LFC Requester: Scott Sanchez

AGENCY BILL ANALYSIS - 2025 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} Check all that apply: **Date Prepared**: February 23, 2025 **Bill Number:** HB 549 Original X Correction Amendment Substitute **Agency Name** and Code Number: NM Sentencing Commission – 354 **Sponsor:** Dixon/Borrego Crime of Carrying a Gun While **Person Writing** Keri Thiel **Short** Trafficking Phone: 505-259-8763 Email kthiel@unm.edu Title: **SECTION II: FISCAL IMPACT APPROPRIATION (dollars in thousands) Appropriation** Recurring Fund or Nonrecurring Affected **FY25 FY26** (Parenthesis () indicate expenditure decreases) **REVENUE** (dollars in thousands) Recurring **Estimated Revenue** Fund Affected **FY25 FY26 FY27 Nonrecurring**

(Parenthesis () indicate revenue 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: Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 549 enacts a new section of Article 7 of the Criminal Code, to create the offense of unlawful carrying of a firearm while trafficking a controlled substance. The bill defines that offense as "carrying a firearm while violating the provisions of Section 30-31-20 NMSA 1978 [the offense of trafficking controlled substances, as defined in the Controlled Substances Act]".

The bill provides that the penalty for carrying a firearm while trafficking a controlled substance shall be a third degree felony. The bill also provides a definition of "firearm", and an effective date of July 1, 2025.

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

Carrying a firearm while trafficking controlled substances in violation of the Controlled Substances Act currently makes a defendant subject to the firearm sentencing enhancement provided in Section 31-18-16 NMSA 1978, in addition to the penalties for trafficking controlled substances under the Controlled Substances Act. Section 31-18-16 provides a one, three, or five-year enhancement depending on whether the firearm was used, brandished, or discharged and whether the offense was a first or subsequent offense. The one-year enhancement only applies to first offenses in which the firearm was not brandished or discharged.

Conversely, HB 549 would make the offense of carrying a firearm while trafficking controlled substances a third degree felony, which carries a basic sentence of three years imprisonment. Thus, HB 549 may have the effect of increasing the duration of prison sentences for defendants convicted of trafficking controlled substances when a firearm is involved, particularly those convicted of a first offense when the firearm was not brandished or discharged.

It is difficult to determine what the effect of passing HB 549 would be on the state's prison population, but it would likely 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 \$155.63/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS