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FISCAL IMPACT REPORT

SPONSOR Burt **ORIGINAL DATE** 02/04/15
LAST UPDATED 03/08/15 **HB** _____

SHORT TITLE NM Magazine Ad Sales Procurement Exemption **SB** 100/aSPAC

ANALYST Hanika Ortiz

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|-------------------|---------------------------------|---|
| FY14 | FY15 | FY16 | | |
| | | \$115.8 - \$193.1 | Recurring | New Mexico Magazine Enterprise Fund |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)

Tourism Department (TD)

SUMMARY

Synopsis of SPAC amendment

The Senate Public Affairs Committee amendment limits the exemption to the procurement of services of commissioned advertising sales representatives for New Mexico Magazine.

Synopsis of Bill

Senate Bill 100 amends Section 13-1-98 NMSA 1978 to add to the list of exemptions from the Procurement Code the services of advertising sales representatives for New Mexico Magazine.

FISCAL IMPLICATIONS

The New Mexico Magazine Program has an operating budget of \$3.4 million for FY15, all from other state funds. The majority of funds are generated by advertising revenue and subscription fees. Advertising revenue per issue is low compared to historical trends, and program revenues exceeded expenditures the past three years. Advertising revenues for FY14 were negatively impacted by the departure of the southern New Mexico advertising sales representative in

October 2013, but revenues increased March through October 2014 after hiring a replacement.

TD reports the amount the Magazine allocates for advertising commissions is about \$250 thousand.

TD also reports that the exemption could result in \$115,830 to \$193,050 of additional revenue for New Mexico Magazine in FY17 (the period in which current contracts are expiring).

SIGNIFICANT ISSUES

State law requires that an RFP be issued when soliciting contracts exceeding \$60 thousand (Procurement Code Regulations 1.4.1.29) unless otherwise exempt from the Procurement Code.

Although the State Purchasing Agent who enforces the Procurement Code does not object to this legislation, he noted concerns that the procurement for the hiring of advertising sales representatives would not have the requirements of open competition, transparency and oversight as required by the Procurement Code.

The State Purchasing Division indicated it recognizes the business needs of Tourism and the difficulty of operating in an enterprise fashion.

OTHER SUBSTANTIVE ISSUES

TD further notes that the “on commission” nature of this type of work is not conducive to the RFP process as these professionals do not respond to RFP’s. Furthermore, the challenges of the RFP process have resulted in significant levels of foregone revenues due to prolonged periods of time in which there is a lapse in service due to the time required to go through the RFP process.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

For contracts exceeding \$60 thousand, agencies will continue to be subject to the Procurement Code.

AHO/bb/aml