

LFC Requester:

C. Carswell

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: 02/25/25

Check all that apply:

Bill Number: HM27

Original Correction

Amendment Substitute

Agency Name

and Code

OSA 308

Number:

Sponsor: Serrato and Hernandez

Person Writing

David Craig

Short Title: ANTI-DONATION CLAUSE

INTERIM COMMITTEE

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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:

House Memorial 27 (HM27) requests Legislative Council to create an interim committee to address an exception to the anti-donation clause to provide for essential services, and to develop legislative proposals based on the committee's findings for the 2026 legislative session.

FISCAL IMPLICATIONS

House Memorials do not carry appropriations.

SIGNIFICANT ISSUES

HM27 discusses the Constitutional amendment approved by voters in 2022 to provide an exception to the anti-donation clause to allow the state to expend funds or resources to provide essential services primarily for residential purposes, including infrastructure that allows internet, energy, water, wastewater or other similar services.

The exception included a requirement that state expenditures for that purpose include safeguards to protect public money and other public resources.

HM27 creates the requirements for the new committee and details items of examination to include:

- Identifying the Bureau, Department, Instrumentality or other type of entity most efficient and accountable to provide assistance to build infrastructure for internet, energy, water, wastewater or other similar services;
- A recommendation on a single entity to assist all essential services or several separate public entities, each specifically dedicated to a particular type of essential service, would be more efficient and provide greater accountability to safeguard public money and other public resources;
- Whether to establish a prototype program to provide assistance for one type of essential service or to implement a broad spectrum assistance program for all essential services;
- Determining the criteria for essential services should be based on the poverty levels in a community, the percentage of households without a particular utility service or some other condition within a community;
- Whether to require some level of matching funding from local governments;
- The most effective method to ensure accountability for a state assistance program and whether legislative oversight would be best accomplished by tasking oversight to an existing interim committee or establishing a new interim committee; and
- A reasonable annual budget for an assistance program for essential services.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

In an analysis of another bill, OSA compared the anti-donation or public money restrictions in the state constitutions of Arizona, Texas, Oklahoma, Colorado, and Utah with the anti-donation clause in New Mexico. Among the commonalities were the following: all states prohibit the use of public funds for private benefit without clear public purpose, but exceptions are typically allowed for public purposes or specific programs. Many had restrictions on lending credit and making donations are prevalent. Notable differences include:

- Arizona and Colorado have specific provisions for investment and energy development through broader investment strategies like New Mexico's State Investment Council;
- Texas allows for infrastructure improvements with voter approval;
- Oklahoma and Utah emphasize restrictions on sectarian use of public funds; and
- New Mexico has the most and the most detailed exceptions for various public benefit programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HM27 relates to HB290 as well as HJR11, a proposed constitutional amendment that must be approved by voters for HB290 to become effective.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS