

LFC Requester:	Scott Sanchez
-----------------------	----------------------

AGENCY BILL ANALYSIS – 2026 SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 5 FEB 2026 *Check all that apply:*
Bill Number: SB255 Original X Correction
 Amendment Substitute

Sponsor: J. Block **Agency Name and Code:** 790 – Department of Public Safety
Short Title: Fentanyl Trafficking as Murder **Person Writing:** Major Emmanuel T. Gutierrez
Phone: 505-917-2952 **Email:** Emmanuel.gutierrez@dps.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 255 (SB-255) establishes a new offense under the Controlled Substances Act by classifying the trafficking or distribution of fentanyl that results in a person's death as first-degree murder, punishable by a mandatory thirty-year prison sentence. The bill applies when an individual intentionally and unlawfully traffics or distributes any amount of fentanyl that causes death through injection, inhalation, absorption, or ingestion, and it explicitly removes consent or the victim's voluntary use of fentanyl as a defense. Overall, SB-255 significantly increases criminal penalties for fentanyl trafficking connected to fatal overdoses, reflecting a strong deterrence-oriented approach to addressing fentanyl-related deaths in New Mexico.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

This bill makes a person guilty of first-degree murder if he or she intentionally traffics fentanyl and death results. In New Mexico, first-degree murder traditionally requires deliberate intent to kill or a very narrow felony-murder framework. However, the provisions in this bill create strict liability or near strict liability for homicide based on distribution alone. The bill also requires that trafficking "results in the death" of another person, but it provides no causation standard. As such, the *mens rea* discrepancies and lack of causation standard may result in vagueness and due process challenges.

The provision that removes victim conduct defenses potentially conflicts with long-standing criminal law principles regarding intervening acts. Therefore, this provision may face constitution challenges for removing a defendant's ability to contest causation or culpability.

A mandatory 30-year sentence for all convictions under this bill raises proportionality concerns under the New Mexico Constitution due to the lack of individualized sentencing, especially for low-level or non-violent distributors. There is a risk of challenges based on cruel and unusual punishment.

PERFORMANCE IMPLICATIONS

Senate Bill-255 takes a firm stand against fentanyl dealers whose actions lead to someone's death. The bill makes it clear that if a person knowingly sells or distributes fentanyl and that drug causes another person to die, they can be charged with first-degree murder and face a mandatory 30-year prison sentence. NM DPS believes this law will help deter dangerous drug trafficking, hold offenders fully accountable for the harm they cause, and give law enforcement and prosecutors a stronger tool to protect families and communities from the deadly effects of fentanyl.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

Additional language creating a heightened mental state tied to risk of death and providing a clear causation standard would address the major concerns with the bill as currently written.