization, and lowering demands on law enforcement, emergency services, and the courts. The amendment not only strengthens public-safety outcomes but also maintains due process protections and existing safeguards against wealth based detention.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 163 provides the statutory framework necessary to implement the constitutional changes proposed in HJR 2 by establishing a clear, legislatively defined list of dangerous or

violent felony offenses that may trigger the rebuttable presumption in preventive-detention hearings. The bill draws from existing violent felony classifications in New Mexico law and limits the presumption to a narrow set of high-risk offenses, ensuring that the amendment operates predictably and remains focused on the small group of offenders who drive a disproportionate share of serious crime. HB 163 becomes effective only if voters approve the constitutional amendment, making the two measures fully integrated and mutually dependent components of a coherent preventive-detention system.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

A rebuttable presumption limited to statutorily defined dangerous or violent felonies improves the fairness and consistency of detention decisions by giving courts a clear starting point in the most serious cases while still preserving the defendant's full opportunity to contest detention. Because the presumption applies only to a narrow, high-risk category of offenses, it promotes individualized decisions without sweeping lower-level defendants into detention. This approach supports community safety while maintaining strong due process protections.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The negative consequences as well as the negative public perception of New Mexico's current pretrial release framework will continue.

AMENDMENTS