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FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/09

SPONSOR Steinborn LAST UPDATED _____ HB 495

SHORT TITLE Political Candidate & Committee Donations SB _____

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	GF

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 116, SB 346 & HB 252 Relates to HB 99, HB 151, HB 244, HB 253, HB 272, SB 49, SB 94, SB 128, SB 139, SB 140, SB 163, SB 258, SB 262, SB 263, SB 269 & SB 296

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 495 enacts a new section of the Campaign Reporting Act prohibiting knowingly contributing by the following persons:

1. From a person the following may be contributed:
 - a. A candidate for office may not exceed \$2,300 for either the primary or general election cycle;
 - b. A political committee may not exceed \$5,000 in a calendar year; or
 - c. A political party may not exceed \$10,000 in a calendar year.

2. From a political committee the following may be contributed:

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- a. A candidate for office may not exceed \$5,000 for either the primary or general election cycle; or
 - b. Another political committee may not exceed \$5,000 in a calendar year.
3. From a political party to:
- a. A candidate for non statewide office, including the candidate's campaign committee may not exceed \$5,000 for either the primary or general election cycle;
 - b. A candidate for statewide office, including the candidate's campaign committee may not exceed \$10,000 for either the primary or general election cycle; or
 - c. Another political committee may not exceed \$5,000 in a calendar year.

The bill states that all of the above limits refer to an aggregate amount given in a calendar year.

HB 495 provides that subject to the limitations above:

- Money raised for a primary election may be used for the general election or carried over to subsequent election cycles to use in a primary or general election.
- Money raised for a general election may be carried over to subsequent elections cycles and used in a subsequent primary or general election.
- Within an election cycle for a given office, a candidate may collect contributions for the primary election at any previous primary election.

Under HB 495, 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.

HB 495 provides that 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 bill provides that contributions to a political committee established or controlled in whole or in part by a candidate or a public official shall be considered to be contributions to that candidate's or public official's campaign committee in the primary or general election cycle during which the contribution is received and shall count against the limits imposed.

The bill provides that limitations on contribution shall not apply to a candidate's own contribution from the candidate's personal funds to the candidate's own campaign.

HB 495 further provides a fourth degree felony penalty for a person who knowingly and willfully gives or receives contributions exceeding the limits on contributions imposed by the Campaign Reporting Act by \$10,000 or more.

The effective date of the Act is July 1, 2009.

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 will 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

The Attorney General's Office provided the following:

- This bill seeks to impose the first campaign contribution limits in effect for New Mexico.
- 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 AOC notes that it can be argued that restrictions upon campaign contributions may violate constitutional first amendment political speech protections.

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

HB 495 conflicts with SB 116, SB 346 and HB 252. These other bills allow for an increase in contribution amounts based upon the percentage increase of the preceding two calendar years of the consumer price index for all urban consumers published by the U.S. Department of Labor.

HB 495 also relates to the following ethics bills:

- HB 99, Prohibit Former Legislators as Lobbyists
- HB 151, State Ethics Commission Act
- HB 244, Prohibit Contractor Contribution Solicitation
- HB 253, Quarterly Filing of Certain Campaign Reports
- HB 272, Quarterly Campaign Report Filing
- 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 262, Political Contributions to Candidates
- SB 263, Contractor Disclosure of Contributions
- SB 269, State Bipartisan Ethics Commission Act
- SB 296, State Contractor Contribution Disclosure

POSSIBLE QUESTIONS

Is a person subject to the new Section 1-19-36 fourth degree felony penalty for knowingly and willfully giving or receiving contributions exceeding the limits on contributions imposed by the Campaign Reporting Act by \$10,000 or more, also subject to the Section 1-19-36 misdemeanor penalty for any violation of the Act?

DW/mc