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## FISCAL IMPACT REPORT

ORIGINAL DATE  
LAST UPDATED

SPONSOR Feldman 2/6/2006 HB \_\_\_\_\_

SHORT TITLE Certain Contributions to Elected Officials SB 196/aSRC/aSJC

ANALYST McOlash/Earp

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to: HB 326, SB 23

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)  
Secretary of State (SOS)  
Attorney General's Office (AGO)  
NM Corrections Department (CD)

### SUMMARY

#### Synopsis of SJC Amendment

In summary, the Senate Judiciary Committee amendments do the following:

1. All Senate Rules Committee amendments are stricken.
2. The prohibition against soliciting, accepting or contributing anything of value is extended to all *candidates* for "state public office" (however, it is not clear whether this restriction applies to sitting state public officers other than those specifically named).
3. The term "candidate" is specifically defined for individuals seeking non-statewide and statewide offices.
4. The term "state public officer" is defined to include all persons elected or appointed to any state elective office who receives compensation or is eligible to receive per diem or mileage, but excludes judges.

5. A new section is added to the Lobbyist Registration Act that prohibits lobbyists from giving anything of value, other than campaign contributions, to a state public official. De minimis gifts worth \$20.00 or less in a calendar year are excluded. (Should this item have been identified as SJC amendment #15?)

#### Synopsis of SRC Amendment

The Senate Rules Committee amendment identifies the Governor and Lieutenant Governor as state agents.

The amendment also adds the phrase “full time” before “those positions” in the bill.

State Agent is defined as Governor, Lieutenant Governor, State Auditor, State Treasurer, Secretary of State, State Land Commissioner, Attorney General, or a candidate seeks election to one of these positions or anyone authorized by the candidate.

#### Synopsis of Original Bill

Senate Bill 196 enacts a new section of the Election Code (Campaign Practices) by creating a misdemeanor prohibition (punishable by up to a 364 days in jail and a \$1,000) for the State Auditor, State Treasurer, Secretary of State, Commissioner of Public Lands, Attorney General or candidates for those offices, an anyone authorized by the candidate to solicit funds from seeking or accepting campaign contributions or anything of value from persons (or their representatives) that do business with those offices. A person, who has given or caused to be given a contribution to any of those officers or candidates for those offices, is prohibited from doing business with that office for two years after the candidate is elected.

#### **FISCAL IMPLICATIONS**

None

#### **SIGNIFICANT ISSUES**

Senate Bill 196 defines “Person doing business with the state” as a person or entity who sells goods or services to a state agency, purchases or leases property from the state, or sells or leases property to the state.

“Anything of value” does not include refreshments at a public reception or other public social function that are available to all guests equally or things of value that the person is otherwise legally entitled to possess.

#### **POSSIBLE QUESTIONS**

##### **AGO**

The AGO Comments:

If the intent of the bill is to limit contractors’ influence with key state elected officials, why does the bill exclude the Governor, Lt. Governor and state legislators? Since executive agencies under the Governor’s control are responsible directly to him, and since the Governor’s agencies

hire the vast majority of State contractors, if this bill truly seeks its apparent intended effect, should it not apply especially to the Governor and Lt. Governor?

The bill is not fair and equitable, given current realities of political contributions. For example, if the tobacco, pharmaceutical or alcohol industries are sued by the State, they can contribute to the Attorney General candidate of their choice. On the other hand, why should the law prohibit private plaintiff lawyers, contracted to represent the State in those cases, from contributing to the Attorney General candidate of their choice?

When does a person become a “candidate?” Time of announcement? Time of filing candidacy papers?

Does the bill prohibit an employee of the state auditor, state treasurer, secretary of state, commissioner of public lands or attorney general on behalf of that officer from committing these acts?

NMSA 1978, Section 8-8-19(C) for the Public Regulation Commission has a different and more permissive definition of “anything of value.” Why should these statewide officers have a different standard?

Does “election” of the candidate mean November or the following January (when the term begins)?

BMC/nt:yr