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FISCAL IMPACT REPORT

SPONSOR Ely/Figueroa/Garratt/ Stansbury **ORIGINAL DATE** 1/28/19
LAST UPDATED 2/19/19 **HB** 93/aHSEIC

SHORT TITLE Primary Election Participation By DTS Voters **SB** _____

ANALYST Glenn

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate		Recurring	See Fiscal Implications

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 86 and SB 52

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
Secretary of State’s Office (SOS)

SUMMARY

Synopsis of HSEIC Amendments

The House State Government, Elections & Indian Affairs Committee amendments to House Bill 93 replace references to “an unqualified” political party throughout the bill with “a minor” political party.

Synopsis of Original Bill

House Bill 93 amends the Election Act to allow voters not affiliated with a major political party, as evidenced by their voter registration certificate, to cast a ballot in primary elections. Unaffiliated voters would participate in a primary election by choosing which major political party ballot to cast for the election. The voter’s political party affiliation as evidenced by their voter registration certificate would not be altered, however, the voter would be afforded the opportunity to nominate candidates for the succeeding general election, including presidential nominees in a presidential election year.

The effective date of HB 93 is July 1, 2019.

FISCAL IMPLICATIONS

SOS states that in order to project the number of paper ballots that must be pre-printed for each primary election, SOS and county clerks calculate an expected voter turnout and print a percentage of each party ballot based upon the number of registered voters of the parties for each precinct. Under the provisions HB 93, ballot projections may be more difficult to determine as it will be difficult to anticipate which ballot style the unaffiliated voter may choose. This could result in ballot printing costs increasing in the primary election; however, this would not be an issue in precincts that use a ballot-on-demand printing system.

SIGNIFICANT ISSUES

SOS states that by allowing voters without a party designation or those who are affiliated with an unqualified political party to participate in the primary election, HB 93, if enacted, would likely increase voter participation in the primary election.

NMAG notes that the NM Supreme Court recently upheld New Mexico’s current closed primary system, which allows only voters affiliated with a major political party to participate in a primary election. See *Crum v. Duran*, 2017-NMSC-013. The Supreme Court found that the system imposed a reasonably modest burden that furthered the state's interest in securing the purity of elections and effectively administering them.

ADMINISTRATIVE IMPLICATIONS

SOS notes that if HB 93 is enacted, the roster of eligible voters generated in each county would be required to include all registered voters, regardless of party affiliation. According to SOS, its current election management system is capable of generating this type of roster without any additional system enhancements, and includes the ability to print a ballot for the major political party selected by an unaffiliated voter.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 93 conflicts with HB 86 and SB 52 because each of the bills amend NMSA 1978, Section 1-12-20.

OTHER SUBSTANTIVE ISSUES

NMAG notes with respect to minor party members permitted to vote in major party primary elections, in HB 93 there may be some confusion about which party such persons are “affiliating with.” By law, such persons are still affiliated with a minor party, but by the language of HB 93 they are also choosing to affiliate with a major party.