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FISCAL IMPACT REPORT

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| SPONSOR <u>Figueroa/Dixon</u> | LAST UPDATED <u>02/02/23</u> |
| | ORIGINAL DATE <u>01/26/23</u> |
| SHORT TITLE <u>Ballot Requests For Open Primary Elections</u> | BILL NUMBER <u>House Bill 54/aHGEIC</u> |
| | ANALYST <u>Hitzman</u> |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| | FY23 | FY24 | FY25 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|-----------------------------------|-------------------------|--------------------------------|------------------|--------------------------------|---------------------------|---------------|
| Primary Election Mailers** | No fiscal impact | Roughly \$125.0 | No fiscal impact | \$125.0 | Recurring | Election Fund |
| Ballot On Demand System | No fiscal impact | \$500.0 - \$1,000.0 | No fiscal impact | \$500.0 - \$1,000.0 | Nonrecurring | Election Fund |
| Total | No Fiscal Impact | \$625.0 - \$1,125.0 | \$125.0 | \$625.0 - \$1,125.0 | | |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

** Primary election costs will be incurred in FY24 and will recur every other year.

Duplicate of Senate Bill 73

Sources of Information

LFC Files

PEW Research – *Party affiliation among adults in New Mexico*

Secretary of State Files - *2021 Voter Registration Data (Statewide Registration, 12/2022)*

Responses Received From

Secretary of State (SOS)

No Response Received

County Clerks Affiliate

Association of Counties

SUMMARY

Synopsis of HGEIC Amendment

The House Government, Elections and Indian Affairs Committee amendment to House Bill 54 replaces a reference to "political party represented on the ballot" and inserts in lieu thereof the term "major political party," allowing a challenge to be interposed if someone who is currently affiliated with a "major political party" requests a ballot for another party with which the person is not affiliated.

Synopsis of Original House Bill 54

House Bill 54 (HB54) amends the Election Code to allow voters to select a major party ballot and vote in primary elections even if the voter is unaffiliated with a major party without having to change their registration status.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

This bill would essentially make all voters eligible to participate in primary elections, which could have an impact on voter turnout. If there is a resulting increase in voter turnout as a result of this bill, the Secretary of State's Office (SOS) estimates the need for additional ballot on demand systems to accommodate the increase. The office estimates a nonrecurring cost of \$500 thousand to \$1 million for the additional systems, based on the real difference of ballot on demand costs from the 2022 primary.

HB54 requires additional notices be sent to voters who are unaffiliated with a major party during a primary election. The increase in mail ballot election precinct notifications would result in additional costs. SOS notes "mail ballot precincts have fewer than one hundred voters and the nearest polling place for an adjoining precinct is more than twenty miles driving distance from their boundaries. These precincts are exceptional in that they are created upon request of the county clerk. There are many more precincts in New Mexico that are not mail-ballot precincts." According to the office, costs would vary based on size of the precinct and number of voters within who are unaffiliated with a major party.

However, generally the office reports it spends \$500 thousand to notify voters per election. Given that nearly one quarter of voters would need to be notified due to their unaffiliated status, this could result in an additional cost of \$125 thousand, and the amount is scored as recurring. However, the cost would only be incurred every other year when there is a primary election. Additionally, that estimate also includes costs of notifying voters during special elections, which the SOS takes over for the counties, so this estimate likely overstates the expected cost to some extent.

SIGNIFICANT ISSUES

Although it is unclear from the provisions of the bill how many individuals would now be eligible to vote in a primary election who were not eligible before, Pew Research finds 15 percent of New Mexican adults identify with no particular party, equating to roughly 315 thousand individual who could be impacted by this bill. This aligns relatively closely with the Secretary of State's voter information data, which shows as of December 2022, 22.6 percent of registered voters in New Mexico were not affiliated with one of the three major parties—Democratic, Republican, and Libertarian. Therefore, under the provisions of HB54, almost one quarter of the state's registered voters would now be able to vote in a primary election.

The bill allows independent voters to affiliate with a political party just for a primary election without changing their certificate of registration. According to SOS, other states seem to allow this semi-open primary structure, including Colorado, Iowa, Kansas, Massachusetts, New

Hampshire, Rhode Island, West Virginia, and Wyoming. The office notes any legal challenge will come down to whether the voter is meaningfully affiliating with a major political party or not.

Further, Section 7 of the bill allows for certain challenges, and the office notes Subsection (E) as amended, which allows challenges if someone who is currently affiliated with a “major political party” requests a ballot for another party with which the person is not affiliated, “may be impossible to verify if the independent voter is not changing their voter registration.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

During an election and in accordance with existing law, the Secretary of State and county clerks will continue to provide voters not registered with a major party the opportunity to register with a major party and vote in primary elections.

JH/rl/hg/al