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## FISCAL IMPACT REPORT

**SPONSOR** Sharer **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 2/13/25  
**SHORT TITLE** Travel Insurance Act **BILL NUMBER** Senate Bill 168  
**ANALYST** Graeser

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Insurance Premiums	\$0	Up to (\$300.0)	up to (\$300.0)	Up to (\$300.0)	Up to (\$300.0)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
OSI	No fiscal impact	\$100.0	\$100.0	\$200.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

### Sources of Information

LFC Files

Agency Analysis Received From  
Office of the Superintendent of Insurance (OSI)  
New Mexico Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From  
Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of Senate Bill 168

Senate Bill 168 would replace Section 59A-12-18.1 NMSA 1978 of the Insurance Code with a National Model law of 10 sections covering the same ground as 59A-12-18.1. This national model legislation was drafted by the National Association of Insurance Commissioners (NAIC). It has been substantially enacted previously by 40 states and territories, including New Mexico, which enacted 59A-12-18.1 NMSA 1978 in 2013 and amended it in 2016.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## FISCAL IMPLICATIONS

The actual fiscal impacts of the provisions are highly uncertain but will be minimal. The national trade association, the United States Travel Insurance Association (USTIA), estimates<sup>1</sup> that Americans spent nearly \$4.27 billion on all types of travel protection in 2023. Applying a conventional 0.5 percent New Mexico share (based on share of personal income) and a 3.003 percent premium tax rate, yields an estimate that total premiums paid by the industry are about \$640 thousand.

The discrepancy identified by LFC staff between 59A-12-18.1 and the provisions of the model bill involve defining cancellation fee waiver and travel services receipts as not insurance. The Revenue table on page 1 assumes this exclusion could be as much as half of the total insurance premiums currently received.

It is also uncertain whether this insurance is considered “property/casualty insurance,” which would be distributed partially to the fire protection fund or the law enforcement protection fund, with the residual distributed to the general fund.

## SIGNIFICANT ISSUES

The major source of sales and premiums derive from insurance contracts that provide payments if a trip is cancelled or delayed. Other forms of insurance would reimburse the traveler for the loss of luggage of greater value than the amount covered by the airline. There is a list of services that constitute “travel insurance:”

1. Interruption or cancellation of a trip or an event;
2. Loss of baggage or personal effects;
3. Damages to accommodations or rental vehicles;
4. Sickness, accident, disability or death occurring during travel;
5. Emergency evacuation; and
6. Repatriation of remains.

There is a definition of "travel protection plans" as plans that provide (1) travel insurance, (2) travel assistance services, and (3) cancellation fee waivers. This causes confusion because travel insurance premiums are generally taxable, but travel assistance and cancellation fee waivers are not taxable in the definition.

Section 59A-12-18.1 defines “travel insurance” as follows:

"Travel insurance" means insurance coverage for personal risks incident to planned travel, including the interruption or cancellation of a trip or event; the loss of baggage or personal effects; damage to accommodations or rental vehicles; or sickness, accident, disability or death during travel. "Travel insurance" does not include major medical plans that provide comprehensive medical protection for travelers on trips of six months or longer, such as for those working overseas as expatriates or deployed military personnel;”

OSI highlights another significant difference between 59A-12-18.1 NMSA 1978 and the provisions of this bill. Section 2C provides, “All other applicable provisions of the New Mexico

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<sup>1</sup> <https://ustia.org/resources/market-research/>

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." Specifically, OSI notes the following:

- The Producer Licensing Bureau of the OSI believes that the current limited lines travel insurance producer statute (Section 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* Section 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.* Section 59A-30-14 regarding title insurance; Section 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, Section 59A-11-1 et seq. (Licensing Procedures for Producers and Others) and Section 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 relates to premium taxes, referencing the Insurance Premiums Act (7-40-1 through 7-40-10 NMSA 1978). However, the instructions in the model bill should be expanded to make certain whether this travel insurance is equivalent to property/ casualty insurance, vehicle insurance, or some other type of insurance. It is important to clarify this since the various types of insurance may be distributed to different funds and purposes.

## ADMINISTRATIVE IMPLICATIONS

OSI estimates it will need one position. The cost of salary, benefits, and associated costs is approximately \$100 thousand.

SB168 will impose additional duties on 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 that will have to be overseen by OSI.

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

## TECHNICAL ISSUES

OSI raises a drafting issue as follows:

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.

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