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FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/17
 LAST UPDATED 3/15/17

SPONSOR Muñoz HB _____
 Premium tax Collections to
 SHORT TITLE Taxation & Revenue Department SB 376/aSCORC/aSFC
 ANALYST Romero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$751.6	\$0.0	\$0.0	\$751.6	Nonrecurring	TRD – ITD
	\$0.0	\$200.0	\$200.0	\$400.0	Recurring	TRD – ITD
	\$12.1	\$0.0	\$0.0	\$12.1	Nonrecurring	TRD – RPD
	\$0.0	\$59.4	\$59.4	\$118.8	Recurring	TRD – RPD
Total	\$763.7	\$259.4	\$259.4	\$1,282.5		TRD Operating

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Office of the Superintendent of Insurance (OSI)

SUMMARY

Synopsis of SFC Amendment

Senate Finance Committee amendment adds Section 7-1-8.8 to the bill and adds new material. In this section of law new language is added regarding security measures to be taken to prevent confidential personal information from being revealed, as the agency conducts its business for premium tax collection and assessments. The amendment also repeals Laws 2009, Chapter 242, Section 2, information that may be revealed to other state agencies.

Synopsis of SCORC Amendment

Senate Corporations and Transportation Committee amendment strikes, “Declaring and emergency” from the title and removes the emergency clause. The amendment changes the effective date of the provision to be July 1, 2018.

Synopsis of Bill

Senate Bill 376 amends Section 59A-2-1 NMSA 1978 to specifically exclude collection of the premium tax from the duties of the Office of the Superintendent of Insurance. Section 59A-6-2 NMSA 1978 is amended to make clear that the premium tax is due to the Taxation and Revenue Department (TRD), and subject to collection and enforcement pursuant to the Tax Administration Act. The bill amends Section 59A-6-3 NMSA 1978 to add reference to filing with TRD. Section 59A-6-4 NMSA 1978 is amended to state that every insurer, nonprofit health care plan, health maintenance organization, prepaid dental plan or prearranged funeral plan transacting business in New Mexico will now be subject to the enforcement provisions of the Tax Administration Act. Amendments are made to Section 59A-6-5 NMSA 1978, to make TRD responsible for distribution of premium taxes collected to the insurance department suspense fund pursuant to Section 59A-6-2 NMSA 1978. Language is also added to that Section to allow a taxpayer to request a refund of premium tax from TRD and to provide that refunds granted by TRD will be paid by the superintendent from the insurance department suspense fund.

FISCAL IMPLICATIONS

This new tax program has a recurring impact of \$59,400 and a non-recurring impact of \$12,100 on the Revenue Processing Division (RPD) of TRD. The non-recurring impact is to coordinate with the Office of the Superintendent of Insurance on existing forms and systems management; to create forms, instructions, and publications; to help build and update GenTax and Taxpayer Access Point (TAP) systems for proper tracking and management; and for staff training and education. The recurring impact is \$8,900 for 0.25 FTE to process the new tax program, which requires quarterly estimated payments, and \$50,500 for 1 FTE to administer the new tax program.

The estimated cost of the FAST contractual resources is \$500,000. In addition to contractor resources and subject matter experts from the Business divisions, 2-3 IT development resources (FTEs) from TRD would be needed at a cost of \$201,600 for the duration of the project. A full-time project manager would be needed at approximately \$150,000. Due to the nature of such an implementation, independent verification and validation services would also be required at a cost of approximately \$50,000.

While SB 376 intends to transfer only the enforcement and collection of premium tax to TRD, the bill requires penalty provisions for all OSI taxes and fees, be subject to the enforcement provisions of the Tax Administration Act.

The recurring fiscal implications noted will not be significant due to the transfer of funding from the OSI to TRD in the General Appropriations Act of 2017. See relationship section of this FIR for details.

PERFORMANCE IMPLICATIONS

On February 16, 2017, the state auditor (OSA) released the Fiscal Year 2016 annual financial and compliance audit for the Office of the Superintendent of Insurance, which was conducted by OSA. According the Office of the State Auditor,

“The report has a disclaimer of opinion, meaning that the auditors were unable to obtain sufficient appropriate audit evidence on which to base an opinion”.

“The report contains 31 findings. Nine prior year findings were repeated in FY16, and 22 new findings relate to virtually all aspects of OSI financial operations. This audit report, together with the special audit of premium tax collection completed in 2016, depicts an agency with a deficient control environment. This is especially concerning because OSI is charged with several duties critical to the financial health of our State.”

See attachment for full letter. Additionally, the audit can be found on the state auditor’s website.

http://osanm.org/media/audits/440_Office_of_the_Superintendent_of_Insurance_FY2016.pdf

ADMINISTRATIVE IMPLICATIONS

Implementing SB 376 would have an overall high impact on the Information Technology Division (ITD) of TRD (1,000 hours, 6 months). This bill requires implementing the Premium Tax, in GenTax, the tax system of record for New Mexico. This effort requires a contract with the GenTax vendor, FAST Enterprises, LLC.

In terms of functionally the minimum includes:

- 1) create a new tax program/account type;
- 2) create new return documents;
- 3) adding file and pay functionality to Taxpayer Access Point;
- 4) incorporate this new tax program into the Payments, Financials, Refunds, Collections and Audit modules;
- 5) create revenue distributions;
- 6) create new letters & reports;
- 7) develop any interfaces that are required;
- 8) coordinate testing;
- 9) develop training material and provide training

This bill has a significant impact on financial distribution business processes. System changes will be required to GenTax to add the new surtax and related distribution. Financial Distributions Bureau (FDB) staff will need to verify GenTax system changes by performing selected tests of data, functionality and reporting (Generic Back-end Revenue Report), including performing a mock distribution prior to authorizing GenTax to move changes into production. Given the significance of the changes to be made to GenTax, the effective date may be difficult to meet. Within the state’s central accounting system (SHARE) new accounts will need to be created by FDB staff to record the fees collected and distributed. FDB would need to obtain the

Department of Insurance's accounting string (fund, account, subaccount, budget reference and classification) to be used to distribute fees collected for the health insurance premium surtax. FDB time impact – 100 hours. No additional FTE required.

Administration would require significant investment in systems infrastructure. As a state agency that is accredited by the National Association of Insurance Commissioners (NAIC), the OSI FAB currently has access to NAIC software that is useful in the assessment and collection of premium tax. NAIC only accredits state agencies that collect insurance tax. It is not clear that TRD would be able to access NAIC applications required to assess premium tax because of its lack of accreditation by NAIC. However, the NAIC has indicated that a partnership between TRD and OSI may be entered into and be adequate for maintain access to the benefits of accreditation.

RELATIONSHIP

The current version of the General Appropriations Act (GAA) of 2017 transfers \$368.2 thousand from the Office of the Superintendent of Insurance to the Taxation and Revenue Department to collect insurance premium taxes. The funding being transferred from OSI to TRD is other state funds, which are insurance premium tax revenues.

IR/sb/al