FISCAL IMPACT REPORT

		ORIGINAL DATE	2/16/2019		
SPONSOR	Tallman/Salazar	**LAST UPDATED**		**HB**	
SHORT TITLE	New Mexico Saves Act			**SB**	392
				ANALYST	Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Educational Retirement Board (ERB)
Public Employees Retirement Association (PERA)
Regulation and Licensing Department (RLD)
State Investment Council (SIC)
State Treasurer's Office (STO)

SUMMARY

Synopsis of Bill

Senate Bill 392 (SB392) enacts the New Mexico Saves Act (the Act), which establishes a nonprofit corporation tasked to provide a voluntary payroll deduction Roth individual retirement savings account program to benefit private-sector employees and employers. The nonprofit corporation would be governed by an 11 member board comprised of: the state treasurer; the executive director (or designee) of PERA; the executive director (or designee) of ERB; two governor appointees, subject to certain qualifications; two appointees of the Speaker of the House of Representatives, subject to certain qualifications; and two members appointed by the president pro tempore of the senate, subject to certain qualifications.

The board is tasked with hiring an executive director to serve as chief administrative officer for the corporation, adoption of bylaws and the adoption of an investment policy that minimizes management fees and designates investment options and default investments including a mix of assets.

SB392 authorizes the executive director to hire, fire and recommend to the Board compensation for staff and contract for legal, fiscal, investment and other expert advisors and service providers.

The Act requires that the directors and staff of the corporation comply with the Gift Act, the Governmental Conduct Act and the Open Meetings Act in the same manner as state agencies and prohibits conduct by directors and staff that would constitute a conflict of interest.

SB392 creates the New Mexico saves administrative fund, which shall be used to pay the administrative costs and expenses of the board and operation and creates the New Mexico Saves Marketplace, a web-based marketplace for retirement savings plans for private sector employers and employees separate from New Mexico saves. The bill provides the board with the authority to borrow working capital as necessary for administration of the fund, without creating a general obligation of the state.

SB392 requires a full independent audit annually of the trust fund and administrative operations as well as requiring the board to submit an audited financial report to the Governor, the state treasurer, and legislative oversight committees.

SB392 includes a provision that if, after five years from the effective date of New Mexico Saves Act, the board determines the percentage of private-sector employees without access to a payroll deduction retirement plan remains above 30 percent, all covered employers shall be required to offer their employees the opportunity to contribute to New Mexico Saves through payroll deductions, unless the employer offers a qualified retirement plan.

FISCAL IMPLICATIONS

None of the responding agencies reported a fiscal implication related to SB392.

SIGNIFICANT ISSUES

The State Treasurer's Office reports that New Mexico has lower percentage of private-sector workers who have a retirement plan available to them through their employers compared to the rest of the nation. Additionally, 67 percent of private-sector workers in New Mexico have no retirement savings, a rate which exceeds the national average. Exacerbating this problem is the expected population growth for retirement-aged individuals in the state. The number of persons 60+ years old with less than $10,000 saved for retirement in New Mexico is expected to increase by 111,500, to 469,000, by 2040.

The state investment council (SIC) notes:

> SB392 does not have an appropriation for startup costs. It states the board may borrow working capital until the New Mexico Administrative Fund can generate enough funding through assessed fees and other charges until the program is self-sustaining. There are no goals or time estimates on when the program will achieve self-sustainment. However, when compared to other state programs the initial startup costs and ongoing operating costs are potentially concerning.
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> Startup costs for a New Mexico Saves Program could be over $500 thousand the first year to launch the program. Budget costs received from the OregonSaves Program [which is administratively similar to the plan proposed in SB392] show its startup costs at $1.1 million.

> The way SB392 is written the program will be weighed down with a significant capital loan upfront and the participation in the program is unknown particularly because it is voluntary for employers at least the first five years.

The SIC concludes that, because SB392 creates voluntary programs for employers and employees, a greater amount will need to be spent on marketing and outreach to attract employers and employees to the program.

OTHER SUBSTANTIVE ISSUES

PERA notes:

> Use of the terms “malfeasance or misfeasance” as a threshold for personal liability should be reviewed to ensure that they incorporate the appropriate standard of willfulness or neglect. The terms we see most often in indemnity provisions is “gross negligence and willful misconduct” which may be more generally accepted in the investment industry.

CJ/al