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FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/11

SPONSOR Brown LAST UPDATED _____ HB 517

SHORT TITLE Financial Disclosures for Legislators SB _____

ANALYST Aledo

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 517 creates a new conflict of interest statute for state legislators. The bill requires legislators to disclose conflict of interests on a form to be provided by the legislative council services and file the form with the committee secretary prior to any committee vote and the chief clerk prior to a vote on the floor. The bill also requires the conflict of interest be announced before the legislator recuses the legislator's self or casts a vote on the legislation in committee or on the floor. HB 517 states that the conflict of interest disclosure form is a public document. The bill defines a conflict of interest as a potential benefit of greater than \$500 to be gained or lost by the legislator or the legislator's spouse, children, parents, siblings and in-laws. The bill limits conflicts where the gain or loss "is substantially the same for the legislator or a member of the legislator's family as that received by the general public or the majority of the members of a group to which the legislation applies."

The bill also amends the Financial Disclosure Act by creating a separate section applying only to state legislators and candidates for legislative office. This section of the bill requires financial disclosure statements to be filed by legislators and candidates for legislative office. In addition to the items currently required to be disclosed under the Financial Disclosure Act, disclosure

statement would also include the following for the legislator or candidate for legislative office and the legislator's or candidate's spouse for the prior calendar year:

- The name, address and nature of any business owned in whole or in part by each person covered in the disclosure statement, including the specific description of the business interest or interest held within a LLC or holding company;
- Ownership by a covered person of any financial instruments including stocks, bonds or notes;
- A description of real estate owned, other than a personal residence, and its location (current disclosures require disclosure of real estate owned in NM);
- All other business interests not otherwise listed, including any position held and a general statement of the business or entity (current disclosures require disclosure of NM business interests of \$10,000 or more);
- All memberships held by a covered person on boards of for-profit or nonprofit corporation or other businesses; (current disclosures only require memberships on boards of for-profit businesses in New Mexico);
- All professional licenses and business licenses held (current disclosures require only disclose of NM professional licenses);
- Each state agency that was sold goods or services by a covered person (current disclosures require disclose such goods and services exceeding \$5,000.);
- Any contracts with state agencies or political subdivisions of the state or federal agencies;
- Each state agency that conferred a direct or indirect benefit on a covered person

The bill also requires, rather than permits, a legislator or candidate for legislative office to file an amended disclosure statement to reflect changed circumstances that occurred since the last statement was filed. HB 517 increases the retention period for the financial disclosure statements from five to ten year.

SIGNIFICANT ISSUES

AGO notes that there may be a possible conflict with Section 1 and the Governmental Conduct Act.

The Governmental Conduct Act, §10-16-3B, provides that

“The legislator, public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests incompatible with the public interest.”

AGO goes on to say that the current law allows a Legislator to use their office “to obtain personal benefits or pursue private interests” as long as this benefit is not incompatible with the public interest.

Section 1, however, simply creates new disclosure requirements.

AMENDMENTS

To eliminate any potential conflict with existing law, the AGO recommends amending §10-16-3B of the Governmental Conduct Act by deleting “incompatible with the public interest”, as proposed in SB 432.

MCA/bym