

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**SPONSOR** Egolf **ORIGINAL DATE** \_\_\_\_\_  
**LAST UPDATED** 02/01/12 **HB** HJR 25

**SHORT TITLE** No Election Money From Corporations, CA **SB** \_\_\_\_\_

**ANALYST** Wilson

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

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 74, HB 113, HB 114, HB 207, HM 4, SB 11, SB 12, SB 103, SB 105, SB 116 & SB 117

### SOURCES OF INFORMATION

LFC Files

Response Received From  
Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 25 proposes an amendment to article 11 of the constitution of New Mexico to prohibit candidates from soliciting or accepting campaign contributions from corporations or other business entities.

No candidate for state or county elective office shall solicit or accept a contribution for the candidate's campaign from the following entities, whether organized inside or outside of the state: sole proprietorships, partnerships, joint ventures, limited liability companies, corporations or any other organizations or entities engaged in the operation of a business or profit-making activity.

Candidates may not solicit or accept contributions from political parties, campaign committees, political committees or other organizations formed to advocate for the election or defeat of candidates for public office unless the entity is subject to the state's campaign reporting requirements.

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 AGO provided the following:

The ban on corporate contributions was upheld under *FEC v. Beaumont* allowing the state to ban direct contributions to candidates from corporations. In fact, federal law has banned corporate contributions since 1907, and this prohibition is common among our sister states. The state can even ban direct contributions from nonprofit advocacy corporations, which was the exact issue in *Beaumont*.

However, there is an ambiguity in the wording of the resolution. It is unclear whether it intends to go as far as *Beaumont* allows. That is, does the resolution ban contributions from nonprofit corporations? Or is the ban limited to for-profit corporations? While the resolution bans contributions from any other organizations or entities engaged in the operation of a business or profit-making activity, it is not clear whether this description modifies the list of artificial entities that precede it.

The resolution only allows direct contributions from associations such as political committees and others that are regulated by the Campaign Reporting Act. However, New Mexico only regulates committees operated primarily for a political purpose. Political purpose means influencing or attempting to influence an election. Therefore, an association of individuals who do not operate primarily for a political purpose would be banned from contributing to a candidate. This ban could face constitutional challenges for infringement on freedom of association.

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HJR 25 relates to the following:

- HB 74, Conservancy District Absentee Ballots
- HB 113, Voter ID Requirements
- HB 114, No Corporation Influence on Elections
- HB 207, Voter Identification Requirements
- HM 4, Opposition to Citizens United Ruling
- SB 11, Campaign Reporting & Definitions
- SB 12, Campaign Public Financing Changes
- SB 103, No Legislator Lobbying for One Year
- SB 105, Public Campaign Financing
- SB 116, Use of Legislative Campaign Funds
- SB 117, Elections Commission Act

**POSSIBLE QUESTIONS**

Will the Secretary of State be responsible for enforcing the provisions in this constitutional amendment if the voters approve it?

DW/lj