

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 ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas 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

ORIGINAL DATE 02/04/13

SPONSOR Espinoza/Woods LAST UPDATED \_\_\_\_\_ HJR 4

SHORT TITLE Marriage Defined SB \_\_\_\_\_

ANALYST Chabot

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$50.0		\$50.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HJR 3

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Children, Youth and Families Department (CYFD)  
 Los Alamos County Clerk's Office

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 4 proposes to amend the Constitution by adding a new section to read: "Marriage in this state shall consist only of the union of one man and one woman." It is to be submitted for approval by the people in the next general election or any statewide election called prior to that election.

### FISCAL IMPLICATIONS

In previous analyses, the Secretary of State has estimate the cost of putting a constitutional amendment in a general election at \$50 thousand.

The Los Alamos County Clerk's office assesses changes in forms and licenses may require additional county funds.

**SIGNIFICANT ISSUES**

New Mexico's marriage law does not mention gender, but Section 40-1-1 defines marriage as a civil contract between contracting parties.

The AGO, in an analysis that is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion letter, provides "The amendment...would effectively bar civil marriages for same sex couples. If approved by the state's voters, the amendment likely would be challenged in court under the Equal Protection Clause of the 14<sup>th</sup> Amendment to the U.S. Constitution. See, e.g., Perry v. Brown, 671 F.3d 1052 (9<sup>th</sup> Cir.) (holding that Proposition 8, which was adopted by California voters and eliminated the right of same sex couples to marry, violated the 14<sup>th</sup> Amendment, cert. granted, \_\_\_ U.S. \_\_\_, 184 L.Ed2d 526 (2012); Sevcik v. Sandoval, 2012 U.S. Dist. LEXIS 1696643 (D. Nev. 2012) (holding that the 14<sup>th</sup> Amendment did not prohibit Nevada law reserving civil marriages only to one man and one woman).

GAC/bm