

LFC Requester:

Emily Hilla

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:

Original   X   Amendment \_\_\_\_\_  
Correction \_\_\_\_\_ Substitute \_\_\_\_\_

Date Prepared: January 30, 2024

Bill No: HM26

Sponsor: Rep. John Block

Short Title: REMOVAL OF  
CANDIDATES FROM  
BALLOT

Agency Name and Code Number: 305 – New Mexico  
Department of Justice

Person Writing Analysis: Sean Sullivan, AAG

Phone: 505-537-7676

Email: legisfir@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

The proposed memorial seeks a House resolution stating that efforts to remove candidates from primary or general election ballots be opposed and that candidate choice should be supported. The proposed memorial further seeks a resolution that those voters in other states that have been denied a right to vote for the candidate of their chose are welcomed to take up residence in New Mexico, and that copies of the memorial be transmitted to various state governmental entities that have taken steps to remove former President Donald Trump from state ballots.

As support for the resolution, the proposed memorial cites: the decisions by the Colorado Supreme Court, Maine Secretary of State, steps by other states seeking to do the same and legal actions by a competing presidential candidate to remove former President Donald Trump from primary or general election ballots.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

The memorial seeks a blanket opposition to any efforts to remove candidates from state primary or general elections without consideration to what factual basis may support such efforts under existing constitutional law or state statute. While this memorial is intended to forestall the possibility of a 14th Amendment ‘insurrectionist’ challenge against former President Donald Trump to remove him from the ballots in New Mexico, there are several other areas within our state Constitution and state statutes that would potentially be impacted by this memorials passage. For example:

- Passage of this memorial would arguably prevent usage of quo warranto actions under NMSA 1978, Section 44-3-4 when an elected official is alleged to have usurped or unlawfully held or exercised any public office.

- Passage of this memorial would arguably affect the ability of the Attorney General to enforce provisions of the Governmental Conduct Act which allow for removal from office under NMSA 1978, Section 10-16-14.
- Passage of this memorial would arguably prevent the New Mexico State Legislature from exercising its constitutional authorization to impeach officials on permissible grounds under New Mexico Constitution Article 4, Sections 35-36.

#### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

N/A

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

N/A

#### **ALTERNATIVES**

N/A

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

Status quo.

#### **AMENDMENTS**

N/A