

<b>LFC Requester:</b>	<b>Hilla, Emily</b>
-----------------------	---------------------

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 2/4/2025 *Check all that apply:*  
**Bill Number:** SB 16 Original  Correction   
 Amendment  Substitute

**Sponsor:** Natalie Figueroa  
 Peter Wirth  
 Kathleen Cates  
 Cristina Parajon  
 Angelica Rubio

**Agency Name and Code Number:** 370

**Short Title:** NON-MAJOR PARTY VOTERS IN PRIMARY ELECTIONS

**Person Writing:** Lindsey Bachman  
**Phone:** 505-479-2626 **Email:** lindsey.bachman@sos.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		\$4,600 – \$6,200 \$125	N/A	\$4,725 – \$6,325	Non-recurring	Election Fund General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

**Synopsis:**

SB 16 amends the Election Code to allow voters unaffiliated with a major party to select a major party ballot without changing their voter registration status and vote in a primary election.

**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 2024 primary since this bill would effectively make all voters in the state eligible to participate in primary elections. These costs would impact the Election Fund.

Additionally, the bill requires changes to mailed ballot application to capture a major political party ballot choice from some voters. The implementation of modifications to mailed ballot applications and related processing will require systemic enhancements that will cost approximately \$120,000. Outreach to impacted voters on the state’s permanent absentee list will cost approximately \$5,000. These costs would impact the General Fund.

SB 16 requires unique notices be sent to some voters who are unaffiliated with a major party during a primary election. There would likely be new, additional costs associated with these notices, and these costs would vary based on size of the precinct and number of voters within who are unaffiliated with a major party. However, as the bill’s requirement is limited to mail ballot election precincts, the fiscal impact is anticipated to be minimal at this time. Mail ballot election precincts are not required but may be designated by county commissioners if the precinct contains less than 100 voters and is further than 20 miles from the nearest polling location. Currently, there are only 640 total voters located in the 13 precincts with this designation statewide.

**SIGNIFICANT ISSUES**

By allowing voters without a party designation or those who are affiliated with an unqualified political party to participate in the primary election, SB 16, if enacted, would likely increase voter participation in primary elections. As of December 2024, more than 340,000 voters, 24.4 percent

of registered voters in New Mexico, were not affiliated with one of the three major parties – Democratic, Republican, and Libertarian.

In *Crum v. Duran*, 2017-NMSC-013, the NM Supreme Court observed that although state legislatures cannot unduly infringe on a voter’s right to vote, legislatures may reasonably regulate elections and impose voter qualifications. Based on this view of the legislature’s general authority to enact election-related laws, the Court in *Crum* upheld the legislature’s authority to enact the statute at issue, which requires voters to designate their affiliation with a major political party at least 28 days before the primary election. The Court specifically found that such requirement was a proper exercise of the legislature’s authority to regulate the “manner, time, and place” of voting. The *Crum* decision does not foreclose a subsequent legislature from eliminating, altering or otherwise revising the requirement of major party affiliation designation in order to vote in a primary election, as long as such subsequent legislation is defensible as a reasonable exercise of “manner, place, and time” authority.

Section 1 allows independent voters to affiliate with a political party just for a primary election without changing their certificate of registration. As of 2024, the National Conference on State Legislators reports that other states utilize some form of semi-open primary structures: Arizona, Colorado, Illinois, Indiana, Iowa, Maine, Massachusetts, New Hampshire, North Carolina, Ohio, and Rhode Island. Additional states utilize open primary and semi-closed primary structures, and only nine states still utilize a closed primary election structure. Any legal challenge will come down to whether the voter is meaningfully affiliating with a major political party or not.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

If SB 16 is enacted, the roster of eligible voters in each county would be required to include all registered voters, regardless of party affiliation. Existing election management systems are 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. The SOS does not anticipate these changes will cause an increase in costs.

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

SB 218 impacts similar sections of law but for different purposes.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **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.

## **AMENDMENTS**