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F I S C A L I M P A C T R E P O R T

SPONSOR: Bailey DATE TYPED: 03/05/01 HB
SHORT TITLE: "Valid Marriage" Defined, CA SB SJR19
ANALYST: Gonzales

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Office of the Attorney General

SUMMARY

Synopsis of Bill

Senate Joint Resolution 19 proposed to amend Article XX of the Constitution of New Mexico to define the only recognized or valid marriage in New Mexico is one that is performed or entered into between one man and one woman.

Significant Issues

This resolution also states a same sex marriage is a violation of New Mexico public policy, is void and not recognized even if valid when and where contracted. This amendment shall be approved or rejected at the next general election or a special election before the general election which may be called for this purpose.

OTHER SUBSTANTIVE ISSUES

The Office of the Attorney General reports the following:

As an amendment to the N.M. Constitution, the prohibition against same-sex marriages probably would avoid legal challenge on state constitutional grounds. In addition, the view that persons of the same gender have no capacity or capability to marry each other has generally survived challenges under the federal constitution. See, e.g., Jones v. Hallahan, 501 S.W.2d 588 (Ky. 1973) (no constitutional sanction or protection of the right of marriage between persons of the same sex); Baker v. Nelson,

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191 N.W.2d 185 (Minn. 1971) (no due process or equal protection violation), appeal dismissed, 409 U.S. 810 (1972); Singer v. Hara, 522 P.2d 1187 (Wash. Ct. App.) (same), review denied, 84 Wash.2d 1008 (Wash. 1974). See generally Annotation, Marriage Between Persons of the Same Sex, 63 A.L.R.3d 1199 (1975 & Supp. 1999).

JMG/njw:ar