

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR	<u>SRC</u>	ORIGINAL DATE	03/05/09	HB	
		LAST UPDATED	03/18/09		CS/116,262,346 & 521/SFI#1/aSFI#2/
SHORT TITLE	<u>Limit Contributions to Candidates and PACs</u>	SB			aHVEC
ANALYST					Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.1	\$0.1	\$0.1		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 99, HB 151, HB 244, HB 252, HB 253, HB 272, HB 495, HB 535, HB 550, HB 553, HB 614, HB 646, HB 686, HB 808, HB 850, HB 878, HB 883, HB 891, SB 49, SB 94, SB 128, SB 139, SB 140, SB 163, SB 258, SB 263, SB 269, SB 296, SB 451, SB 535, SB 555, SB 557, SB 606, SB 611, SB 613, SB 646, SB 652, SB 676, SB 678 & SB 693

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of HVEC Amendment

The House Voters and Elections Committee amendment to SRC/CS/SB 116, 262, 346 & 521, as amended removes language on campaign contributions and replaces it with adding a new section limiting campaign contributions as follows:

	TO A NON-STATEWIDE CANDIDATE	TO A STATEWIDE CANDIDATE	TO A POLITICAL COMMITTEE
FROM A PERSON	\$2,300 per primary; \$2,300 per general election	\$5000 per primary; \$5,000 per general election	\$5000 per primary; \$5,000 per general election
FROM A POLITICAL COMMITTEE	\$5000 per primary; \$5,000 per general election	\$5000 per primary; \$5,000 per general election	\$5000 per primary; \$5,000 per general election

All contributions made by a person, either directly or indirectly, including contributions that are in any way earmarked or otherwise directed through another person to a candidate, shall be treated as contributions from the person to that candidate.

A person shall not knowingly accept or solicit a contribution, directly or indirectly, including a contribution earmarked or otherwise directed or coordinated through another person that violates the contribution limits provided for in this section.

On the day after each general election, the contribution amounts provided in this section shall be increased by the percentage of the preceding two calendar year's increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor. The amount of the increase shall be rounded to the nearest multiple \$100. The Secretary of State (SOS) shall publish by October 1 before each general election the adjusted contribution limits that shall take effect the day after the following general election.

All contributions in excess of the limits imposed by the provisions of this section shall be deposited in the public election fund upon a finding by the SOS that the contribution limits have been exceeded.

The limitation on contributions to a candidate provided for in this section shall not apply to a candidate's own contribution from the candidate's personal funds to the candidate's own campaign.

The amendment provides definitions for primary election and general election for the purposes of the above section:

The amendment also adds the following words to the definitions section of the Campaign Reporting Act: advertising campaign, anonymous contribution, bank account, campaign committee, candidate, contribution, deliver, election, election year, expenditure, person, political committee, political parties, political purpose, prescribed form, proper filing officer, public official, reporting individual and statement of exception.

Synopsis of SFI Amendment #2

The Senate Floor amendment #2 to SRC/CS/SB 116, 262, 346 & 521, as amended removes the delayed repeal section.

Synopsis of SFI Amendment #1

The Senate Floor amendment #1 to SRC/CS/SB 116, 262, 346 & 521 adds a severability clause.

Synopsis of Original Bill

The Senate Rules Committee substitute for Senate Bills 116, 262, 346 & 521 amends the Campaign Reporting Act by adding a new section which limits campaign contributions on or after January 1, 2011 as follows:

		TO A CANDIDATE	TO A POLITICAL COMMITTEE	TO A POLITICAL PARTY
FROM PERSON	A	\$2,300 per primary; in a calendar year	\$5,000 in a calendar year	\$10,000 in a calendar year
FROM POLITICAL COMMITTEE	A	\$5,000 in a calendar year	\$5,000 in a calendar year	
FROM POLITICAL PARTY	A	\$10,000 in a calendar year	\$10,000 in a calendar year	

All contributions made by a person, either directly or indirectly, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate shall be treated as contributions from the person to that candidate.

A person shall not knowingly accept or solicit a contribution, directly or indirectly, including a contribution earmarked or otherwise directed or coordinated through a third party, that violates the contribution limits provided for in this section.

The limitation on contributions to a candidate provided for in this bill shall not apply to a candidate's own contribution from the candidate's personal funds to the candidate's own campaign.

It is unlawful for a person to make a contribution in the name of another person and no person shall knowingly accept a contribution made by one person in the name of another person.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

This bill seeks to impose the first campaign contribution limits in effect for New Mexico.

The AGO has noted that New Mexico is one of the few states in the country that does not limit campaign contributions. Only four other states have no limits on contributions: Illinois, Oregon, Utah and Virginia.

The AGO also states that placing limits on political contributions is the most effective vehicle for addressing the current “pay to play” scandals.

The AOC states that it can be argued that restrictions on campaign contributions violate constitutional first amendment political speech protections.

The Secretary of State provided the following:

Corporations and lobbyist contributions are not regulated by this new section of the Campaign Reporting Act. Theoretically, a person could register as a lobbyist and then contribute an unregulated amount.

Additionally, there are no restrictions on contributions donated by individuals who are also involved in Political Action Committees (PAC). This would allow an individual or groups of individuals to register several PACs and donate in unlimited and unregulated amounts.

ADMINISTRATIVE IMPLICATIONS

The affected agencies should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 116 is similar to HB 252, Political Contributions to Candidates & conflicts with SB262, Political Contributions to Candidates on campaign dollar limits

This bill relates to other ethics bills as follows:

HB 99, Prohibit Former Legislators as Lobbyists
HB 151, State Ethics Commission Act
HB 244, Prohibit Contractor Contribution Solicitation
HB 252, Political Contributions to Candidates

HB 253, Quarterly Filing of Certain Campaign Reports
HB 272, Quarterly Campaign Report Filing
HB 495, Political Candidate & Committee Donations
HB 535, Lobbyist Identification Badges
HB 550, Local School Board Governmental Conduct
HB 553, Disclosure of Lobbyist Expenses
HB 614, State Ethics Commission Act
HB 646, School Board Candidate Contribution Info
HB 686, AG Prosecution of State Officer Crimes
HB 808, Tax-Exempt Election Contributions & Reporting
HB 891, Election Communication Contribution Reporting
HB 850, Governmental Conduct Act for All Employees
HB 878, State Contractor Registration & Info
HB 883, Clean Government Contracting Act
SB 49, Governmental Conduct Act For Public Officers
SB 94, Prohibit Former Legislators as Lobbyists
SB 128, Require Biannual Campaign Reports
SB 139, State Ethics Commission Act
SB 140, State Ethics Commission Act
SB 163, Prohibit Former Legislators as Lobbyists
SB 258, Contribution from State Contractors
SB 263, Contractor Disclosure of Contributions
SB 269, State Bipartisan Ethics Commission Act
SB 296, State Contractor Contribution Disclosure
SB 451, Contributions to PERA Board Candidates
SB 535, Election Definition of Political Committee
SB 555, Public Employee & Officer Conduct
SB 557, State Ethics Commissions Act
SB 606, Expand Definition of Lobbyist
SB 611, Investment Contractor Contributions
SB 613, Campaign Finance Changes
SB 646, Judicial Candidate Campaign Contributions
SB 652, Campaign Reporting Private Cause of Action
SB 676, School Board Candidate Contributions
SB 678, School Board Candidate Contributions
SB 693, Prohibit Certain Contributions to Candidates