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FISCAL IMPACT REPORT

ORIGINAL DATE 3/20/07
 SPONSOR Chasey LAST UPDATED 3/22/07 HB 7/aHJC
 SHORT TITLE Campaign Reporting Requirements SB _____
 ANALYST Earnest

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From*

Administrative Office of the Courts (AOC)

Department of Finance and Administration (DFA)

*Responses received from requests for analysis of an identical bill, House Bill 821, of the First Session of the Forty-Eighth Legislature.

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee (HJC) amendment changes Section 12 of the bill to give subpoena power to the Attorney General (AG) instead of the Secretary of State (SOS) to compel the production of books, records and papers pertinent to an investigation conducted pursuant to the Act. Under the Act, if a person neglects or refuses to comply with a subpoena, the AG may apply to the district court where the custodian of the documents is located for an order

compelling compliance. A person who fails to comply with the district court's order is subject to penalty for contempt of court. The amendment provides that failure to cooperate with an investigation conducted by the SOS is a violation of the Act.

Under the amendment, the SOS may refer to the AG a request for subpoena upon a finding that, based on identifiable facts, probable cause exists to believe that the Campaign Reporting Act has been violated.

Under the amendment, the SOS retains the authority to initiate investigations and seek voluntary compliance with the act, through arbitration if necessary. Notwithstanding the provisions of voluntary compliance, SOS may still refer a matter to the AG or a District Attorney for a civil injunctive or other appropriate order of for criminal enforcement.

Synopsis of Original Bill

House Bill 7 amends and enacts portions of the Campaign Reporting Act, Section 1-19-25 through Section 1-19-36 NMSA 1978.

Section 2: HB 7 amends Section 1-19-26 NMSA 1978 to exclude from the definition of "expenditure," "independent expenditures," defined as a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or thing of value:

- for the purpose of expressly advocating the election or defeat of a clearly identified candidate or in support of or opposition to a constitutional amendment or other question submitted to the voters; and
- without the cooperation, consultation, request or suggestion of, or being in concert with, a candidate, a candidate's authorized committee or its agents or a political party or its agents.

HB 7 also includes in the definition of "political committee" a person or organization of two or more making independent expenditures in this state of more than \$500 in a calendar year.

Section 3: HB 7 amends Section 1-19-26.1 NMSA 1978 to require political committees required to register with the Secretary of State (SOS) to file all reports required by the Campaign Reporting Act. The bill removes the exception to filing for political committees located in another state that file with the federal election and meet other specific requirements, when a committee makes independent expenditures in this state of more than \$500 in a calendar year.

Section 4: HB 7 amends Section 1-19-27 NMSA 1978 to list the reports that must be filed with the SOS by a reporting individual of a political committee.

Sections 4 and 5: HB 7 amends Sections 1-19-27 and 1-19-28 NMSA 1978 to require the SOS to develop or contract for services to develop a reporting system for receiving and for public inspection of reports of independent expenditures, and to furnish prescribed forms to reporting individuals for the reporting of independent expenditures.

Section 6: HB 7 amends Section 1-19-29 NMSA 1978 to lower the contribution or pledge amount from \$2,500 to \$1,000 in a statewide election that will trigger the need for additional reporting when the contribution or pledge is received after 5:00 p.m. on the Tuesday before the

election. The bill also provides that required reports must be subscribed and sworn to or electronically authenticated by the candidate or the treasurer of the political committee.

Section 7: HB 7 amends Section 1-19-31 NMSA 1978 to require in each required report of expenditures and contributions the inclusion of every occupation and every employer, and the name of the businesses or business of a person or entity making contributions of \$100 or more in the aggregate per election. The amendment also requires the inclusion of the cumulative total of all contributions received from the person or entity making a contribution.

Section 8: HB 7 sets out what is required to be included in each report of independent expenditures. Each report must include the full name of candidates supported or opposed by the independent expenditure or a description of the constitutional amendment or other question supported or opposed, and the total amount of independent expenditures made in support of or in opposition to each candidate, amendment or other question.

Section 9: HB 7 amends Section 1-19-32 NMSA 1978 to include a report of independent expenditures within the list of documents that are public records open to public inspection. The amendment also requires the SOS to provide electronic access to reports no more than 10 days after the filing deadlines imposed by the Act, and to provide electronic access to a list of all reporting individuals who fail to file reports by the deadlines imposed by the Act.

Section 10: HB 7 places a cap of \$2,300 on both contributions and pledges by a person or political committee, and the acceptance or solicitation of the same by a candidate, campaign committee or committee treasurer, for each primary election period and each general election period. A yearly increase in contribution and pledge cap amount is to be governed by the consumer price index, and is required to be published by October 1 by the SOS.

Section 11: HB 7 amends Section 1-19-34 NMSA 1978 to provide that a cash contribution of more than \$100 from a single source given in a 24-hour period may not be accepted.

Section 12: HB 7 amends Section 1-19-34.4 NMSA 1978 to provide for the issuance of a narrowly-tailored subpoena by the SOS to compel the production of books, records and papers pertinent to an investigation conducted pursuant to the Act. Under the Act, if a person neglects or refuses to comply with a subpoena, the SOS may apply to the district court where the custodian of the documents is located for an order compelling compliance. A person who fails to comply with the district court's order is subject to penalty for contempt of court. The amendment provides that failure to cooperate with an investigation conducted by the SOS is a violation of the Act.

Section 13: HB 7 amends Section 1-19-35 NMSA 1978 to add independent expenditure reports to the reports and statements subject to penalties for late filing, and to require the SOS to publish a list of reporting individuals who fail to file a report by the deadline imposed by the Act. The reporting individual's name shall only be removed from the electronically accessible list when reporting requirements are satisfied.

Section 14: The effective date of the act is January 1, 2008.

FISCAL IMPLICATIONS

The Attorney General’s Office (AGO) is one of the primary enforcers of the Campaign Reporting Act. This bill may create more enforcement actions and may require more AGO resources.

This bill may change the Electronic Campaign Reporting software. The SOS was trying in 2006 to get a price quote from the vendor on the cost of this new software and how long it will take to write and install this new software. There may be an added burden on the agency to track, train and provide support for the committees that must now file reports of expenditures

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, applications for orders 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.

This bill increases reporting requirements and may lead to more fines being paid into the general fund.

SIGNIFICANT ISSUES

Currently, New Mexico is one of five states that place no limitation on contributions to political candidates. They are: Illinois, Virginia, Oregon, Utah and New Mexico.

This bill is part of a package of ethics reform measures introduced in the first session of the forty-eighth legislature that included campaign reporting reforms, the creation of a State Ethics Commission, limitations on gifts to public officials, and the strengthening of the Governmental Conduct Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 7 relates to HB 6 and HB 8.

POSSIBLE QUESTIONS

1. How will this affect local governments?
2. Can the SOS handle the requirements of this bill with current resources?