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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13

SPONSOR Herrell LAST UPDATED _____ HB 241

SHORT TITLE Compact with America SB _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$0.0	\$0.0	\$0.0	Nonrecurring	None

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Department of Finance and Administration (DFA) indicated that it "has no comment on this legislation."

SUMMARY

Synopsis of Bill

This bill proposes that the State of New Mexico enter into an interstate compact for the purpose of initiating a federal constitutional convention and approving a balanced budget amendment to the United States Constitution.

The proposed compact sets forth the terms, procedures and administration of the proposed compact, and includes the text of a proposed balanced budget amendment. The compact is to be administered by an administrator and a commission, the commission is to be composed of one member from each compact state and three additional members. While states are bound by the compact, any state may withdraw so long as fewer than three-quarters of the states are members at the time of withdrawal.

Each compact member state agrees to undertake certain actions. First, the legislature of each member state must apply to the United States Congress for a convention to consider the proposed balanced budget amendment. Each state is to be represented by its governor at the convention, to be held in Dallas, Texas. In the event the convention takes place and the balanced budget amendment is approved, the compact states are bound to petition Congress to refer the proposed

amendment to state legislatures for ratification. The compact also includes a provision whereby “each member state, by and through its respective Legislature, hereby adopts and ratifies the Balanced Budget Amendment.”

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

Opponents of such a compact note that there is no way to make sure delegates attending the called-for constitutional convention would not exceed the objective to propose a balanced budget amendment, and even if they did, there would be no guarantee that a balanced budget amendment would improve the country’s financial prospects. Further, opponents argue that today’s delegates would be so influenced by various special interests and lobbyists that a “rewrite” could not possibly improve upon the original document at this juncture.

OTHER SUBSTANTIVE ISSUES

The AGO points out that under the US Constitution, certain interstate compacts are subject to Congressional approval. In relevant part, Article I, Section 10, Clause 3 reads, “[n]o State shall, without the Consent of Congress...enter into any Agreement or Compact with another State.”

However, despite the prohibitive language employed in Clause 3, not all interstate agreements or compacts are subject to Congressional review and approval. Rather, only agreements that are “directed to the formation of any combination [of states] tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States.” *Virginia v. Tennessee*, 148 U.S. 503, 519 (1893).

Given that this compact is designed to facilitate the express constitutional right of states to propose amendments through constitutional conventions and ratify constitutional amendments, see U.S. Const., Art. V, congressional approval may well be unnecessary in this instance.

ALTERNATIVES

The AGO notes that New Mexico could undertake alternate means to invoke its Article V rights to join with other states to amend the United State Constitution.

CEB/svb