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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/14
LAST UPDATED 02/20/14 **HB** 144

SPONSOR Taylor

SHORT TITLE No Insurance Tax for PRC Elections Account **SB** _____

ANALYST Armstrong

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
(\$100.0)	(\$100.0)	(\$100.0)	Recurring	Public Election Fund
\$100.0	\$100.0	\$100.0	Recurring	Insurance Department Suspense Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act
 Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Department of Finance Administration (DFA)
 Public Regulation Commission (PRC)
 Office of the Superintendent of Insurance (OSI)

No Response Received

Secretary of State (SOS)

SUMMARY

House Bill 144 amends Section 1-19A-10 and 59A-6-5 NMSA 1978, to reduce the revenue that is diverted to a subaccount of the Public Election Fund dedicated to PRC elections.

FISCAL IMPLICATIONS

The bill reduces the total amount deposited annually in the Public Election Fund's subaccount for PRC elections from \$300,000 to \$200,000 by removing the provision that requires

distribution of \$100,000 of revenue from the insurance premium tax. Under HB 144, rather than funding the PRC election subaccount, this \$100,000 is credited to the Insurance Department Suspense Fund.

According to the response from the SOS, the public election fund is used to provide public financing of campaigns for publicly financed candidates. In 2012, a federal court struck down the provisions of the Voter Action Act (VAA) which required the SOS to issue matching funds to publicly financed candidates, based on spending by a non-publicly financed opponent. With the decrease in fund distributions from matching funds, this bill is not expected to impact the fund to an extent that would impair the SOS ability to distribute initial funds to publicly financed candidates.

SIGNIFICANT ISSUES

None of the responding agencies were able to determine if the elections subaccount would retain sufficient funding if this bill becomes law.

A constitutional amendment approved by voters, in November 2012, transferred responsibility for regulating insurance from PRC to OSI. The bill's elimination of a \$100,000 annual contribution from the PRC subaccount is consistent with this transfer of authority according to PRC, OSI, and DFA analysis. Still, PRC and AGO analysis asks whether the subaccount will continue to have sufficient funds to finance PRC elections if HB 144 becomes law.

AGO analysis states that failure to maintain funding in the PRC's elections subaccount sufficient to ensure adequate administration of the provisions of the VAA as they pertain to the Public Regulation Commission may subject the state and its officials to legal challenges by PRC candidates, others who are seeking public funding for their campaigns pursuant to the VAA, or others who claim to be aggrieved by inadequate funding. AGO would likely be called upon to defend such a challenge, requiring additional personnel and potentially significant financial resources.

JA/ds:jl