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FISCAL IMPACT REPORT

SPONSOR Bandy **ORIGINAL DATE** 02/08/12
LAST UPDATED _____ **HJR** 5
SHORT TITLE Limit Agency Compensation for Legislators, CA **SB** _____
ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$104.0				General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Joint Resolution 5 proposes an amendment to article 4, section 10 of the Constitution of New Mexico to limit legislators from receiving compensation by a public agency during regular or special sessions.

The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

The SOS reports that in accordance with Section 1-16-4 NMSA 1978, upon receipt of the certified proposed constitutional amendment or other question from the Secretary of State, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed Constitutional amendment or other question in accordance with the constitution of New Mexico.

Although the county clerk includes the proposed amendments in the clerk's proclamation, it is the responsibility of the State to pay for the costs associated with the publication per Section 1-16-13 NMSA 1978, including printing samples of the text of each constitutional amendment in

both Spanish and English in an amount equal to ten percent of the registered voters of the state. There are currently 1.7 million registered voters in the state. Voters whose election mail is returned as undeliverable will be sent the proper notice under federal law in 2012, and if they do not vote in the next two federal elections, may be purged in 2015. Under these timelines, the voter roll is expected to increase until the purge in 2015.

The SOS reports that in 2010, the publication cost was \$520,000 for 5 constitutional amendments, or approximately \$104,000 per amendment. Although the SOS is continually seeking ways to reduce publication costs, it believes the 2010 figure is a reasonable projection for 2012 costs, given the increasing number of voter registrations.

SIGNIFICANT ISSUES

The AOC explains that HJR 5 will expand article 4, section 10 by broadly defining state employment, but excluding retirement benefits from the definition of state compensation.

The AGO provided the following:

It is unclear whether this resolution is proposing (1) a limited ban on receiving a salary from state government, or (2) a comprehensive ban on receiving a salary from both state and local government.

The confusion arises because there is no uniform language used in New Mexico statutes to define both state and local government. As one example, the Governmental Conduct Act and the Whistleblower Protection Act both apply to state and local government, but each statute uses different language to define state and local government, as shown below:

<p align="center">Governmental Conduct Act N.M. Stat. Ann. § 10-16-2</p>	<p align="center">Whistleblower Protection Act N.M. Stat. Ann. § 10-16C-2</p>
<p>G. "local government agency" means a political subdivision of the state or an agency of a political subdivision of the state;</p> <p>K. "state agency" means any branch, agency, instrumentality or institution of the state;</p>	<p>C. "public employer" means:</p> <p>(1) any department, agency, office, institution, board, commission, committee, branch or district of state government;</p> <p>(2) any political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived;</p> <p>(3) any entity or instrumentality of the state specifically provided for by law; and</p> <p>(4) every office or officer of any entity listed in Paragraphs (1) through (3) of this subsection;</p>