



Conflicts with: HB 166  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

SB 253 amends Section 30-7-16 NMSA 1978, regards transportation or possession of a firearm or destructive device by certain persons, to increase the penalty for a felon in possession of a firearm from a third degree felony to a second degree felony, and to provide a minimum sentence of nine years imprisonment.

SB 253 further amends Section 30-7-16 to increase the penalty for a serious violent felon in possession of a firearm from a third degree felony to a second degree felony, and to increase the minimum sentence for that offense from six years imprisonment to twelve years imprisonment.

SB 253 also amends Section 30-7-16 to provide that a person convicted under that section shall not be eligible for earned meritorious deductions pursuant to Section 33-2-34 NMSA 1978.

#### **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. SB 253 would continue the use of a special penalty for serious violent felons in possession of a firearm through its increase of that term from six to twelve years (versus the standard basic term of three years imprisonment for a third degree felony under Section 31-18-15 NMSA 1978). The bill would also add a special penalty via its mandatory minimum term of years for felons in possession of a firearm.

SB 253 would increase the basic term of years of imprisonment for felons and serious violent felons in possession of a firearm. While it is difficult to determine what the effect of passing SB 253 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 \$155.63/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. The Sentencing Commission is currently compiling multi-year data regarding charges and convictions pursuant to Section 30-7-16 to examine

whether there is any correlation between the increased penalties and the rate of offense. We will submit a revised FIR with the compiled data as soon as possible.

#### **PERFORMANCE IMPLICATIONS**

#### **ADMINISTRATIVE IMPLICATIONS**

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

Conflicts with: HB 166, which also provides new penalties for felons and serious violent felons in possession of a firearm.

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

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

#### **AMENDMENTS**