

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/23/25

Check all that apply:

Bill Number: HB 101

Original Correction
Amendment Substitute

Sponsor: Rep. Andrea Reeb

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing Analysis: Assistant Solicitor General Taylor Bui

Short Title: Firearm at Polling Place for Law Enforcement

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

This bill amends NMSA 1978, Section 1-20-24 “Unlawful Possession of a Firearm at a Polling Place” by adding two exceptions to the prohibition on the possession of firearms at a polling place to include:

- 1) Commissioned law enforcement officers with the power to arrest in performance of the officer’s official duties; and
- 2) Commissioned law enforcement officers with the power to arrest acting in accordance with the policies of the respective law enforcement agency.

The current version of Section 1-20-24 exempts “certified law enforcement officers” and “law enforcement officers certified pursuant to the Law Enforcement Training Act” from the prohibition of carrying firearms into a polling place. To become a “certified law enforcement officer,” an individual must meet all the requirements established under NMSA 1978, Section 29-7-6 or by waiver under Section 29-7-9. Additionally, because “certified law enforcement” officer is not currently defined in this section, it could also include law enforcement officers certified by the federal government.

However, there are other law enforcement officers under New Mexico law that are commissioned law enforcement officers but may not be certified, including among others: State police officers (Section 29-2-6), county deputy sheriffs (Section 4-41-8), tribal and pueblo police officers of New Mexico Indian nations, tribes, or pueblos with a commission from the Chief of the New Mexico state police (Section 29-1-11), peace officers appointed by the attorney general (Section 8-5-5) or district attorneys (Section 36-1-5), post-secondary educational institution campus police officers (Section 29-5-3), university police officers (Section 29-5-2), and railroad peace officers (Section 63-2-18), all of whom could serve and fulfill their duties as law enforcement officers up to 12 months before obtaining certification. *See* Section 29-7-6(B); *see also State v. Reyes*, 2009-NMCA-001 (interpreting Section 29-7-6(B)). Additionally, there may be other federal law enforcement officers who are commissioned but are not certified.

HB 11 would expand the exception on the prohibition on carrying firearms in polling places to include those law enforcement officers discussed above that have the power to arrest, while performing their official duties or acting in accordance with the policies of their

respective agency.

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

None.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Currently, there is no definition of “commissioned law enforcement officer” beyond the text of HB 11 in the Election Code, or the NMSA generally. Given that “commissioned law enforcement officer” is a general phrase that could include all State of New Mexico commissioned law enforcement officers with arresting authority, commissioned federal law enforcement officers with arresting authority, and other states’ commissioned law enforcement officers (*see* Section 31-2-1) additional definitions could help clarify the application of the section.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo – in that some commissioned, not certified law enforcement officers would be prohibited from carrying firearms into polling places.

AMENDMENTS