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FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/2007

SPONSOR Heaton LAST UPDATED _____ HB 586

SHORT TITLE Use of Firearms in Certain Felonies SB _____

ANALYST Schuss

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1*	\$0.1*	\$0.1*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases) * Significant Impact

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 586 amends Section 31-18-16 NMSA 1978 to increase the alteration of the basic sentence of imprisonment when a firearm is used in the commission of a noncapital felony as follows:

- when the court or jury finds that a firearm was used in the commission of a non-capital felony, the basic sentence shall be increased by 3 years rather than 1, and the sentence imposed shall be the first 3 years served and shall not be suspended or deferred; provided that when the offender is a serious youthful offender, the sentence may be increased by 3 years.
- for a second or subsequent noncapital felony in which a firearm is used, the basic sentence of imprisonment shall be increased by 5 years rather than 3, and the sentence imposed shall be the first 5 years served and shall not be suspended or deferred; provided that when the offender is a serious youthful offender, the sentence may be increased by 5 years.

FISCAL IMPLICATIONS

NMCD lists the following fiscal implications:

The addition of this new enhancement would have a high impact on the department's costs by the large addition to the inmate population and probation/parole caseloads. Currently not everyone convicted of using a gun during the commission of a felony is sentenced to prison because it is only a one year enhancement. When an individual's pre-sentence confinement credit is factored in, the sentence no longer exceeds one year and many individuals are not sentenced to the department but are placed on probation.

This new law would greatly increase the number of inmates serving time in our prisons. Until recently, for example, the Bernalillo County District Attorney's Office employed two prosecutors full time through a federal grant to focus just on these types of crimes. At any one time 25% to 40% of the cases in that division alone involve firearms. This does not include the cases involving firearms in the gang, narcotics and property divisions.

The contract/private prison annual cost of incarcerating an inmate is \$23,867 per year for males. The cost per client to house a female inmate at a privately operated facility is \$21,651 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The financial impact would be high based upon the increased number of inmates for longer periods of time. This may be offset some by a minimal amount of revenue generated by the probation/parolee supervision fees paid during the probation/parole period.

SIGNIFICANT ISSUES

AOC notes that as penalties increase, increased terms of imprisonment tend to inspire defendants to retain attorneys and demand jury trials. Indigent defendants are entitled to public defender services.

PERFORMANCE IMPLICATIONS

PDD notes that due to the dramatically increased penalties brought by this bill, there would likely be some increase in trial and appeal workload for the Public Defender Department, the courts, and the District Attorneys/Attorney General, since these offenders would be considerably less likely to take plea offers that had a mandatory three-year (instead of the present one-year) term.

This bill would increase the workload of both the prison staff and probation and parole employees due to the higher number of inmates that would actually come to the department to serve prison and subsequently be placed on parole.

ADMINISTRATIVE IMPLICATIONS

NMCD states that this bill will increase the inmate population or probation/parole caseloads by a large number; it will increase the workloads of prison and probation/parole staff. This bill may also increase the workloads of the various District Attorney offices.