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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/13

SPONSOR Candelaria LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Remove from Public Office for Felony SB 537

ANALYST Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Minimal	Minimal	Minimal			

(Parenthesis ( ) Indicate Expenditure Decreases)

Similar to SB 238, HB 203  
Conflicts with SJR 6

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
Administrative Office of the Courts (AOC)  
Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 537 (SB 537) makes changes to NMSA 1978, Section 10-1-2 (Public Office - Conviction of Crime) to provide that a person who is convicted of a felony while in public office shall be deemed to have resigned from that office immediately upon conviction and the office will be deemed vacant, unless that person has been pardoned to restored to political rights.

“Public office” is defined to mean any elective office in the state, any cabinet position, or any appointed position on a public board or commission.

### FISCAL IMPLICATIONS

For the AOC, there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Additional potential fiscal impact on the judiciary would be proportional to the increased arrests cases filed due to enforcement of this law and commenced

prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. The AOC states: “Efforts to quantify specific fiscal impact by case are underway, but specific information is not available at this time.

### **SIGNIFICANT ISSUES**

SB 537 seeks to correct a problem that occurred when a PRC Commissioner was convicted of a felony but refused to leave office, resulting in the AGO having to bring suit to remove her from office.

The AGO stated, in previous analysis, that the NM Supreme Court subsequently held that pursuant to Article VII, § 1, of the N.M. Constitution, the removal of an elected official becomes “effective upon the entry of the district court's judgment of [felony] conviction. State ex rel. King v. Sloan, 149 N.M. 620, 623 (2011). Therefore, with regard to elected officials, this bill is redundant because of the court’s ruling in Sloan.

However, SB 537 also makes automatic the removal of public officials, not just elected officials, who are convicted of a felony.

### **PERFORMANCE IMPLICATIONS**

The AOC states that the courts are participating in performance-based budgeting. This bill may have an impact on the performance measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type.

CAC/svb