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FISCAL IMPACT REPORT

SPONSOR Munoz/Candelaria **ORIGINAL DATE** 02/25/21
LAST UPDATED 03/02/21 **HB** _____
SHORT TITLE Require Cabinet Secretaries to Reside in NM **SB** 357/aSRC
ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Office of the Governor

SUMMARY

Synopsis of SRC Amendment

The Senate Rules Committee amendment to Senate Bill 357 strikes language so that a cabinet secretary’s residency in the state during the term of his or her appointment no longer needs to be uninterrupted.

Synopsis of Original Bill

Senate Bill 357 amends Section 9-1-4 NMSA 1978, to require that a cabinet secretary file a signed affidavit with the governor stating that the secretary is a resident of New Mexico and will remain so for the term of his or her appointment. A secretary would be removed from office for failure to submit an affidavit or maintain uninterrupted residency in the state. "Resident" is defined in the bill as a person who lives in and is domiciled in New Mexico. Cabinet secretaries must submit affidavits within 30 days of the date of confirmation or the effective date of the bill, whichever is later.

The bill also updates language in statute to use the terms “the governor’s” or “the secretary’s.” Currently, those titles are otherwise referenced by the pronoun “his.”

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

None anticipated.

SIGNIFICANT ISSUES

DFA notes that the bill defines “resident” as someone who is “domiciled” in New Mexico, which carries a specific legal meaning beyond merely living in a location. The term “domicile” typically refers to a person’s “true, fixed and permanent home and principal establishment, to which that person intends to return and remain even though he or she may for a time reside elsewhere.” *Black’s Law Dictionary 206* (Pocket ed. 1996). The use of the term could potentially cause confusion or dispute in enforcing compliance of bill’s provisions, since an individual could be domiciled in one place but temporarily reside elsewhere.

OTHER SUBSTANTIVE ISSUES

Office of the Governor notes that a secretary’s move to the state could be delayed for reasons beyond his or her control, potentially making the 30-day deadline to submit an affidavit unfeasible.

ALTERNATIVES

Article V, Section 5 of the constitution allows the governor to remove any officer that he or she has appointed, and Article V, Section 15 requires that all cabinet-level heads must be confirmed or reconfirmed by the senate at the beginning of each term of governor, providing both the executive and legislative branches with opportunities to remove a cabinet secretary or refuse to confirm the secretary’s appointment.

AN/rl/al