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| 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: 13 February 2025 *Check all that apply:*
Bill Number: SB 359 Original Correction
 Amendment Substitute

Sponsor: Brandt **Agency Name and Code:** NM Sentencing Commission -- 354
Short Title: Removal of Unlawful Occupants **Number:** _____
Person Writing: Douglas Carver
Phone: 505-239-8362 **Email:** dhmcarver@unm.edu

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| | | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| | | | | |
| | | | | |

(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 | | | | | | |

(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 359 creates new process for eviction of people who are trespassing pursuant to Chapter 30, Article 14 NMSA 1978, what the bill defines as “unlawfully occupying”. The property owner or their agent may request that a law enforcement official remove someone unlawfully occupying property owned by the property owner. There are some qualifications limiting the circumstances where the owner may request those trespassing to be removed. HB 309 also puts in statute the complaint form to be used in these situations, and lays out the process under which notice is to be given to those illegally occupying the property. The bill notes, “Nothing in this section shall limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft or other crimes.”

SB 359 also amends Section 30-15-1 NMSA 1978, regarding criminal damage to property, by increasing the penalty for damage over \$1,000 from a fourth degree felony to a second degree felony.

SB 359 also amends Section 30-16-6 NMSA 1978, concerning fraud, by raising the penalty for fraud when the value of the property misappropriated or taken exceeds \$20,000 from a second degree penalty to a first degree penalty.

The final section of SB 359 creates a civil cause of action for a person removed pursuant to the provisions in the bill for ejection to seek to restore possession of the real property at issue.

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

The escalation of the penalty provided for in SB 359 in Section 30-15-1 NMSA 1978, regarding criminal damage to property, increasing the penalty for damage over \$1,000 from a fourth degree felony to a second degree felony, represents a tremendous jump in penalties for this statute. In present law, criminal damage to property under \$1,000 is only a petty misdemeanor. Additionally, second degree felonies are usually for the most serious crimes, involving harm to others and/or weapons, or far larger amounts of money (compare the larceny statute, Section 30-16-1, where larceny does not rise to a second degree felony until the value of the property stolen is over \$20,000, or the embezzlement statute, Section 30-16-8, where embezzlement does not

rise to a second degree felony until the embezzled amount is over \$20,000).

Similarly, raising the penalty of fraud of over \$20,000 to a first degree penalty is a disproportionate increase in penalty. First degree felonies are for the most serious crimes, involving serious harm or death to a person. As can be deduced by the above, raising the penalty for fraud over \$20,000 would make the penalty for fraud over \$20,000 greater than that for larceny over \$20,000 and embezzlement over \$20,000.

It is difficult to determine what the effect of passing SB 359 would be on the state's prison population. The average per day 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

SB 359 covers the same areas of law as HB 309 and HB 332.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS