



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**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

**AMENDMENTS**