

<b>LFC Requester:</b>	<b>Connor Jorgensen</b>
-----------------------	-------------------------

**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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**     **Amendment**      
**Correction**     **Substitute**   

**Date** February 26, 2015  
**Bill No:** SB 650-305

**Sponsor:** Rep. O’Neil/ Rep. Richard      **Agency Code:** Attorney General’s Office  
**Short**      Allow Open Primary      **Person Writing**      Jose Puentes  
**Title:**      Elections      **Phone:** 827-6021      **Email** jpuentes@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Senate Bill 650 (SB 650) would amend the New Mexico Election Code. First, it would modernize the current language by replacing the masculine “his” with the gender-neutral word “person.” Second, Section 2(B) of the bill allows voters who are not registered as members of a political party to nonetheless vote in a party’s primary election if that political party’s rules allow for non-members’ participation. Third, in Section 4(D) the bill allows for a person to vote for a candidate of a party different from the party designation shown on the voter’s certificate of registration if that voter “is the type of non-member who is allowed to participate in the party’s primary election process.” Fourth, Section 6(B) addresses national elections, particularly the presidential primary, and allows for a person to vote in a presidential primary election for one party only, if the rules of a party participating in the primary election allow for voters to participate in that party’s presidential primary election. Finally, Section 7(B) of the bill allows for a voter to cast a ballot for a presidential candidate in “accordance with party rules” striking the old language of “his party.”

**FISCAL IMPLICATIONS**

N/A

**SIGNIFICANT ISSUES**

The language of SB 650 does not appear to pose any constitutional concerns because the amendment does not mandate that political parties allow non-members to vote in a political party’s primary. Instead, the amendment provides political parties the option of determining whether non-members would be allowed to participate in their primaries through that political party’s own rules. In *California Democratic Party v. Jones*, 530 U.S. 567 (2000), the Supreme Court struck down a law that may have sought to achieve similar objectives but that *required* political parties to allow non-affiliated members to participate in their primaries. SB 650 does not create such a mandate. Typically the United States Constitution imposes constraints on a

state's ability to limit access to voting, but not efforts to authorize broader access to the polls.

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

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

Status quo

**AMENDMENTS**

N/A