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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>SJC</u>	<b>LAST UPDATED</b> <u>3/15/23</u> <b>ORIGINAL DATE</b> <u>2/14/2023</u>
<b>SHORT TITLE</b> <u>Campaign Finance Reporting Changes</u>	<b>BILL NUMBER</b> <u>CS/Senate Bill 42/SJCS/aHJC</u>
<b>ANALYST</b> <u>Hanika-Ortiz/Daly</u>	

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SOS	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

## SUMMARY

### Synopsis of HJC Amendments to SJC Substitute for Senate Bill 42

The House Judiciary Committee amendments to the Senate Judiciary Committee Substitute for Senate Bill 42:

- Changes the dates for filing a report of all expenditures made and contributions received on or before the first Tuesday after the first Monday in June and December 31 and not previously reported to the second Tuesday after the first Monday in June and on January 7 (Section 4(A));
- Changes the reporting threshold amount of any expenditure made in an election year, along with contributions or pledges to contribute, to \$1,000 or more for both nonstatewide and statewide elections (Section 4(A)(5));
- Changes the reporting date for all reporting individuals and unsuccessful primary candidates of expenditures made and contributions received on or before the day of the primary and not previously reported from the 30<sup>th</sup> day to the seventh day after the primary (Section 4(A)(6));
- Requires a new report of all expenditures made and contributions received on or before the day of the general election and not previously reported no later than the seventh day after a general election (Section 4(A)(8); and
- Requires a new report, if a reporting individual subject to the legislative session fundraising prohibition of Section 1-19-34.1 receives monetary contributions during a prohibited period, of all monetary contributions received but not returned during that

period, which report must be filed no later than the seventh day after the end of that period (Section 4(C)).

## **Synopsis of SJC Substitute for Senate Bill 42**

The Senate Judiciary Committee Substitute for Senate Bill 42 (SB42/SJCS) proposes to amend Section 1-19 (26 to 34) NMSA 1978, the Campaign Reporting Act, for reporting requirements.

More specifically,

Section 1 amends Section 1-19-26 NMSA 1978 to clarify “expenditure” to include transactions 1) by a campaign committee or political committee, 2) by a public official or candidate in support of that public official’s or candidate’s campaign in an election covered by the Campaign Reporting Act, or 3) to pay for an advertisement that refers to a candidate, or ballot question.

Section 2 amends Section 1-19-26.3 NMSA 1978 to add “electronic communications” to the existing disclosure and reporting requirements.

Section 3 amends Section 1-19-27.3 NMSA 1978 to clarify reporting requirements for “independent expenditures;” and, exempts from those reporting requirements donations that are kept in a separate bank account and not used to fund independent or coordinated expenditures, or to make contributions to a candidate, campaign committee or political committee. The substitute bill defines “donation” to mean a payment, transfer, or promise of payment or transfer, of money or other thing of value, to a person who makes independent expenditures; and, excludes certain commercial transactions and loans, payments for services rendered, gifts and personal loans.

Section 4 amends Section 1-19-29 NMSA 1978 to allow reports to be filed the next business day, if the reporting date falls on a state holiday, and deletes language in the act relating to directions for political committees that have had no recent activity, contributions or expenditures.

Section 5 amends Section 1-19-29.1 NMSA 1978 to make it unlawful for any person to make an expenditure to repay a loan that is received from the candidate that includes a rate of interest.

Section 6 amends Section 1-19-31 NMSA 1978 to require that for any unpaid debt, the report includes the terms and evidence of any loan a candidate makes to their campaign committee.

Section 7 amends Section 1-19-34.1 NMSA 1978 to extend the legislative fundraising prohibited period for incumbents or candidates for a proscribed office, campaign committee, or legislative caucus committee; and, makes it unlawful during the prohibited period, to solicit a contribution governed by the Campaign Reporting Act, or accept a contribution from a lobbyist, a lobbyist’s employer, an incumbent or candidate, a campaign committee or a political committee.

Section 7 defines “proscribed office” to mean the governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, commissioner of public lands, state senator and representative offices; and “prohibited period” to mean January 1 prior to the regular legislative session and ending the 1<sup>st</sup> calendar day after adjournment, for an incumbent or candidate for any proscribed office, other than governor or lieutenant governor, and for a campaign or legislative caucus committee. For an incumbent or candidate for governor or lieutenant governor, the period ends the earlier of the 21<sup>st</sup> day after adjournment or the 1<sup>st</sup>

calendar day after all bills passed by the legislature are signed or vetoed and with the Secretary of State. The bill sets aside different guidance for special and extraordinary legislative sessions.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## **FISCAL IMPLICATIONS**

Because this bill appears to increase the number of reports that must be filed with SOS, the office should expect an increase in staff time spent on assistance, education and compliance enforcement. LFC staff has estimated the average 0.5 FTE cost for SOS to be \$45 thousand.

## **SIGNIFICANT ISSUES**

The bill is expected to simplify campaign reporting compliance for certain elected officials.

## **PERFORMANCE IMPLICATIONS**

SOS should anticipate minimal changes to its electronic Campaign Finance Information System.

## **OTHER SUBSTANTIVE ISSUES**

Section 1-19-36 NMSA 1978 provides that any person who knowingly violates the Campaign Reporting Act is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year or both. The Campaign Reporting Act may be enforced by the attorney general or district attorney in the county where the candidate resides, where a political committee has its place of business or where the violation occurred.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflicts with House Bill 103, which revises the reporting schedule for filing contribution and expenditure reports under the Campaign Reporting Act.

## **TECHNICAL ISSUES**

The term “electronic communication” may need further clarification.

AHO/rl/ne/al