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## FISCAL IMPACT REPORT

SPONSOR Campos ORIGINAL DATE 2/14/19  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Full-Time 8<sup>th</sup> District Attorney Position SB 531

ANALYST Torres

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
\$100.0	\$100.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	\$84.2	\$84.2	\$168.4	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to appropriations in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Defender Department (PDD)

#### Responses not Received From

Administrative Office of the District Attorneys (AODA)

### SUMMARY

#### Synopsis of Bill

SB 531 makes an appropriation of \$100 thousand from the general fund to the Eighth Judicial District Attorney's office for expenditure in the hiring of one attorney FTE.

### FISCAL IMPLICATIONS

The appropriation of \$100 thousand contained in this bill is for a recurring expense to the general

fund. Any unexpended or unencumbered balance remaining at the end of FY20 shall revert to the general fund.

The median, midpoint cost for 1 FTE attorney in the Eighth Judicial District is \$80.7 thousand.

The Public Defender Department (PDD) reports that this would increase workloads by an additional FTE. The midpoint cost for 1 FTE attorney for the PDD is \$84.2 thousand.

### **SIGNIFICANT ISSUES**

The Public Defender Department submits the following concerns:

“What is sauce for the goose is sauce for the gander.” *Kight v. Butscher*, 1977-NMCA-037, ¶ 29, 90 N.M. 386. Fairness and constitutional mandates dictate that if the district attorney gets another attorney, the LOPD should, as well.

There is no constitutional right to a prosecutor, but there most certainly is a constitutional right to a defense lawyer. No evidence gives reason to suppose that there is greater need presently for more prosecutors but not for additional public defenders. Appropriations bills of this nature might more appropriately seek equal funding between the various arms of the criminal justice system in order to avoid constitutional issues that will result from a disparity of resources allocated to prosecutor offices over those provided to LOPD, who is constitutionally mandated to provide conflict-free, effective representation, a mandate that will be challenged if prosecutors are unilaterally given greater resources.

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