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## FISCAL IMPACT REPORT

**SPONSOR** Garcia, M./Ely/ **ORIGINAL DATE** 1/26/21  
Moores/Duhigg **LAST UPDATED** \_\_\_\_\_ **HB** 79  
**SHORT TITLE** Primary Election Participation Changes **SB** \_\_\_\_\_  
**ANALYST** Glenn

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

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$500.0 - \$1,000.0		\$500.0 - \$1,000.0	Recurring	Election Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with Senate Bill 48

### SOURCES OF INFORMATION

LFC Files

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

### SUMMARY

#### Synopsis of Bill

House Bill 79 amends the Election Act to allow voters not registered with a major political party vote in primary elections. Those voters would participate in a primary election by choosing a major political party ballot to cast for the election. Unless requested by the voter, the voter's registration certificate would not be changed to reflect a new or different party affiliation. The bill also adds conforming provisions allowing a nonaffiliated voter to request a ballot of a participating party in the primary on the absentee ballot application form.

The effective date of HB79 is July 1, 2021.

### FISCAL IMPLICATIONS

With the likely increase in voter turnout during the primary election due to all voters being eligible to participate, additional ballot on demand (BOD) printing systems may be needed in some counties to maintain voter wait times during early and election day voting in the primary election. The figures in the Estimated Additional Operating Budget Impact table are a cost range for leasing

additional BOD systems for the primary election. The maximum of the provided range represents the real difference of BOD costs from the 2020 primary since this bill would effectively make all voters in the state eligible to participate in primary elections.

### **SIGNIFICANT ISSUES**

SOS notes that the NM Supreme Court has upheld New Mexico's current closed primary system, which allows only voters affiliated with a major political party to participate in a primary election. See *Crum v. Duran*, 2017-NMSC-013. This suggests that the adoption of an open primary system would likely be challenged in court.

SOS states that by allowing voters without a party designation or those who are affiliated with an unqualified political party to participate in the primary election, HB79, if enacted, would likely increase voter participation in the primary election. According to SOS, as of December 2020, 22.7 percent of registered voters in New Mexico were not affiliated with one of the three major parties – Democratic, Republican, and Libertarian.

### **ADMINISTRATIVE IMPLICATIONS**

SOS states that if HB79 is enacted, the roster of eligible voters in each county would be required to include all registered voters, regardless of party affiliation. According to SOS, its current election management system is capable of generating this type of roster without any additional system enhancements. However, some changes to the ballot on demand systems are anticipated in order to allow for poll workers to issue ballots to unaffiliated voter. SOS does not anticipate these changes will cause an increase in costs.

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

HB79 conflicts with SB48 because each of the bills amend Section 1-6-4 NMSA 1978.

BG/sb