

LFC Requester:

Julisa Rodriguez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 1/30/2025

Check all that apply:

Bill Number: SB168Original Correction Amendment Substitute Sponsor: Sharer, William E.Agency Name
and CodeOffice of Superintendent of
Insurance - 440

Number:

Short

Person Writing Placido GonzlesTitle: Travel Insurance ActPhone: (505) 670- Email placido.gonzales@osi.**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$100	\$100	\$200	N/A	Insurance Operating Cost

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB168 repeals the current limited lines travel insurance producer license statutes (NMSA 1978 §59A-12-18.1) and replaces it with the Travel Insurance Model Act published by the National Association of Insurance Commissioners (NAIC) (*see* <https://content.naic.org/sites/default/files/inline-files/MDL-632.pdf>). According to NAIC, travel insurance is a type of insurance for risk associated with traveling such as loss of luggage, trip cancellation and delays. Travel insurance gives consumers peace of mind when booking a trip that they will be reimbursed for part of, or all of their expenses should an undesirable event occur that prompts cancellation or interruption of the trip.

FISCAL IMPLICATIONS

Without proper funding to meet the administrative implications below, this is an unfunded mandate.

SIGNIFICANT ISSUES

- The Producer Licensing Bureau of the OSI believes that the current limited lines travel insurance producer statute (§59A-12-18.1) is sufficient and does not believe that SB168 is a necessary addition to the Insurance Code.
- SB168 contains a provision in Section (C) of the proposed law that "All other applicable provisions of the New Mexico Insurance Code shall continue to apply to travel insurance, except that the specific provisions of the Travel Insurance Act shall supersede any general provisions of law that would otherwise be applicable to travel insurance." This provision is duplicative of existing law which states that provisions concerning particular types of insurance prevail over provisions concerning general matters. *See* §59A-1-17 (Particular provisions prevail). Elsewhere in the insurance code, where a specific section deals with a particular type of license, there is generally a section which enumerates what other portions of the insurance code are applicable. *See e.g.* §59A-30-14 regarding title insurance; §59A-44-41 concerning fraternal benefit societies.
- SB168's provision concerning superseding general provisions of law may be interpreted to supersede existing provisions of the Insurance Code pertaining to insurance producer licensing, NMSA 1978, §59A-11-1 et seq. (Licensing Procedures for Producers and Others) and §59A-12-1 et seq. (Insurance Producers) because SB168 contains some language addressing these issues. Articles 11 and 12 of the Insurance Code contain important producer licensing qualifications and procedures that are generally applicable, but otherwise absent in SB168, such as criminal background checks. While SB168 states that the grounds for suspension, revocation, and penalties applicable to insurance producers under the Insurance Code are applicable, it does not state that the entirety of the insurance producer statutes apply. The Producer Licensing Bureau of the OSI recommends that SB168 be amended to clarify that the licensees under SB168 are licensed in the same manner as other producers and subject to those sections of the insurance code in addition to any additional requirements found in SB168.
- The NAIC model code this bill is based on states: "The [Superintendent] may issue a

Limited Lines Travel Insurance Producer License to an individual or business entity that has filed with the [Superintendent] an application for a Limited Lines Travel Insurance Producer License in a form and manner prescribed by the [Superintendent].” SB168 contains nearly identical language, but replaces “may” with “shall.” The intended effect of this substitution is not clear; however, some may interpret this as a limitation on the ability of the Superintendent’s discretion to issue a license.

- Section 5 of the bill concerns premium taxes. TRD should be consulted regarding this as OSI no longer handles premium taxes.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

OSI estimates that it will need one FTE, pay band 65. Cost of salary, benefits, and associated costs is approximately \$100,000.

SB168 will impose additional duties on the OSI as it relates to licensing and regulation. SB168 contemplates a class of “travel administrators” which require licensure under other sections of the insurance code, but whose actions are dictated by this bill. This in effect creates a new license type which will have to be overseen by the OSI.

OSI will also be required to send out new notices and ensure that the new type of license is entered into the National Association of Insurance Commissioners and the SBS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Article IV, Section 18 of the New Mexico Constitution provides “No law shall be revised or amended, or the provisions thereof extended by reference to its title only; but each section thereof as revised, amended or extended shall be set out in full.” However, the bill states "All other applicable provisions of the New Mexico Insurance Code shall continue to apply to travel insurance, *except that the specific provisions of the Travel Insurance Act shall supersede any general provisions of law that would otherwise be applicable to travel insurance.*" (emphasis added). Because the bill allows a mechanism for other existing insurance laws affecting travel insurance to be superseded by the Travel Insurance Act, the provision runs blatantly afoul of Article IV, Section 18.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Operate under current statute.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

In order to present the bill draft in a manner that meets constitutional requirements, each of the provisions of the insurance code that would be superseded by the new provisions of the Travel Insurance Act must be set forth in full.