

LFC Requester:

**AGENCY BILL ANALYSIS
2020 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date February 3, 2020
Bill No: SB 221-264

Sponsor: Stuart Ingle
Short Reinstate Death Penalty
Title: _____

Agency Name and Code Administrative Office of the District Attorneys 264
Number: _____
Person Writing Donald Gallegos
Phone: 575-770-3120 **Email** dgallegos@questalaw.

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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

Synopsis:

SB 221 will reinstate the death penalty in New Mexico as a punishment for the commission of first degree capital murder. The bill sets out the criteria for imposition of the death penalty and procedures for execution of the punishment.

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

Imposition of the death penalty will be only if one or more aggravating circumstances are found by a jury or judge (See section 3, page 4 and 5, section 4 page 5 in 6); and the victim is a Federal or State military member or a veteran (See page 6, lines 22-25).

The procedures, limitations and exceptions are very similar to those that were in place prior to the repeal of the death penalty in 2009. One of the changes is adding the situation where a trial may be had in front of a judge or a plea is made to the charge.

The duties of the district attorneys regarding the situations when a defendant, subject to the death penalty becomes insane (Section 15, page 15, lines 11-20) and when a female defendant may be pregnant while awaiting execution (Section 18, pages 16 and 17), are similar to those that were in place prior to the repeal of the death penalty.

If for any reason a judgment of death has not been executed and remains in force, the district attorney may apply to the court to have the judgment executed. In those situations where a defendant may be at large, a warrant of the defendant's arrest may be issued.

It is difficult to project how many cases will meet the criteria for the death penalty. As stated earlier, the death penalty can only be imposed when the victim is a federal or state military member or a veteran.

“Federal or state military member or veteran” (as enumerated in section 4, page 6, lines 20 to 25) appears to be anyone, presently serving, or who has served in the past, in any of the federal military agencies or State military agencies.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

The United States Supreme Court has held that imposition of the death penalty as a punishment for capital murder is not considered to be cruel and unusual punishment.

Provisions in SB 221 protect individuals under the age of 18, individuals with intellectual disabilities, individuals who may become insane while awaiting execution of the death penalty and pregnant females from being executed.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The death penalty will not be an option in those capital murder cases where there are aggravating circumstances and the victim is a federal or state military member or veteran.

AMENDMENTS