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FISCAL IMPACT REPORT

SPONSOR Payne DATE TYPED 2/8/05 HJR 3

SHORT TITLE Law and Amendment Initiative Process, Constitutional Amendment SB _____

ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to the Constitution of New Mexico
 Duplicates HJR 7

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Attorney General

SUMMARY

Synopsis of Joint Resolution

House Joint Resolution 3 proposes to amend Article IV of the Constitution of New Mexico, which currently allows for referendum on legislation, or citizen disapproval of a law, with provisions allowing the people of New Mexico the power of initiative to amend the Constitution and Laws of New Mexico. The Joint Memorial defines initiative as the power of the people to propose statutes and amendment to the Constitution of New Mexico and to also adopt or reject them. The initiative process as proposed in this Joint Memorial is defined as follows:

- If eight percent of the voters sign a petition for a constitutional change, then it shall be placed on the ballot at the next general or special statewide election.
- If five percent of the voters sign a petition for a statutory change, then it shall be submitted to Legislature for its consideration. The Legislature may enact the proposal. If the Legislature rejects it, then the proposal shall be placed on the ballot at the next general or special statewide election. If the Legislature amends it, then

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the proposal and the Legislature's proposal shall both be placed on the ballot at the next general or special statewide election.

- If the voters approve a statutory change, then the Legislature cannot repeal it unless there is 2/3 vote.
- If two conflicting initiatives are approved during the same election, the one with the greatest number of votes shall take effect.
- If the voters reject a constitutional or statutory change, then it cannot be placed onto the ballot until a minimum of two years has elapsed.
- It is a felony to sign a petition when the person is not a qualified elector, to sign twice, or to sign for another.
- A statutory initiative cannot create a public debt or provide for a local or special law.
- A constitutional or statutory initiative cannot logroll two subjects together.

Significant Issues

According to the Attorney General's staff analysis:

- The Legislature has plenary power to make laws unless it is limited by the state Constitution. This proposal is such a limitation.
- The other states that have an INITIATIVE process require anywhere from 3-15% of the voters to sign the petition. The proposal is within this range.
- The referendum process in Article IV, Section 1 requires at least ten percent.
- Colorado requires proposed initiatives to be submitted to its Legislative Council Service to make sure the citizenry does not become confused over the wording of the proposal and this joint resolution does not include such language.

FISCAL IMPLICATIONS

House Joint Resolution 3 specifies that no statutory initiative shall create a public debt or provide for local or special laws. The costs to enforce the felony provision and costs to the judicial branch to prosecute felons cannot be determined. Depending on the number of initiatives to be placed on the ballot, Secretary of State may incur additional costs over and above current expenses.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HJR 7

DXM/rs