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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/09  
 SPONSOR SCORC LAST UPDATED 3/13/09 HB \_\_\_\_\_  
 SHORT TITLE Tax Refund Anticipation Loan Act SB SCORC/CS/340/aSCORC  
 ANALYST Hoffmann/Wilson

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$100.0	\$100.0	\$200.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Regulation and Licensing Division (RLD)

### SUMMARY

#### Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment deletes the \$150 per day examination fee.

#### Synopsis of Original Bill

The Senate Corporations and Transportation Committee substitute for Senate Bill 340 will require the licensure of tax refund anticipation loan or tax refund anticipation checks facilitators. Such facilitators are primarily engaged in the business of preparing tax returns and shall be authorized by the federal Internal Revenue Service to file federal income tax returns electronically. Facilitators make, process, receive or accept for delivery applications for tax refund anticipation loans tax refund anticipation loan or tax refund anticipation checks.

The facilitator's license shall be by business location of the facilitator. No more than one place of business shall be maintained under the same license. Both original and renewal licenses are subject to a nonrefundable \$100 license fee. The bill provides for a \$10 per day delinquency fee for late filings of renewals. It identifies the duties and consumer disclosures of facilitators at the time a tax refund anticipation loan or tax refund anticipation check is submitted. Specifications for disclosure and prominent place of business signage are provided.

The bill provides for the examination and supervision duties of the director of Financial Institutions Division (FID), including examinations, examination fees of \$150 per day or any portion thereof and it also sets forth the authority and powers of the FID director including promulgation of rules.

The bill provides the procedure for the revocation, suspension and reinstatement of licenses under the purview of the director.

The bill provides for civil penalties, injunctive relief, and criminal penalties for violations of the Tax Refund Anticipation Loan Act or rule promulgated pursuant to that Act.

The effective date of the provisions of this bill will be January 1, 2010.

## **FISCAL IMPLICATIONS**

Senate Bill 340 makes no appropriation.

The FID reports it is not possible to estimate revenues as there is no data available to determine the number of tax refund anticipation loan or tax refund anticipation check facilitators located in New Mexico. The licensure fee is \$100.

The licensing, examination, supervision and administration of the Act will require additional staff and related facilities/equipment and administrative costs. Without an appropriation, the FID may not be able to carry out the new additional duties required by the Act.

A conservative estimate places the cost at \$100,000.

## **SIGNIFICANT ISSUES**

Facilitators do not make tax refund anticipation loans or tax refund anticipation checks. Under federal law a facilitator/tax preparer cannot be a lender.

According to the FID, Senate Bill 340 imposes many disclosures, contractual requirements and duties of tax refund anticipation loan facilitators on behalf of tax refund anticipation loan lenders. It appears that "facilitators" will have contingent responsibility and liability for "lender" disclosures and contractual requirements, over which they have no control.

Nearly all such of tax refund anticipation loan lenders are federally chartered banking institutions located in other states. The State of New Mexico has no authority over these lenders.

**ADMINISTRATIVE IMPLICATIONS**

FID may have to reprioritize its responsibilities in order to handle the provisions contained in this bill.

DW:CH/mt