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FISCAL IMPACT REPORT

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|--------------------|--|----------------------|--------------------------------|
| SPONSOR | <u>Senate Judiciary Committee</u> | LAST UPDATED | <u>3/19/25</u> |
| | Gas-Operated Semiauto Firearms Exclusion | ORIGINAL DATE | <u>3/19/25</u> |
| SHORT TITLE | <u>Act</u> | BILL NUMBER | <u>CS/Senate Bill 279/SJCS</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.

Relates to House Bills 38, 83, and 81. Relates to Senate Bills 244 and 255.

Sources of Information

LFC Files

Agency Analysis Received From

- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- Law Offices of the Public Defender (LOPD)
- Office of the Attorney General (NMAG)
- New Mexico Sentencing Commission (NMSC)
- Office of the Governor (GOV)
- Department of Health (DOH)
- Corrections Department (NMCD)
- Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Substitute for Senate Bill 279

The Senate Judiciary Committee substitute for Senate Bill 279 (SB279), titled the Gas-Operated Semiautomatic Firearms Exclusion Act, proposes a new section within Section 30-7, NMSA 1978, to regulate the sale, transfer, and possession of certain firearms and firearm accessories in New Mexico. The bill establishes prohibitions on gas-operated semiautomatic firearms, large-capacity ammunition feeding devices, machine guns, and rapid-fire devices while also setting forth a certification process for certain exempted firearms and devices.

The legislation defines key terms, including “gas-operated semiautomatic firearm,” “large-capacity ammunition feeding device,” “machine gun,” and “rapid-fire device.” The Senate

Judiciary Committee substitute clarifies that a rapid-fire device does not include a part or combination of parts designed and intended to convert a semiautomatic firearm into a fully automatic firearm. Additionally, the substitute exempts a single- or double-action semiautomatic handgun under eight inches in overall length that uses blowback to cycle the action from regulation as a gas-operated semiautomatic firearm.

The bill grants the Attorney General authority to compile and publish a list of regulated firearms in consultation with the Department of Public Safety. Beginning July 1, 2025, the legislation prohibits the importation, sale, manufacture, transfer, or receipt of gas-operated semiautomatic firearms, large-capacity ammunition feeding devices, and rapid-fire devices, subject to specified exceptions. Beginning January 1, 2026, possession of such firearms is prohibited unless certified under procedures established by the Attorney General. Certified firearms may only be possessed in designated locations, including private property, licensed firearm dealers, and firing ranges. They may be transferred to immediate family members, licensed dealers, or out-of-state residents.

The bill provides specific provisions for nonresidents transporting regulated firearms within the state and for new residents to certify possession of such firearms. Criminal penalties include a misdemeanor for general unlawful possession and a fourth-degree felony for using a regulated firearm or accessory in the commission of a felony. The bill also contains a severability clause providing that, should a provision be found invalid, the remainder of the provisions remains in effect. If enacted, SB279 would modify New Mexico's firearm regulatory framework and may affect firearm owners, law enforcement agencies, and the judicial system.

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

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have significant fiscal impacts. 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. The Corrections Department (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 estimates a marginal cost (the cost per additional inmate) of \$19.2 per county jail inmate per year based on incarceration costs at the Metropolitan Detention Center. SB279 is anticipated to increase the number of incarcerated individuals and increase the time they spend being incarcerated.

While SB279 does not include a direct appropriation, the bill may result in costs to multiple state agencies. The Office of the Attorney General would be responsible for compiling and maintaining a list of prohibited firearms, developing a certification system for legally possessed firearms, and promulgating rules to govern certification. These responsibilities may require additional administrative resources and system development costs. The Department of Public

Safety is tasked with assisting in identifying regulated firearms and advising the Attorney General. Law enforcement agencies may experience increased costs related to the investigation and enforcement of firearm restrictions, and judicial agencies may face a rise in caseloads from prosecutions, appeals, and potential litigation.

Additionally, the certification process for firearm owners may generate administrative costs related to processing, recordkeeping, and maintaining the confidentiality of certification records. Restrictions on sales and transfers may affect firearm dealers and manufacturers, which could influence revenues from related taxes and fees. Although the total fiscal impact is indeterminate at this time, costs associated with enforcement, prosecution, administration, and judicial proceedings should be considered.

SIGNIFICANT ISSUES

Senate Bill 279, as substituted by the Senate Judiciary Committee, introduces new firearm regulations that may raise legal, administrative, and compliance considerations. The bill directs the Attorney General to establish and maintain a list of prohibited gas-operated semiautomatic firearms in consultation with the Department of Public Safety. This responsibility may require coordination with firearm manufacturers, licensed dealers, and federal agencies to ensure the list is comprehensive and consistently applied.

The bill also tasks the Attorney General with developing and managing a certification process for firearms lawfully possessed prior to the prohibition date. Certification requires owners to submit identifying information to either a federally licensed firearms dealer or directly to the Attorney General, depending on timing. These provisions may require administrative protocols to safeguard sensitive information, ensure timely compliance, and provide public education to firearm owners, dealers, and law enforcement personnel. Certification records are explicitly exempt from disclosure under the Inspection of Public Records Act, which may necessitate secure handling procedures.

The committee substitute clarifies that rapid-fire devices regulated under the act do not include parts or combinations of parts designed and intended to convert semiautomatic firearms into fully automatic firearms. This clarification may avoid overlap with federal regulations under the National Firearms Act and align with other proposed state legislation. Additionally, the substitute exempts specific blowback-operated handguns from regulation, potentially narrowing the scope of regulated firearms and requiring guidance to ensure uniform application.

Legal challenges to the bill may arise under the Second Amendment of the U.S. Constitution and Article II, Section 6, of the New Mexico Constitution. The bill's classification of firearms based on internal gas-operated mechanisms rather than external features differs from traditional "features-based" regulation and may be subject to judicial review. Courts may evaluate the bill's provisions in light of recent federal rulings addressing firearm regulations.

Further, the bill intersects with existing federal firearm laws concerning machine guns, rapid-fire devices, and large-capacity magazines. Coordination with federal agencies may be required to align state and federal enforcement efforts. The bill's exemptions for specified government entities, certain firearm types, and devices manufactured before the effective date may also require clarification to ensure consistent application.

Provisions for nonresidents transporting regulated firearms within the state and for new residents certifying possession introduce compliance timelines and conditions that may necessitate public outreach. Implementation will likely require coordination among the Attorney General’s Office, the Department of Public Safety, law enforcement agencies, and federally licensed firearm dealers.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB279 relates to House Bill 38, which creates the crime of unlawful possession of a weapon conversion device; House Bill 83, which would lower the age eligibility for permitless firearm carrying to 18 years of age; and House Bill 8, an omnibus public safety measure.

SB279 also relates to Senate Bill 244, which creates the crime of unlawful transfer of a firearm to a minor, and Senate Bill 255, which adds penalties for facilitating firearm sales without a background check.

TECHNICAL ISSUES

According to the Office of the Attorney General, Section 2 of the committee substitute modifies the definition of “rapid fire device” by removing the disjunctive “or” and adding a conjunctive “and” between subsections. As written, the definition may combine mutually exclusive criteria. Clarification may be necessary to ensure the intended scope of regulated devices is accurately reflected in statute.

SS/hg/sgs