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## FISCAL IMPACT REPORT

**BILL NUMBER:** CS/House Bill 49/HCPAC/aHJC

**SHORT TITLE:** Increase Felon Firearm Penalty

**SPONSOR:** House Consumer & Public Affairs Committee

**LAST ORIGINAL**  
**UPDATE:** 2/11/26 **DATE:** 2/3/2026 **ANALYST:** Sanchez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$27.2	At least \$27.2	At least \$54.4	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 25, 67, and 146, and Senate Bill 17

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Department of Public Safety

Administrative Office of the Courts

Administrative Office of the District Attorneys

New Mexico Sentencing Commission

Corrections Department

Law Offices of the Public Defender

## SUMMARY

### Synopsis of HJC Amendments to HCPAC Substitute for House Bill 49

The House Judiciary Committee amendments to the House Consumer and Public Affairs Committee Substitute for House Bill 49 revise the description of prohibited conduct and modify the penalty language. The amendments replace “that is found to be in possession of” with “who receives, transports, or possesses,” aligning the language with existing statute. They also add “destructive device” and specify that both first and subsequent offenses are second-degree felonies.

In addition, the amendments strike the previously added underscored language on page 2, lines 16 through 22, remove penalty provisions included in the committee substitute, and restructure how the offense classification is presented.

### Synopsis of HCPAC Substitute for House Bill 49

The House Consumer and Public Affairs Committee substitute for House Bill 49

(HB49/HCPACS) proposes to amend Section 30-7-16 NMSA 1978 (the Felon in Possession of a Firearm statute) to establish a tiered penalty structure that distinguishes between individuals with a prior felony conviction and those whose prior felony qualifies as a “serious violent offense” as defined in Section 33-2-34 NMSA 1978 (the Earned Meritorious Deductions Act). Under the substitute bill, a first conviction for felon-in-possession remains a third-degree felony unless the individual was previously convicted of a serious violent offense, in which case the offense becomes a second-degree felony with a mandatory minimum basic sentence of nine years. For a second or subsequent conviction under the same section, the offense is elevated to a first-degree felony with a mandatory basic sentence of 18 years, regardless of the nature of the prior felony.

HB49/HCPACS explicitly removes discretion from the sentencing court by requiring the imposition of the stated mandatory minimum sentences and prohibiting suspension, deferment, or any sentence less than the basic term. It also requires the sentence imposed for a violation under this section be served consecutively to the sentence for the predicate felony offense, if applicable. The bill does not amend the definition of “serious violent offense” in Section 33-2-34 NMSA 1978 but relies on that definition to determine applicability. Additionally, the bill removes the current statutory reference to the offense as a “serious violent offense” for earned meritorious deduction purposes, indicating that individuals sentenced under this section may now qualify for enhanced good-time deductions unless otherwise prohibited by separate provisions.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## FISCAL IMPLICATIONS

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and the length of time served that might result from this bill could have moderate to significant fiscal impacts. HB49/HCPACS increases the penalty for certain violations of Section 30-7-16 NMSA 1978 (felon in possession of a firearm), creating a tiered structure that elevates the offense to a second-degree felony with a mandatory minimum nine-year sentence if the individual has a prior conviction for a serious violent offense, as defined in Section 33-2-34 NMSA 1978. A second or subsequent conviction under this section is reclassified as a first-degree felony with a mandatory minimum sentence of 18 years. These changes are anticipated to increase the number of incarcerated individuals and the time they spend incarcerated.

According to the New Mexico Sentencing Commission, the average length of stay for individuals currently incarcerated for felon-in-possession offenses is approximately 2.2 years. HB49/HCPACS would increase the length of stay for a subset of individuals with qualifying prior convictions. The Corrections Department (NMCD) reports the average annual cost to incarcerate one person is approximately \$61.5 thousand in FY25. However, LFC estimates the marginal cost of incarceration, reflecting the additional cost of each inmate, is about \$ 27.2 thousand annually, which covers variable costs such as food, medical care, and programming.

Over time, longer sentences could result in fewer releases relative to admissions, driving up the total prison population and increasing long-term costs. While NMCD did not project an immediate fiscal impact, any sustained increase in length of stay without corresponding reductions in admissions is expected to put upward pressure on prison operating expenditures.

Additional system costs beyond incarceration, including increased demand for public defender services and judicial resources, were not quantified but may be moderate. The Law Office of the Public Defender noted that more serious penalties are associated with increased trial rates, case complexity, and the need for experienced felony-qualified attorneys and ancillary services. While the Administrative Office of the Courts and district attorneys did not project direct fiscal impacts, the imposition of mandatory minimums could also limit plea negotiations and increase the likelihood of litigation, which may affect court operations over time.

Overall, HB49/HCPACS is anticipated to increase long-term incarceration costs to the state's prison system by increasing the severity of penalties and the duration of confinement for individuals convicted under Section 30-7-16 NMSA 1978. These cost increases may not be immediate but are expected to accumulate over multiple fiscal years as cases under the enhanced provisions progress through the criminal justice system.

## **SIGNIFICANT ISSUES**

HB49/HCPACS introduces a tiered sentencing structure under Section 30-7-16 NMSA 1978 that includes mandatory minimum incarceration terms for certain individuals based on their prior felony history. Specifically, the bill imposes a mandatory minimum basic sentence of nine years for individuals with prior serious violent felony convictions and 18 years for second or subsequent convictions under the same statute. These provisions remove judicial discretion to impose a lesser sentence and prohibit suspending or deferring the minimum term.

Mandatory minimum sentencing laws have been widely implemented across state and federal systems for several decades, primarily in response to concerns about violent crime and sentencing disparities. According to the National Conference of State Legislatures (NCSL), such laws are intended to create uniformity in sentencing, incapacitate individuals convicted of serious offenses, and deter future criminal behavior. However, research by the U.S. Department of Justice and other nonpartisan organizations, including the National Institute of Justice (NIJ) and the Brennan Center for Justice, has raised questions about the effectiveness of mandatory minimums in reducing crime. A 2016 NIJ review found that certainty of punishment, rather than severity, is more strongly associated with deterrence. Similarly, the Brennan Center reported in 2017 that mandatory minimums have contributed to increased incarceration rates without a corresponding decrease in violent crime, particularly when applied to offenses involving limited judicial discretion or narrowly defined conduct.

In New Mexico, the application of mandatory minimums may also interact with broader criminal justice reforms, including recent efforts to reduce recidivism, expand pretrial services, and improve rehabilitation outcomes. By prescribing fixed incarceration terms without judicial flexibility, HB49/HCPACS may limit courts' ability to account for individualized circumstances and to tailor sentences based on assessed risk or treatment needs. Over time, this could influence how cases are prosecuted and defended and may shape broader sentencing trends depending on how frequently these provisions are invoked.

Additionally, by requiring that sentences under this section be served consecutively to any sentence for the predicate felony, the bill may result in longer aggregate terms of imprisonment in certain cases. This provision, while not unusual in the context of repeat felony sentencing, may affect how charging decisions are made and how plea negotiations proceed in multi-offense prosecutions.

While HB49/HCPACS does not modify the underlying definition of “serious violent offense,” its reliance on that definition to trigger enhanced penalties may prompt case-by-case reviews to determine whether an individual’s prior record qualifies. In situations involving out-of-state or ambiguous convictions, this may increase pretrial litigation or affect consistency across judicial districts. These interpretive and procedural dynamics may shape how the law is implemented, even if they do not generate immediate fiscal or administrative burdens.

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

House Bill 146 addresses the same statutory offense as HB49/HCPACS by proposing changes to penalties for felons found in possession of firearms. Depending on the final language, the bills may duplicate or conflict if they amend the same section of law with different penalty structures.

House Bill 25 primarily addresses juvenile access to firearms and background checks but may interact with HB49/HCPACS if it includes provisions that affect firearm eligibility determinations or firearm transfers involving individuals with criminal histories.

House Bill 67 (HB67) proposes restrictions on firearm possession for individuals under restraining orders, a category that overlaps with individuals who may also have felony convictions. While not duplicative, HB67 and HB49/HCPACS both expand firearm prohibitions and may affect enforcement coordination.

Senate Bill 17 targets gun trafficking and illegal transfers, with likely implications for felon-in-possession cases. It may interact with HB49/HCPACS by addressing upstream sources of firearm acquisition by prohibited individuals, including felons.

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