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## FISCAL IMPACT REPORT

SPONSOR McSorley DATE TYPED 02/23/05 HB \_\_\_\_\_

SHORT TITLE Protection of Right to Own Property, CA SB SJR 10

ANALYST Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General (AGO)  
Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 10 proposes to amend Article 2 of the New Mexico state constitution by repealing Section 22, which bars any person who is ineligible to citizenship, or corporation, co-partnership or association owned by such persons, from owning property, unless otherwise provided by law. The proposed amendment is subject to approval by the voters.

#### Significant Issues

Section 45-2-111 NMSA 1978 provides for an alien to own property:

45-2-111. Alienage

A. No individual is disqualified to take as an heir because the individual or an individual through whom he claims is or has been an alien.

B. Aliens shall have full power and authority to acquire or hold real property and personal property by deed, will, inheritance or otherwise and to alienate, sell, assign and

transfer any property to their heirs or other persons, whether the heirs or other persons are, or are not, citizens of the United States.

C. When an alien having title or interest in any real property dies, the real property shall descend and vest in the same manner as if the alien were a citizen of the United States. The heir of an alien, whether the heir is an alien or not, shall have the same rights and resources and shall, in all respects, be treated on the same footing as a native citizen of the United States with respect to the personal estate of an alien dying intestate, and all persons interested in the estate, under the laws of New Mexico, whether aliens or not.

The AGO has opined that since this law was enacted subsequent to Article 2, Section 22 (which was added to the constitution in 1921), it operates to suspend the prohibition against ownership of real property persons ineligible to citizenship.

**EF/lg**