



Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

SB90 adds a requirement to the Lobbyist Regulation Act which i.) prohibits former Legislators from accepting compensation as Lobbyist for two years after service as a Legislator; and (ii.) prohibits a lobbyist's employer from compensating a former state legislator for a period of two years after they left office. A person who violates this prohibition shall be subject to the penalties of the Lobbyist Regulation Act set forth in § 2-11-9 any person who knowingly and willfully violates any of the provisions of the Lobbyist Regulation Act shall be punished by a fine of up to five thousand dollars (\$5,000) and may have his or her lobbyist registration revoked or his lobbying activities enjoined for up to three years.

The bill adds a requirement to the registration oath in § 2-11-3(A) which includes a statement whether the lobbyist has served as a state legislator in the past two years. If the lobbyist indicates in the registration statement that the lobbyist has served as a state legislator § 2-11-3(C) requires the secretary of state to notify the lobbyist's employers.

The effective date is January 1, 2026.

#### **FISCAL IMPLICATIONS**

These amendments will marginally increase the Commission's workload relating to the Lobbyist Regulation Act but are not anticipated to create significant fiscal implications for the Commission.

#### **SIGNIFICANT ISSUES**

State law prohibits former executive branch employees from representing a client before their former employer during the one-year period following their separation and permanently prohibits former executive-branch employees from representing clients on a matter the former employee participated in personally and substantially while in state service. *See* NMSA 1978, § 10-16-8(B), (D) (2011). These and similar restrictions in other jurisdictions (at the local, state, and federal level) are referred to as "revolving door" statutes." Federal law imposes criminal penalties on former members of congress who engage in paid or unpaid lobbying during the two-year period following the member's departure from their legislative office. *See* 18 U.S.C. § 207(e)(1). Senate Bill 90 imposes a similar revolving-door prohibition on former legislators, although it does not prohibit a former legislator from engaging in unpaid lobbying activities. It prohibits former legislators from serving as paid lobbyists within the two-year period following their legislative service. The government has a compelling interest in preventing quid pro quo corruption and the appearance thereof. *See, e.g., Ortiz v. Taxation and Revenue Dep't, Motor Vehicle Div.*, 1998-NMCA-027, ¶ 9, 124 N.M. 677.

Revolving-door statutes like Senate Bill 90 do not only address the appearance of corruption that

may arise when a former legislature is paid to lobby his or her former colleagues. The statutes combat actual conflicts of interest: when a legislator or other public official seeks employment with an individual, organization or firm that may be affected by the official's actions, that is a clear conflict of interest. As the American Law Institute has written, "[w]hen a public servant has a financial interest in a potential future employer's favorable evaluation of the public servant and the potential future employer has an interest that may be affected by the public servant's official actions, there is the real possibility that the public servant's actions will be influenced by the prospect of future employment, and there is certainly the possibility that this will appear to the public to be a conflict of interest." American Law Institute, *Principals of Law: Government Ethics*, Tentative Draft 2, at 65 (March 12, 2018).

## **PERFORMANCE IMPLICATIONS**

### **ADMINISTRATIVE IMPLICATIONS**

The State Ethics Commission has jurisdiction to investigate and adjudicate administrative complaints alleging violations of the Lobbyist Regulation Act, to enforce the Lobbyist Regulation Act through civil actions, and to issue advisory opinions regarding the Lobbyist Regulation Act. These amendments could marginally increase the Commission's workload relating to the Lobbyist Regulation Act.

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

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If not enacted, legislators will continue to be able to seek and obtain employment as a lobbyist immediately following their legislative service.

### **AMENDMENTS**