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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/08/17

SPONSOR Maestas LAST UPDATED \_\_\_\_\_ HB HJR6

SHORT TITLE Top Two Candidates Open Primary Elections, CA SB \_\_\_\_\_

ANALYST Esquibel

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>			\$50.0- \$100.0	\$50.0- \$100.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

HJR6 relates to HB206, Unaffiliated Voters in Primary Elections.

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Secretary of State's Office (SOS)

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 6 (HJR6) proposes to amend Article 7 of the New Mexico Constitution to allow for a "voter nomination" primary election instead of the current major party primary nomination process currently in place. The voter nomination primary election would be open to all voters and candidates for congressional office, state executive office, legislative office, judicial office, and county office regardless of party affiliation. The top two vote getters in each race in the primary would move on to appear on the general election ballot.

### FISCAL IMPLICATIONS

The Secretary of State's Office (SOS) indicates under the provisions of the proposed legislation the costs for conducting a primary election increase due to likely having a longer ballot. Longer ballots take longer to print, longer to fill out, and longer to tabulate which all lead to needing more resources, such as ballot on demand systems and voting booths, to ensure lines are managed appropriately. Additionally, it is likely that a separate presidential primary would be required in presidential election years since the SOS office is not included in the proposed bill. A separate primary election for the purpose of nominating presidential candidates would likely

increase costs and administrative overhead at the Secretary of State's Office as well.

Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. LFC staff estimate each constitutional amendment may cost from fifty thousand dollars to one hundred thousand dollars (\$50,000-\$100,000) in printing and advertising costs based on 2016 actual expenditures.

## **SIGNIFICANT ISSUES**

The Secretary of State's Office (SOS) indicates the proposed legislation specifically excludes the position of President and Vice President of the United States from the proposed voter nomination process. It is unclear without enabling legislation how the primary election would be conducted during presidential primary years. In California, which this legislation appears to be modeled after, qualified political parties hold separate presidential primaries in one of two ways: 1) a closed presidential primary in which only voters indicating a preference for a party may vote for that party's presidential nominee, or 2) a modified closed presidential primary in which the party allows votes who do not have a party preference to vote for that party's presidential nominee.

## **PERFORMANCE IMPLICATIONS**

The Secretary of State's Office (SOS) notes under current law, the primary election is conducted in order to determine the major party candidate nominations that shall move forward to the general election. This requires a separate ballot be prepared for each major party voted upon by the qualified electors registered with the relevant major party affiliation. If HJR6 passes, significant amendments would be required in Article 7, Political Parties, and Article 8, Nominations and Primary Elections, of the election code. Amendments would include those relating to the timing of the qualification of minor parties, major and minor candidate nominating procedures including those determined at pre-primary party conventions, filling vacancies on the ballot, filing deadlines for minor party and independent candidates, certification of candidates, and defining the order of the candidates on the ballot. Amendments would also be required to Article 19A, related to the public financing of certain campaigns to adjust deadlines for minor party and independent candidates, who currently do not file for candidacy until after the primary election has occurred.

There is typically a much lower voter turnout in a primary election compared to a general election. If voter nominated primary elections are adopted in New Mexico, it could result in fewer choices being presented to the voters during the higher turnout general election resulting in fewer people participating in choosing who is ultimately elected to office. Conversely, a voter nominated primary is open to voters of all parties which could result in an overall increase in voter participation in the primary election.

## **ADMINISTRATIVE IMPLICATIONS**

This bill appears to be modeled after the voter nominated primary currently in place in California in which the primary is open to all voters and all candidates for state constitutional offices, legislative offices, and congressional office regardless of party preference.

Depending upon the details of the enabling legislation, it is anticipated there would be an additional administrative impact on the SOS if the office is required to oversee the conduct of two separate primary elections, one for presidential nominees, and one for voter nominated candidates. The SOS additional responsibilities would include additional election programming and support, ballot preparation, and election related publications and notices.

**RELATIONSHIP**

HB206 proposes an alternative form of an open primary.

RAE/sb