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| LFC Requester: | Carswell |
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: February 26, 2025 *Check all that apply:*
Bill Number: HM 27 Original Correction
 Amendment Substitute

Sponsor: Rep. Serrato, Rep. Hernandez **Agency Name and Code** State Ethics Commission (410)
Short Title: Anti-Donation Clause Interim Committee Work **Number:** _____
Person Writing Jessica Randall
Phone: 859-9625 **Email** jessica.randall@sec.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| | | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| | | | | |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|-------------------|---------------------------|---------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Article IX, Section 14 of the New Mexico Constitution, commonly known as the “Anti-Donation Clause” was enacted to protect the public from public officials making imprudent credit pledges and other subsidies of private enterprises that exposed the public to loss or liability. Over the last 113 years, the people of New Mexico have reviewed and approved eight specific exceptions to the general prohibition against donations to private individuals where the voters have determined those exceptions constitute acceptable donations of public funds. Most recently, in 2022 the voters approved an amendment adding subsection (H), which provides:

Nothing in this section prohibits the state from expending state funds or resources for the purpose of providing essential services primarily for residential purposes if the assistance is granted pursuant to general implementing legislation approved by a majority vote of those elected to each house of the legislature. The implementing legislation shall provide for accessibility to essential services primarily for residential purposes and include safeguards to protect public money and other public resources used for the purposes authorized in this subsection. As used in this subsection, “essential services” means infrastructure that allows internet, energy, water, wastewater or other similar services as provided by law.

Noting that activation of this exception requires implementing legislation, HM 27 seeks to form an interim committee through the Legislative Council Services to determine the best methods to offer the provision of state assistance for essential services, and thereafter develop legislative initiatives based on those findings, in preparation for the legislative session in 2026.

FISCAL IMPLICATIONS

The fiscal impact on the State Ethics Commission (“SEC”) is unlikely. Under the State Ethics Commission Act, NMSA 1978, §§ 10-16G-1 to -16 (2019, as amended through 2023) the Commission is tasked with enforcement of Article IX, Section 14. However, HM 27 is not in and of itself enacting legislation nor does it otherwise impact the Anti Donation Clause directly or affect any other laws. Rather, HM 27 requests LFC to convene a committee to determine the most practical approaches in anticipation of developing said legislation.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HM 27 is not in and of itself enabling legislation for the most recent exception to the Anti-Donation Clause. However, without the enabling legislation that HM 27 aims to propose for legislative consideration, the state will remain unable to spend funds under that exception.

AMENDMENTS