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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 160

SHORT TITLE: Increase Alteration of Firearm Crime Sentence

SPONSOR: Maestas

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/11/2026 **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$27.2	At least \$27.2	At least \$54.4	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Administrative Office of the Courts
Administrative Office of the District Attorneys
Law Offices of the Public Defender
New Mexico Sentencing Commission
Adult Parole Board
Corrections Department
Department of Public Safety

SUMMARY

Synopsis of Senate Bill 160

Senate Bill 160 (SB160) amends Section 31-18-16 NMSA 1978, which governs sentence enhancements for the use, brandishing, or discharge of a firearm, to increase the additional term of imprisonment imposed when a firearm is involved in specified felony offenses. The bill increases the number of years added to the basic sentence when a court or jury makes a separate finding that a firearm was used in relation to a drug transaction, during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978, or during the commission of a serious violent offense.

By increasing the enhancement periods set out in Section 31-18-16 NMSA 1978, the bill lengthens the total sentence imposed for these underlying crimes when a firearm is used, brandished, or discharged. As a result, individuals convicted of qualifying offenses involving a firearm would be subject to longer mandatory terms of incarceration than under current law.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and the length of time served that might result from SB160 could have moderate to significant fiscal impacts. SB160 increases mandatory sentence enhancements for the use, brandishing, or discharge of a firearm during specified felony offenses, which is anticipated to increase the time individuals serve in prison and, over time, increase the state's prison population. When penalties are increased, longer sentences can result in fewer releases relative to admissions, driving overall populations upward. In FY24, there were 158 cases with firearm enhancements, with an average increase of 3.1 years in sentence length per case. Doubling enhancement periods under SB160 would likely increase the aggregate number of prison bed-years associated with these cases.

The Corrections Department (NMCD) reports that the average cost to incarcerate a single inmate in FY25 was \$61.5 thousand; however, due to the high fixed costs of prison facilities and administrative overhead, LFC estimates a marginal cost of \$27.2 thousand per year for each additional inmate. NMCD separately reports an average per diem incarceration cost of \$153.08, inclusive of public and private facilities. To the extent that SB160 increases the average length of stay or the total prison population, general fund expenditures for incarceration would increase proportionally and likely be gradual and cumulative rather than immediate, as individuals serve longer sentences.

Additional system costs beyond incarceration are not included in this analysis, but could be moderate. The Administrative Office of the Courts (AOC) notes that as penalties become more severe, defendants may be more likely to exercise their right to trial, including a jury trial, which requires additional judge time, courtroom staff time, jury fees, and courtroom availability; these costs are not readily quantifiable. The Law Offices of the Public Defender (LOPD) indicates that longer potential sentences may increase the number of cases proceeding to trial rather than resolving by plea, potentially increasing demand for attorneys, investigators, and support staff. The Administrative Office of the District Attorneys (AODA) reports no direct fiscal impact on that agency. While incarceration costs are expected to be the primary fiscal driver under SB160, changes in case disposition patterns could also affect workload and operating costs for AOC, LOPD, and AODA.

SIGNIFICANT ISSUES

SB160 continues a pattern of recent amendments to Section 31-18-16 NMSA 1978, which has been modified multiple times since 2020 to adjust firearm-related sentence enhancements. The bill would again increase mandatory enhancements for conduct already subject to elevated penalties under current law. Because these enhancements are mandatory upon a separate finding of fact, courts have limited discretion once the requisite finding is made. As a result, SB160 would further increase total exposure for underlying felony offenses in cases where firearm involvement is proven.

Data from the New Mexico Sentencing Commission (NMSC) indicate that in FY24, 158 cases involved firearm enhancements, with sentence increases ranging from 1 to 6 years. SB160 would increase the magnitude of those enhancements. The bill applies only after a separate finding by the court or jury that a firearm was used, brandished, or discharged, which may increase the importance of fact-specific litigation regarding firearm involvement in qualifying cases.

Because SB160 increases penalty severity for a subset of felony cases rather than creating new crimes or altering charging thresholds, its primary legal effect is to increase the total sentence imposed upon conviction when a firearm finding is made. The measure does not alter the elements of the underlying offenses, eligibility for prosecution, or procedural requirements beyond the enhanced sentencing framework already in statute.

OTHER SUBSTANTIVE ISSUES

Section 31-18-16 NMSA 1978 is a sentence-enhancement statute that increases punishment based on conduct accompanying the underlying felony rather than redefining the elements of that felony. SB160 would further expand these enhancements while retaining the requirement of a separate finding of fact. As a result, the bill would increase the sentencing differential between offenses committed with and without a firearm, reinforcing firearm involvement as an aggravating factor within the state's structured sentencing framework.

The New Mexico Supreme Court has previously held that Section 31-18-16 authorizes cumulative punishment when a firearm enhancement applies, even where the underlying offense already carries a significant penalty. In *State v. Baroz*, 2017-NMSC-030, the Court recognized the Legislature's authority to impose additional punishment for firearm-related conduct beyond the base sentence. SB160 would expand the magnitude of that cumulative enhancement.

Since 2020, the Legislature has revised firearm enhancements multiple times, adjusting both structure and duration. Continued changes to enhancement lengths may affect how stakeholders evaluate sentencing exposure in felony cases and could contribute to evolving sentencing patterns. SB160 does not modify definitions of qualifying offenses, alter evidentiary standards, or change eligibility criteria for enhancement beyond increasing the length of the additional term imposed upon a qualifying finding.