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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/11/14

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

**SHORT TITLE** Removal From Public Office For Felonies **SB** 318

**ANALYST** Cerny

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

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal	Minimal		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB 316 and SB 287

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Attorney General's Office (AGO)

No Response From  
Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 318 amends Section 10-1-2 (Public Office - Conviction of Crime) NMSA 1978 to provide that a person who is convicted of a felony while in public office will be deemed to have resigned from that office immediately upon conviction and the office will be deemed vacant.

“Public office” is defined to mean any elective office, any cabinet position where the head is subject to confirmation by the senate, or any appointed position on a public board or commission.

### FISCAL IMPLICATIONS

SB 318 carries no appropriation. Minimal fiscal impact is anticipated.

Administrative Office of the Courts analysis of a similar bill states that there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Additional fiscal impact on the judiciary would be proportional to the increased court filings, which may occur due to enforcement of this law. 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. Efforts to quantify specific fiscal impact by case are underway, but specific information is not available at this time.

### **SIGNIFICANT ISSUES**

The New Mexico Constitution and not statutory law governs the automatic removal of elected officials. However, this bill would govern removal of other officials for felony convictions, namely cabinet secretaries and those appointed to a public board or commission

AGO analysis on a similar bill states: The New Mexico Supreme Court held that pursuant to Article VII, Section 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, 2011 NMSC 020, ¶13). Therefore, with regards to elected officials, this bill is redundant. However, with regards to other public officials, this Bill provides for the removal of public officers who are convicted of a felony.”

### **CONFLICT**

HB 316 and SB 287, both which add provisions such that any holder of a public office convicted of a felony would also forfeit any campaign funds.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

With regards to removal of elected officials, the bill does not alter existing law. But with regard to other public officials, without this bill, such public officials will be able to serve as public officials after being convicted of a felony.

CC/svb