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FISCAL IMPACT REPORT

SPONSOR Candelaria **ORIGINAL DATE** 01/30/14
LAST UPDATED 01/30/14 **HB** _____

SHORT TITLE Require Messages on All Vetoes, CA **SJR** 3

ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		>\$46.0			Nonrecurring	Election Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

Office of the Attorney General (AGO)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 3 proposed a constitutional amendment to Article IV, Section 22 of the State Constitution. It would make three changes to the section:

- (1) What is commonly known as the “pocket veto” is eliminated. Under the amendment, with bills that are passed by the Legislature and presented to the governor during the last three days before adjournment, require the governor to either approve or veto, and, unless vetoed, such bills would become law;
- (2) For all vetoed bills, the governor would be required to provide an explanation for the veto. Currently Article IV does not require explanation from the governor for “pocket vetoes.”
- (3) The resolution would also create subsections in Section 22, eliminate gender-specific language and strike the existing phrase “with his objections” attendant to “return” of a bill (the word “veto” does not appear in this section).

FISCAL IMPLICATIONS

Under NMSA 1978, Section 1-16-13 and the NM constitution, the SOS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. The SOS is also required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. In 2012, the cost for the 2012 General Election ballots was \$46,000 per constitutional amendment. However, if the ballot size increases so it becomes longer than one page, front and back, it would increase the cost of conducting the general election. This additional cost would come from costs associated with a longer ballot, additional time required to process individuals as they vote, and additional ballot printing systems to avoid long lines at voting convenience centers.

SIGNIFICANT ISSUES

According to the New Mexico State Constitution, article IV, sec. 22. Governor's Approval or Veto of Bills (as amended September 15, 1953)

Every bill passed by the legislature shall, before it becomes a law, be presented to the governor for approval. If he approves, he shall sign it, and deposit it with the secretary of state; otherwise, he shall return it to the house in which it originated, with his objections, which shall be entered at large upon the journal; and such bill shall not become a law unless thereafter approved by two-thirds of the members present and voting in each house by yea and nay vote entered upon its journal. Any bill not returned by the governor within three days, Sundays excepted, after being presented to him, shall become a law, whether signed by him or not, unless the legislature by adjournment prevent such return. *Every bill presented to the governor during the last three days of the session shall be approved by him within twenty days after the adjournment and shall be by him immediately deposited with the secretary of state. Unless so approved and signed by him such bill shall not become a law.* The governor may in like manner approve or disapprove any part or parts, item or items, of any bill appropriating money, and such parts or items approved shall become a law, and such as are disapproved shall be void unless passed over his veto, as herein provided. (Italics added.)

Action in accordance with the italicized section is commonly referred to as a “pocket veto,” or the ability to kill a bill by inaction.

According to analysis provided by The National Conference of State Legislatures (NCSL) (<http://www.ncsl.org/documents/legismgt/ILP/98Tab6Pt3.pdf>), governors in 11 states and Puerto Rico have "pocket veto" power. In every case, pocket vetoes may occur only after the legislative session has adjourned.

NCSL analysis indicates that the return of a vetoed bill without other documents usually is not sufficient. Only in New Mexico and Kansas is the vetoed bill alone enough. Typically, other documents must accompany the vetoed bill. In 47 states, the governor must provide a letter which states not only that the bill or items have been vetoed, but also include the reasons for the veto.

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Stated reasons for a veto enable legislative bodies to review and possibly change legislation.

To successfully amend the constitution, a majority of legislators in both the House and the Senate must vote in favor of the amendment. The SOS must publish the amendment in ways specified by Article 19, Section 1, and then a majority of voters must vote in favor of the amendment in the next general election.

SIGNIFICANT LEGAL ISSUES

Analysis of the AGO questions why the language “with his objections” is proposed to be stricken from the new subsection (A), stating: “Presumably, a return of the bill without approval by the Governor would constitute a “veto,” since such return has the effect that the returned bill shall not become law unless thereafter approved by a two-thirds vote of the Legislature.”

A veto would trigger the requirement that the governor provide an explanation for the veto. Clarification in the wording of the new subsection A could be made to indicate that a return without approval constitutes a veto.

TECHNICAL ISSUES

In Subsection 1 A clarify that the return of a bill to the house in which it originated constitutes a veto.

CAC/ds:jl