

LFC Requestor: SANCHEZ, Scott

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House
Number: 376

Category: Bill
Type: Introduced

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Sponsor(s): Luis M. Terrazas, Jenifer Jones, Rebecca Dow, Rod Montoya, and Angelita Mejia

Short Title: Border Security Division in DPS

Reviewing Agency: Agency 665 – Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$15,000	Nonrecurring	General Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$508.0	\$508.0	\$1,016.0	Recurring	General Fund

4 pay band 70 positions to coordinate efforts outlined in the program at midpoint of \$71,188 x 1.36 for benefits = 387,262

1 pay band 80 position to coordinate \$88,792 x 1.36 for benefits = \$120,758

Total Staffing Cost = \$508,020

There will also likely be significant additional costs depending on the scope and intention of “identifying and screening illegal fentanyl stashes”

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: HB107

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

HB376 creates the Border Security Division in the Department of Public Safety that:

- Provides powers and duties to the Department of Public Safety that will prevent illegal entry of a person, illegal contraband, and firearms into the country by land, water or air; enforce immigration and nationality laws, seek out and apprehend people who smuggle an illegal immigrant into the country; prevent the illegal trafficking of people and contraband; facilitate the flow of legal immigration and goods, operate checkpoints to stop vehicles and question occupants and the occupants' citizenship, visually inspect the exterior of vehicles and their operators to secondary inspection areas; provide technical assistance to law enforcement agencies; establish satellite offices in the town of Santa Teresa and the village of Columbus, and hire border security to implement the duties.
- Provides authorization for the governor to develop and execute an interstate compact regarding border security, but not to infringe or interfere with federal authority.
- Provides a penalty for the trafficking of certain controlled substance analogs or counterfeit substances that result in the death of a human being.
- Revises penalties and fines that exist to various felonies that result in the death of a child while trafficking.
- 30 million from GF to the department of public safety for expenditure in FY26 for the hiring of border patrol security and the purchase of transportation vehicles and other equipment needed to conduct border patrol surveillance.
- 10 million from the GF to the local government division of the DFA for expenditure in FY25 and FY26 for the purchase of border cameras and license plate readers for local law enforcement agencies.
- 15 million from GF to DOH to conduct a wide range of services that impact fentanyl users, including health care services to address fentanyl addiction and prevention, and assist state and local law enforcement agencies in identifying and screening illegal fentanyl stashes.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

HB376 appropriates \$15,000,000 from the general fund to the department of health for services that impact fentanyl users, including providing education in schools and universities, providing healthcare services to people who are dependent on fentanyl, and assisting law enforcement agencies in identifying and screening illegal fentanyl stashes. This would be a significant expansion of the department's role and could present administrative burdens to the department.

The New Mexico Department of Health (NMDOH) provides a broad range of services and programs to individuals affected by fentanyl use, including access to medications for opioid use disorder (MOUD) in many public health offices, support for school-based health centers, which support adolescents with behavioral health needs, and one of the oldest and most robust harm reduction programs in the country, which operates a network of contracted partner organizations state-wide. These efforts play a crucial role in both prevention and treatment of substance use disorders for the state.

A portion of the proposed appropriation directs NMDOH to “assist state and local law enforcement agencies in identifying and screening illegal fentanyl stashes.” However, NMDOH's role has traditionally focused on public health, while law enforcement responsibilities—including the investigation and monitoring of illicit substances—fall under the Department of Public Safety crime lab. Given current resources, significant investments in staffing and laboratory infrastructure would be necessary to fulfill this directive, making implementation challenging within the funding timeline (unused funds would revert to the general fund at the end of FY26). Additionally, shifting NMDOH's role in this way could impact trust between the department and the individuals it serves, potentially discouraging people from seeking the existing support and treatment resources available to them.

Nationally, overdose mortality related to fentanyl increased from 57,834 persons to 71,238 from 2020 to 2021. In New Mexico, there was an 84% increase of overdose deaths in just one year from December 2020 to December 2021, with a peak rate in March 2022 (<https://www.nmhealth.org/data/view/substance/2889/>.) There were 997 overdose deaths in NM in 2022, and 948 in 2023. Fentanyl was involved in 65% of overdose deaths in 2023. In 2023, most overdose deaths (84%) occurred among New Mexicans aged 25-64 years (working age population), with 26% of overdose deaths occurring in the 35-44 years age group. Counties that had both a high number of overdose deaths (>20 deaths) and an overdose death rate greater than the statewide age-adjusted rate (46.3 deaths per 100,000 population) in 2023 include Bernalillo, Santa Fe, Rio Arriba, and San Miguel.

After years of consistent annual increases of New Mexico's drug overdose death rates, New Mexico is now observing decreases of deaths attributed to drug overdose. When comparing the first quarter (Q1, January-March) of 2023 with the Q1 of 2024, data showed a 22.1% decrease in total drug deaths and a 32.6% decrease in fentanyl-involved overdose deaths. Emergency department visits for the same period show a similar trend with a 13.2% decrease in drug-related visits. While this improvement probably relates to

several factors, changes in drug use patterns and supply of illicit substances likely had a large impact. It is hoped that these positive trends will continue. <https://www.nmhealth.org/data/view/substance/2889/>. A precipitous drop in overdose mortality has been observed nation-wide, which experts are currently attempting to fully analyze and explain. Public health experts maintain evidence-based methods meant to curb the opioid epidemic are finally beginning to turn the tide, and staying the course and continuing to invest in evidence-based public health strategies should be prioritized. Additionally, as drug supply has turned sharply towards powerful synthetic opioid analogues and increasingly potent lab produced stimulants, experts agree that investing in methods to alert communities and law enforcement as early as possible when new adulterants enter the drug supply will be of continued critical importance. Public health can play this role in coordination with law enforcement, by increasing investment in spectrometry devices that check samples in community circulation and provide an early warning system for communities (including law enforcement).

In NM, drug overdose related emergency department (ED) visits increased overall by 11% from 1,857 visits in 2019 to 2,063 visits in 2023 with a peak in 2021 (2,343 visits). Opioid overdose related ED visits accounted for 72% of the total drug overdose related visits in 2023. Fentanyl overdose related ED visits have increased from 241 visits in 2021 to 590 visits in 2023. In 2023, Bernalillo County had the highest number of fentanyl overdose related visits (248 visits) followed by Dona Ana County (59 visits). Fentanyl overdose related visits were more common among men than women and were more common among adults ages 25-44 years. Several states, including California, Texas, Colorado, and Utah have enacted various measures to increase sentencing related to fentanyl trafficking.

Language in the bill could be amended to support public health strategies that DOH could invest in further. Community health worker (CHW) follow up after an ER overdose visit could be incredibly effective at supporting those who have overdosed by providing immediate and intensive navigation supports directed at harm reduction and recovery services.

Further investing in the DOH Harm Reduction drug checking program could assist law enforcement and communities with information about what new and dangerous adulterants have entered the drug supply. This approach would expand the number of FTIR machines in operation state-wide and could build out a more robust infrastructure in collaboration with law enforcement and community organizations working with people who use drugs in those parts of the state.

Standardizing substance prevention curriculum for all schools in coordination with PED to provide fact-based drug education could also be a continued focus to ensure we are doing what we can to go further upstream towards total prevention with children in NM.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No

- Goal 1:** We expand equitable access to services for all New Mexicans
- Goal 2:** We ensure safety in New Mexico healthcare environments
- Goal 3:** We improve health status for all New Mexicans
- Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

This bill would require NMDOH to hire full time employees (FTEs) to implement a wide range of services for fentanyl users. NMDOH must adhere to the Procurement Code in distributing funds to public and private entities.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB376 relates to HB107 which proposes to establish a tiered set of penalties for persons who traffic controlled substance analogues which result in the death of another person.

HB376 relates to SB95 which makes trafficking of fentanyl resulting in the death of another person a capital felony.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

None

9. HEALTH IMPACT(S)

In 2023, there were 948 drug overdose deaths in New Mexico (NM), with 72.6% of them (688) involving an opioid (prescription or illicit). Opioid-involved overdose deaths in NM peaked in 2021 but from 2022 to 2023 they slightly declined. However, during the same

period, fentanyl-involved overdose deaths quickly increased, from 312 (age-adjusted rate:16.1 per 100,000 persons) in 2020 to 619 deaths in 2022 (30.9 per 100,000 persons) but with a slight decrease in 2023 (613 deaths - 30.9 per 100,000 persons). In 2023, fentanyl was involved in 65% of the overdose deaths. Source NMDOH Substance Use Epidemiology Program.

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB376 is not enacted, the Border Security Division will not be created within the Department of Public safety and there will be no revision to penalties and fines for trafficking across the border. Additional money will not be appropriated to DPS, DOH, or local governments.

12. AMENDMENTS

None.