

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

SPONSOR Nibert/Ely **ORIGINAL DATE** 02/18/21
LAST UPDATED 03/09/21 **HB** 244/aSRC
SHORT TITLE Ethics Commission & Sec. of State Duties **SB** _____
ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate but Minimal		Indeterminate but Minimal	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

State Ethics Commission (SEC)

SUMMARY

Synopsis of SRC Amendment

The Senate Rules Committee amendment to House Bill 244 strikes language to remove provisions allowing for SOS to refer violations of the Campaign Reporting Act (CRA) or Lobbyist Regulation Act (LRA) to the attorney general or a district attorney for enforcement, presumably because the State Ethics Commission would do so, and also removes a provision allowing the attorney general or a district attorney to institute a civil action in district court for a violation of the CRA.

The amendment also strikes a provision directing the Ethics Commission and SOS to make recommendations to the Legislature on changes to the CRA, LRA, and Voter Action Act.

The amendment makes technical changes to remove a reference to the State Ethics Commission taking on jurisdiction after January 1, 2020.

Finally, the amendment repeals Section 1-19-1 NMSA 1978, which provides that contributions made to political parties or political party committees or members, or money in the treasury of a political party of committee, should not be expended directly or indirectly to support any one candidate from a political party against another candidate or candidates or the same political party in a primary election.

Synopsis of Original Bill

House Bill 244 amends the Campaign Reporting Act (CRA), Voter Action Act (VAA), Lobbyist Regulation Act (LRA), and the Financial Disclosure Act (FDA) to update duties of the State Ethics Commission and the Secretary of State in administering and enforcing these laws.

The bill implements a penalty of \$500 if a political committee (PAC) does not update the information on its statement of organization and requires that state political parties provide SOS with a list of all affiliated county political party PACs on a quarterly basis. In addition, PACs are required to submit an electronically signed statement of acknowledgement regarding potential personal liability, with a fine of \$100 for failing to file this statement.

The bill also modifies the complaint procedure for the CRA and LRA. Under the provisions of the bill, if an individual files a complaint with the Ethics Commission, the complaint will be referred to SOS, which will attempt to achieve voluntary compliance. If SOS does not achieve voluntary compliance within 35 days, the Ethics Commission can proceed with the complaint. Complaints filed under the FDA or VAA are the responsibility of the Ethics Commission, but SOS remains responsible for administration of the two acts.

The bill removes language from the CRA, LRA, and FDA that provides for an arbitration process and instead specifies that civil proceedings will be conducted under the State Ethics Commission Act, with the commission or the district attorney or Attorney General, as appropriate, responsible for issuing civil penalties.

HB244 also gives SOS increased authority to waive or reduce fines for late filing of CRA disclosure reports. The CRA and LRA are amended to provide 10 days for voluntary compliance, during which time SOS may waive fines. SOS may also file a petition with the court to remit outstanding fines for good cause or refer unpaid fines for further enforcement. The maximum cumulative fines for late disclosure reports in the CRA are adjusted, depending on the type of PAC, with fees for some candidates and committees reduced.

The bill amends the FDA to require Ethics Commission members to file a financial disclosure statement within 35 days of their appointment, and also file annually, and removes a requirement that a complaint submitted to the commission be notarized.

The bill also provides SOS new rulemaking authority under the LRA and FDA.

The effective date of the bill is July 1, 2021.

FISCAL IMPLICATIONS

HB244 does not contain an appropriation.

The bill requires a new electronic statement of acknowledgment to be filed by treasurers of political committees, for which SOS will maintain electronic records. SOS indicates it will have to modify its Campaign Finance Information System, which would incur a minimal cost.

The Ethics Commission does not report any fiscal impact.

SIGNIFICANT ISSUES

HB244 is the result of a legislative requirement for SOS and the Ethics Commission to make joint recommendations regarding streamlining administration and enforcement efforts and is intended to clarify and delineate the duties of both agencies, making enforcement of the acts more uniform.

According to the Ethics Commission, HB244 would align New Mexico with other states in dividing responsibilities between secretaries of state and ethics commissions in cases where ethics commissions are empowered to enforce compliance with campaign and lobbying disclosure laws, as the State Ethics Commission is.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB153 relates to campaign reporting changes, SB311 relates to lobbying and advertising campaign changes, and SB314 relates to post-session lobbying reports.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The State Ethics Commission and SOS would have overlapping enforcement jurisdiction over state ethics laws, requiring formal agreements on jurisdiction sharing.

AN/sb/al