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## FISCAL IMPACT REPORT

ORIGINAL DATE 1-29-09

SPONSOR Park LAST UPDATED \_\_\_\_\_ HB 299

SHORT TITLE Alternate Method of Primary Ballot Access SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Attorney General's Office (AGO)

No Responses Received From  
Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

House Bill 299 would enact a new section and amend several provisions of the Primary Election Law, NMSA Sections 1-8-10 to 1-8-52 to allow a person to become a major party candidate for office in a primary election by paying a fee at the time of filing a "Declaration of Candidacy" in lieu of having to submit a nominating petition or be nominated at a party convention.

Filing fees would be four percent of the annual salary for an office for which a salary is paid; one hundred dollars (\$100.00) for the office of state legislator; and fifty dollars (\$50.00) for any other office for which no salary is paid.

### SIGNIFICANT ISSUES

According to the Attorney General's Office, the Primary Election Law applies to major political party nominations for all offices that are to be filled at the general election with the exception of presidential electors. This bill would allow any person to declare themselves a candidate for

office representing a major political party by filing a Declaration of Candidacy and paying the appropriate filing fee. State law would continue to require that the person actually be a member of that political party. See NMSA Sections 1-8-18; 1-8-29. The bill would not require the submission of nominating petitions with required signatures, or preprimary convention designations by their political party. See NMSA Section 1-8-21 for current requirements for being placed on the primary election ballot.

There do not appear to be any state or federal constitutional limits on the state enacting a law allowing an individual party member to file a declaration of candidacy in a primary election representing that political party without the “endorsement” of the party.

## **RELATIONSHIP**

Relates to Senate Bill 3, which amends identical provisions of the Election Code but provides that county candidates do not have to pay filing fees.

## **TECHNICAL ISSUES**

The title of the “Declaration of Candidacy” in NMSA Section 1-8-29 reads “Declaration of Candidacy by Pre-Primary Convention Designation (or by Nominating Petition). This bill does not amend that title to also provide for declaration of candidacy by payment of a filing fee.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Nominating petitions, or party convention nomination, would continue to be required in order for a person to be named as a candidate representing a major political party in a primary convention.

## **POSSIBLE QUESTIONS**

The New Mexico Supreme Court has upheld the legality of requiring nominating petitions to avoid “laundry list” of candidates on ballots. See Dillon v. King, 87 N.M. 79, 82-82 (1974). The issue with using the filing fee as the tool is if the legislature set it too low, there will be a laundry list of candidates and if the legislature sets it too high, only well-funded candidates will participate.

EO/mt