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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/09  
 LAST UPDATED 02/24/09    **HB** \_\_\_\_\_

SPONSOR Wirth

SHORT TITLE Require Biannual Campaign Reports    **SB** 128/aSRC

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	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
<b>Total</b>		\$60.0	\$60.0	\$120.0	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

Office of the State Auditor (OSA)

### SUMMARY

#### Synopsis of SRC Amendment

The Senate Rules Committee amendment to Senate Bill 128 amends statutory sections contained within the Campaign Reporting Act as follows:

**Section 4:** Amends Section 1-19-29 NMSA 1978 to require, in an election year, a public official who is not a candidate to file biannual reports rather than the quarterly reports required prior to the SRC amendment.

**Section 5:** Amends Section 1-19-32.1 NMSA 1978 to require the secretary of state to conduct an examination of campaign reports at least 10 days after the April reports are filed in a nonelection year. Prior to the SRC amendment, the reports were to be filed in March.

**Section 6:** Amends Section 1-19-35 NMSA 1978 to refer to Paragraph 5 in Subsection B of Section 1-19-29 NMSA 1978 rather than Paragraph 4, as amended in the original SB 128, with regard to supplemental reports.

### Synopsis of Original Bill

Senate Bill 128 amends the Campaign Reporting Act, NMSA 1978, §§ 1-19-25 through 1-19-36, in several ways. First, Senate Bill 128 eliminates requirement that candidates and public officials who do not intend to raise or expend minimum amount file a statement of exception. Those candidates and public officials would be required to file statement of no activity only. Second, it makes clear that Secretary of State is proper filing officer for both candidates and public officials. Third, it provides that candidates and public officials, as well as treasurers of political committees, shall file reports of expenditures made and contributions received biannually, in April and October, instead of annually in May. In an election year, however, candidates and public officials who are candidates in an election that year are required to file quarterly reports of expenditures made and contributions received or, if applicable, statements of no activity, in April, May and September, in addition to filing in October and immediately before and after the election, as is currently required by the Act. Public officials who are not candidates shall file reports of expenditures made and contributions received or statements of no activity in accordance with biannual schedule. Fourth, candidates who do not ultimately file a declaration of candidacy or nominating petition and do not file a statement of no activity shall file biannual reports, instead of filing after the primary and/or general election.

### **FISCAL IMPLICATIONS**

The Secretary of State contends that it will require one full-time employee in order to accommodate the increased workload.

### **SIGNIFICANT ISSUES**

The Campaign Reporting Act currently defines “proper filing officer” as “either the secretary of state or the county clerk as provided in Section 1-19-27 NMSA 1978,” but it is not clear now under what circumstances, if any, a county clerk would be the proper filing officer. SB128 amends Section 1-19-27 by providing that Secretary of State is the proper filing officer for all candidates and public officials. It also amends Section 1-19-32.1 of the Act by eliminating the requirement that county clerks deliver reports of expenditures made and contributions received to the Secretary of State within 48 hours of county clerks’ receipt.

The Administrative Office of the Courts notices that the SRC amendment to SB128 does not change the impact upon the courts as reported in relation to the original SB128. 2) Section 1-19-36 provides a misdemeanor penalty for a knowing and willful violation of the Campaign Reporting Act, Section 1-19-25 et. seq. NMSA 1978.

### **ADMINISTRATIVE IMPLICATIONS**

The Secretary of State does not currently have enough space to maintain the increase in records that would result from this bill. The agency also adds that this legislation requires the audit be conducted following March reports during non-election years. However, according to the schedule there are no reports due in March. If an audit is scheduled for completion in March, the

Ethics Division would be required to complete the ten (10) percent audit during the legislative session in non-election years. Additionally, legislators would be required to amend reports should there be any discrepancies found. Given that the two employees in the Ethics Division also register lobbyists and accept lobbyist reports, the imposition of an audit during this time would not be recommended. Furthermore, several legislators are unable to receive mail during the legislative session. This would inhibit their ability to respond to audit questions or discrepancies.

**AMENDMENTS**

The Secretary of State suggests creating a uniform date for the annual audit of forty (40) days following the election or the April reports during a non-election year.

EO/mt:svb