

LFC Requester:	SCOTT SANCHEZ
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AGENCY BILL ANALYSIS - 2025 REGULAR 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 25 *Check all that apply:*
Bill Number: SB 255 Original Corre
 Amendment Substi

Sponsor: Sen. Michael Padilla **Agency Name and Code** 790 – Department of Public Safety
Short Title: SALE OF FIREARMS WITHOUT BACKGROUND CHECK **Number:** _____
Person Writing H. L. LOVATO
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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) creates a new crime in state law for firearm sellers that decline or fail to perform background checks prior to finalizing sales.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

Current law mandates federal instant background checks for firearm transfers, with exemptions for immediate family members, law enforcement officers, and licensed dealers. The bill creates a new crime of facilitation of the unlawful sale of a firearm without a background check and makes it a third-degree felony. The existing language of the law would now apply to this new crime, allowing each party involved in the sale to be charged separately and allowing the sale of each firearm to be a separate offense. Additionally, the ability to combine two or more offenses in the same complaint, information, or indictment would now apply to this new crime. The bill also includes the unlawful sale of a firearm without a background check and facilitation of the unlawful sale of a firearm without a background check under the definition of “racketeering” in the New Mexico Racketeering Act.

SB 255 aims to close loopholes that allow firearm sales without background checks, addressing concerns over gun access by prohibited individuals. The bill aligns with federal law under **18 U.S.C. § 922(t)**, which requires background checks for firearm purchases. Adding the new crime of facilitation of the unlawful sale of a firearm without a background check to the definition of “racketeering” would provide stronger penalties when done within the scope of an enterprise or within racketeering practices. When done within the definition of “racketeering,” the offense would be a second-degree felony, and the crime of racketeering would constitute a separate and distinct offense apart from the enumerated predicate crimes. *State v. Johnson*, [1986-NMCA-084, 728 P.2d 473](#).

This amendment strengthens firearm sale regulations and aligns penalties with other serious criminal activities. This bill prevents firearms from reaching individuals who are prohibited from owning them, such as felons, domestic abusers, and those with mental health concerns. It reduces the risk of gun-related crimes by ensuring proper background checks. By adding unlawful firearm sales to the definition of “racketeering,” the law strengthens penalties, discourages illegal gun trafficking, and enhances law enforcement's ability to prosecute organized crime involving firearms. By tightening firearm sale regulations, this law helps create a safer environment, reduces gun-related crimes, and ensures that firearms are sold responsibly in New Mexico; therefore, NM DPS supports this legislation.

PERFORMANCE IMPLICATIONS

No performance implications to DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 255 builds on **New Mexico's 2019 background check law** but strengthens penalties and enforcement. It complements **18 U.S.C. § 922(g)**, which prohibits firearm possession by felons, fugitives, and certain other individuals.

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

Failure to enact SB 255 would maintain existing loopholes, allowing firearm transfers without mandatory background checks.

AMENDMENTS

None at this time.