

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>Padilla/Pope</u>	LAST UPDATED _____
	ORIGINAL DATE <u>01/31/2025</u>
SHORT TITLE <u>Background Checks for DMA Employees</u>	BILL NUMBER <u>Senate Bill 161</u>
	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DMA	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 State Personnel Office (SPO)
 Department of Military Affairs (DMA)

Agency Analysis was Solicited but Not Received From
 New Mexico Attorney General (NMAG)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from this agency. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of Senate Bill 161.

Senate Bill 161 (SB161) enacts a new section of Section 20-3 NMSA 1978, which deals with the Department of Military Affairs (DMA). SB161 requires that DMA and facilities operated by that department conduct criminal background checks on applicants, employees, and volunteers who will be in contact with youth in all youth programs operated by DMA. This is to include all such persons already working in these capacities unless they have previously undergone a criminal background check. If done on an already employed or deployed person, the background checks must be completed within six months, during which time that person would be under close supervision by a person who has had the criminal background check. New potential employees or volunteers could be taken on provisionally but would also be required to have close supervision. Potential employees or volunteers must pay the costs for the background check and must sign to give permission for the check to be done.

Information obtained by these means is to be kept private but used in employment or deployment. Previous convictions for sex crimes, crimes involving drugs, or offenses involving minors or others that might affect an applicant’s suitability for a position are grounds for denying an application or revoking permission; if such charges have been proffered but not adjudicated, the applicant may be suspended or placed in a different position that does not involve youth contact.

Section 2 of the bill amends Section 20-3-2 NMSA 1978 with the following consequence: Funds available to the adjutant general may be used to support youth programs.

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

There is no appropriation in SB161.

There is no fiscal impact of the bill to DMA or other government entities for cost of criminal background checks as those must be borne by the applicant.

SIGNIFICANT ISSUES

As noted by the State Personnel Office (SPO), the fact that an applicant or potential volunteer must pay for the criminal background check may deter potential applicants or volunteers from applying.

TECHNICAL ISSUES

According to SPO, “While limitations related to sharing information obtained in the report is addressed, it is unclear whether the background report itself is confidential, whether it will be considered a public record pursuant to the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978], and whether it is an employment record under 1.7.1.12 NMAC.”

SPO also indicates that, “The wording of SB161 is often vague in sections relating to employees, applicants or volunteers. Some qualify wording to be associated with working with minors. Clear wording regarding all employees, all applicants, and all volunteers working with minors or only employees, applicants and volunteers working with minors would be helpful.”

LAC/SL2