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FISCAL IMPACT REPORT

SPONSOR <u>Maestas</u>	LAST UPDATED _____
	ORIGINAL DATE <u>1/29/25</u>
SHORT TITLE <u>Unlawful Possession of Stolen Firearm</u>	BILL NUMBER <u>Senate Bill 32</u>
	ANALYST <u>Sanchez</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$28.2	At least \$28.2	At least \$56.4	Recurring	General Fund
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$38.4	Recurring	General Fund
Total	No fiscal impact	At least \$47.4	At least \$47.4	At least \$94.8	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Department of Health (DOH)
Sentencing Commission (NMSC)

Agency Analysis was Solicited but Not Received From
Department of Public Safety (DPS)
Administrative Office of the Courts (AOC)
Law Office of the Public Defender (LOPD)
Office of the Attorney General (NMAG)
Crime Victims Reparation Commission (CVRC)
Children Youth and Families Department (CYFD)
Administrative Office of the District Attorneys (AODA)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of Senate Bill 32

Senate Bill 32 (SB32) seeks to establish the crime of unlawful possession of a stolen firearm. The bill defines this offense as knowingly possessing or transporting a firearm that has been

stolen or that the person has reason to believe is stolen. However, it includes exceptions for individuals who receive or retain a firearm with the intent to return it to its rightful owner or to participate in a firearm buyback program. The bill further specifies that each stolen firearm possessed or transported constitutes a separate offense, making it possible for multiple charges to arise from a single instance of possession. Additionally, the legislation clarifies that a person who is a felon and is charged with unlawful possession of a stolen firearm cannot also be prosecuted under the existing felon-in-possession statute for the same offense. A violation of this new law would be classified as a fourth-degree felony.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The primary fiscal impact of SB32 stems from the potential increase in incarceration costs due to the creation of a new fourth-degree felony offense. Under this bill, each instance of unlawful possession of a stolen firearm would be charged separately, potentially leading to longer sentences and more individuals entering the state's correctional system. According to the New Mexico Sentencing Commission, the median length of stay for a fourth-degree felony in FY24 was approximately 13.07 months, or 392 days.

The overall financial impact on the New Mexico Corrections Department (NMCD) will depend on the number of new cases resulting from this legislation. Still, even a modest increase in convictions could lead to significant expenditures over time. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and jails, consequently increasing long-term costs to state and county general funds. In addition to the potential for new crimes to send more individuals to prison and jail, longer sentences could result in fewer releases relative to admissions, driving up overall populations.

NMCD reports the average cost to incarcerate a single inmate in FY24 was \$59.3 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$28.2 thousand per year across all facilities. LFC staff estimate the cost to counties to hold an individual in jail prior to incarceration is \$19.2 thousand per year.

The Department of Health does not anticipate any direct fiscal impact from the bill, nor does it require additional appropriations. However, broader public health concerns related to firearm-related deaths and violence underscore the potential social costs of failing to address stolen firearms in circulation.

SIGNIFICANT ISSUES

The bill creates a new fourth-degree felony offense for unlawful possession of a stolen firearm, with each firearm constituting a separate offense. This could lead to increased incarceration rates, adding to the financial burden on the Department of Corrections. The overall fiscal impact will depend on the number of new cases prosecuted under this law, but any increase in felony convictions could strain correctional resources.

Another significant issue is the potential legal ambiguity surrounding the exclusion of "receiving" a stolen firearm in the bill's language, which may create loopholes or enforcement challenges. Additionally, while the bill ensures that felons charged under this statute will not also face charges under the existing felon-in-possession law, there is a discrepancy in penalties. Possession of a stolen firearm by a felon would be a fourth-degree felony under SB32; in contrast, possession of a non-stolen firearm by a felon under existing law is a third-degree felony. This inconsistency may require further legislative scrutiny.

The Department of Health analysis also underscores the broader public safety implications, citing that New Mexico has one of the highest firearm-related death rates in the nation, which increased by 84 percent between 2011 and 2022. The department notes that in 2022 alone, firearm-related deaths in the state resulted in an estimated economic cost of \$6.22 billion, or approximately \$2,943 per resident.

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