

Conflicts with/Relates to: Conflicts with SB 25; Relates to HB 107
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 16 proposes to enact a new section of the Criminal Sentencing Act to provide sentencing enhancements when a person is convicted of trafficking fentanyl under Section 30-31-20 NMSA 1978 and the amount of fentanyl in their possession exceeds a certain amount. The sentencing enhancements by amount are as follows:

- Three years if the amount possessed is between one hundred and five hundred pills, or between ten and fifty grams of fentanyl, whichever is less; and
- Five years if the amount possessed is more than five hundred pills, or more than fifty grams of fentanyl, whichever is less.

HB 16 also contains a five-year sentencing enhancement if a person convicted of trafficking fentanyl under Section 30-31-20 has also recruited, coordinated, organized, supervised, directed, managed or financed another to traffic fentanyl. This enhancement cannot be applied with either of the amount-based enhancements included in the bill, but can be applied in addition to a charge of conspiracy to commit trafficking pursuant to Section 30-28-2 NMSA 1978.

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

Based on prison admission data for fiscal years 2023 and 2024, fentanyl was implicated in about 18% of drug trafficking cases that resulted in a prison sentence during those years. In those cases, the average number of pills reported was 232 and the average weight was 418 grams. Based on these amounts, it is likely that the sentencing enhancements in SB 16 would lead to more people being incarcerated by the Corrections Department.

The estimated additional length of stay for a three-year sentencing enhancement is 1.575 years for individuals who are not Serious Violent Offenders. The estimated additional length of stay for a five-year enhancement is 2.625 years (also for non-SVOs). The average 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

Conflict: SB 25 contains a sentencing enhancement for drug trafficking offenses under Section 30-31-20 NMSA 1978 if the substance trafficked is fentanyl and the amount is over 1 kg. This conflicts with the enhancements proposed in HB 16.

Relationship: HB 107 potentially increases the sentence for drug trafficking under Section 30-31-20 NMSA 1978 as well.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS