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FISCAL IMPACT REPORT

SPONSOR <u> SHPAC </u>	LAST UPDATED <u> 3/12/23 </u>	
	ORIGINAL DATE <u> 1/29/23 </u>	
SHORT TITLE	BILL NUMBER	<u> CS/Senate Bill </u>
<u> Temporary Suspension of Licensing Fees </u>	NUMBER	<u> 111/SHPACS/aSFC/aHGEIC </u>
	ANALYST	<u> Anderson/Torres </u>

REVENUE*
(dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
(\$1,000.0)	(\$1,000.0)	(\$1,000.0)	Recurring FY24-FY26	General fund-Public Education Department
(\$500.0)	(\$500.0)	(\$500.0)	Recurring FY24-FY26	Other State Funds State Medical Board
(\$350.4)	(\$350.4)	(\$350.4)	Recurring FY24-FY26	Other State Funds Nursing Board
(\$.8-\$12.0)	(\$.8-\$12.)	(\$.8-\$12.)	Recurring FY24-FY26	RLD Board of Acupuncture and Oriental Medicine
(\$1.3)	(\$1.3)	(\$1.3)	Recurring FY24-FY26	RLD Board of Athletic Trainers
(\$342.0)	(\$342.0)	(\$342.0)	Recurring FY24-FY26	RLD Board Dental Health Care
(\$7.0)	(\$7.0)	(\$7.0)	Recurring FY24-FY26	RLD Chiropractic Board
(\$89.2-\$374.6)	(\$89.2-\$374.6)	(\$89.2-\$374.6)	Recurring FY24-FY26	RLD Board Counseling and Therapy
(\$.4)	(\$.4)	(\$.4)	Recurring FY24-FY26	RLD Board Interior Design
(\$4.5)	(\$4.5)	(\$4.5)	Recurring FY24-FY26	RLD Board Massage Therapy
(\$21.6-\$23.7)	(\$21.6-\$23.7)	(\$21.6-\$23.7)	Recurring FY24-FY26	RLD Board Examiners Occupational Therapy
(\$.8-\$1.0)	(\$.8-\$1.0)	(\$.8-\$1.0)	Recurring FY24-FY26	RLD Board Optometry
(\$8.9-\$6.4)	(\$8.9-\$6.4)	(\$8.9-\$6.4)	Recurring FY24-FY26	RLD Board Physical Therapy
(\$145.6)	(\$145.6)	(\$145.6)	Recurring FY24-FY26	Board of Pharmacy (Independent but admin attached to RLD)
(\$1.6-\$2.4)	(\$1.6-\$2.4)	(\$1.6-\$2.4)	Recurring FY24-FY26	RLD Board of Podiatry
(\$10.8)	(\$10.8)	(\$10.8)	Recurring FY24-FY26	RLD Board Psychology

(\$37.8)	(\$37.8)	(\$37.8)	Recurring FY24-FY26	RLD Board Respiratory Care Practitioners
(\$13.4-\$100.5)	(\$13.4-\$100.5)	(\$13.4-\$100.5)	Recurring FY24-FY26	RLD Board Speech Language Pathology/Audiology/Hearing
(\$21.0)	(\$21.0)	(\$21.0)	Recurring FY24-FY26	Other State Funds Board of Veterinary Medicine
(\$16.0)	(\$16.0)	(\$16.0)	Recurring FY24-FY26	NMED Medical Imaging and Radiation Therapy Program
(\$5.2)	(\$5.2)	(\$5.2)	Recurring FY24-FY26	Utility Operator Certification Program
(\$2,578.3-\$2,962.6)	(\$2,578.3-\$2,962.6)	(\$2,578.3-\$2,962.6)	Recurring FY24-FY26	FY24
TOTAL REVENUE IMPACT	(\$77.9-\$8,887.8)			

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Note: More accurate numbers will be added as they becomes available.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Public Education Department	No fiscal impact	Not specified, likely significant	No fiscal impact	Not specified, likely significant	Recurring	General Fund Public Education Department
Board of Nursing	No fiscal impact	\$10.0	No fiscal impact	\$10.0	Recurring	Other State Funds Nursing Board
Regulation Licensing Department Boards and Commissions Division	At least \$800.0	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund RLD
Medical Board	No fiscal impact	\$500.0	No fiscal impact	\$500.0	Recurring	Other State Funds State Medical Board
Environment Department	No fiscal impact	\$200.0	\$0.0	\$200.0	Nonrecurring	
TOTAL	At least \$800.0	\$710.0	\$0.0	\$710.0		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to HCEDCS/HB83, HGEIC/a HB 201

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From

Public Education Department (PED)

State Medical Board
Board of Nursing
Regulation and Licensing Department (RLD)
Department of Health (DOH)
Board of Pharmacy
Veterinary Medicine
Department of Environment (NMED)

SUMMARY

Synopsis of HGEIC Amendment to Senate Bill 111

The House Government, Elections, and Indian Affairs Committee amendment strikes Senate Finance Committee amendment 3, which enacts the suspension of licensing fees for FY24 only. The HGEIC amendment keeps the bill's original intent of suspending licensing fees from FY24-FY26. This will significantly increase the fiscal impact. The total fiscal impact to all boards for three years is estimated to be between \$77.4 thousand up to as much as \$8.9 million depending on the number of first time licenses issued. This is a significant increase from the impact of license fee suspension for FY24 only, which was estimated to be up to \$2.9 million. RLD's boards and commissions included within the bill have a total fund balance of close to \$20 million which they propose to utilize when covering costs of licensing suspension.

The Public Education Department, State Medical Board, Board of Veterinary Medicine, Environment Department, and Board of Veterinary Medicine will be impacted significantly, are outside of RLD, and may choose to cover the costs of suspended licenses differently.

The amendment does not address concerns stated by the New Mexico Board of Veterinary Medicine (NMBVM) which has been in deficit over the last couple of years and does not anticipate having sufficient board fund balance to issue a significant amount of licensure suspension. NMBVM estimates they could lose as much as \$63 thousand over the course of three years. The board receives no general fund revenue and is supported by revenues from professional licenses, permits, and examination fees. The agency was appropriated \$125 thousand for shortfalls in FY21, followed by a supplemental appropriation of \$80 thousand in FY22. The board is appropriated \$469.5 thousand for FY24 and has a fund balance of \$30.8 thousand as of January, 2023. In FY22, 104 veterinary licenses were issued and the cost per license is \$500 but the cost is discounted to \$300 during the month of May. Licensure by endorsement is also \$500 while a 60-day temporary permit is \$250. Because the board needs to update its electronic licensing system, it is unsure of the number of first-time licenses issued.

Synopsis of SFC Amendment to SHPAC Substitute for Senate Bill 111

The Senate Finance Committee amendment to the Senate Health and Public Affairs Committee substitute for Senate Bill 111 removes the one-time, nonrecurring appropriation of \$1 million to the Regulation Licensing Department for expenditures in FY24 through FY27, intended in the unamended bill to offset lost revenue for those boards, commissions, and other departments that depend on licensing fees to support their regulatory enforcement activities.

The amendment also provides for suspension of licensing fees for the duration of one year rather

than three years and remove the Barbers and Cosmetologists, Body Art Practitioners, Public Accountants, Real Estate Brokers, and Associate Brokers from the bill.

Synopsis of SHPAC Substitute for Senate Bill 111

The Senate Health and Public Affairs Committee substitute for Senate Bill 111 (SB111/SHPACS) appropriates \$1 million from the general fund to the Regulation and Licensing Department (RLD) for expenditures in FY24 through FY27. Any unencumbered balance remaining at the end of FY24 shall revert to the general fund.

SB111/SHPACS temporarily suspends the collection of first-time licensing fees from individuals in the professions and occupations identified. The bill identifies 32 categories of professions and spans across several statutes including those of RLD, the Public Education Department, the state medical and nursing boards, the pharmacy board, the veterinary board, and the department of environment.

Section 1 of the bill defines “first-time license” to include provisional and initial licensure, certification, registration, permitting, or “other word” that indicates that an individual has been qualified to engage in a profession or occupation regulated by the state. Part B says “the suspension of collecting first-time license fees of persons does not apply to businesses, managers, or supervisors of businesses.”

Part B indicates the duration of the program is July 1, 2023 through June 30, 2026.

Part C says all other licensure requirements remain in effect, including education, training, experience, and examination requirements for all identified occupations. All other fees required by law and rules also remain in effect for the identified occupations.

Part D identifies the regulated boards, commissions, and departments to be exempt from first-time licensing fees. First-time licensure fees shall be waived for:

- Teachers, school administrators, and instructional support staff within Article 10A NMSA 1978- the School Personnel Act;
- Midwives within Subsection V, §24-1-3 NMSA 1978;
- Emergency medical dispatchers and dispatcher instructors, emergency medical services first responders, basic/intermediate/paramedic emergency medical technicians within Chapter 24, Article 10B NMSA 1978;
- Optometrists within Chapter 61, Article 2 NMSA 1978;
- Registered Nurses, licensed practical nurses, nursing specialists, and lactation consultants within Chapter 61, Article 3 NMSA 1978;
- Chiropractic physicians and chiropractic assistants within Chapter 61, article 4 NMSA 1978;
- Dental hygienists, dental therapists, dental assistants, expanded-function dental auxiliaries, and community dental health coordinators within Chapter 61, article 5 NMSA 1978;
- Osteopathic physicians, physician assistants, polysomnographic technologists, anesthesiologist assistants, naturopathic doctors, naprapaths, and genetic counselors within the Medical Practice Act, Chapter 61, Articles 6, 6A, 6B, 6C, 6D, 12F, and 12G

NMSA 1978;

- Podiatrists, foot and ankle radiation technologists within Chapter 61, article 8 NMSA 1978;
- Psychologists and psychologist associates within Chapter 61, article 9 NMSA 1978;
- Professional mental health counselors, clinical mental health counselors, marriage and family therapists, professional art therapists, associate marriage and family therapists, art therapists, alcohol and drug abuse counselors, alcohol abuse counselors, and substance abuse associates within Chapter 61, article 11 NMSA 1978;
- Licensing pharmacists, pharmacist interns, and pharmacy technicians within Chapter 61, article 11 NMSA 1978;
- Occupational therapists and occupational therapy assistants within Chapter 61, article 8 NMSA 1978;
- Respiratory care practitioners within Chapter 61, article 12B NMSA 1978;
- Massage therapists within Chapter 61, article 12C NMSA 1978;
- Physical therapists and physical therapist assistants within Chapter 61, article 12D NMSA 1978;
- Veterinarians and veterinary technicians within Chapter 61, article 14 NMSA 1978;
- Acupuncturists and doctors of oriental medicine within Chapter 61, article 14SA NMSA 1978;
- Audiologists, hearing aid dispensers and speech-language pathologists within Chapter 61, article 14B NMSA 1978;
- Athletic trainers within Chapter 61, article 14D NMSA 1978;
- Magnetic resonance technologists, radiographers, nuclear medicine technologists, diagnostic medical sonographers and radiation therapists within Chapter 61, article 14E NMSA 1978;
- Cosmetologists, estheticians, electrologists, hairstylists and manicurist-pedicurists within Chapter 61, article 17A NMSA 1978;
- Body artists within Chapter 61, article 17B NMSA 1978;
- Landscape architects within Chapter 61, article 24B NMSA 1978;
- Certified public accountants and registered public accountants within Chapter 61, article 28B NMSA 1978;
- Real estate brokers and associate brokers within Chapter 61, article 29 NMSA 1978;
- Real estate appraisers and real estate appraiser trainees within Chapter 61, article 30 NMSA 1978;
- Social workers within Chapter 61, article 31 NMSA 1978;
- Direct disposers, embalmers, funeral arrangers, funeral service inters and funeral service practitioners within Chapter 61, article 32 NMSA 1978; and
- Utility operators of one or more classifications of public water supply systems within Chapter 61, article 33 NMSA 1978.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

Fiscal Synopsis of SFC Amendment to SHPAC Substitute for Senate Bill 111

Data from the Regulation Licensing Department shows the annual average revenue from the

boards identified for suspension of licensing fees in SHPACS/aSFC SB111 are around \$4.9 million annually, while annual board expenditures are around \$5.2 million annually. Collectively all boards have a fund balance of \$20 million and FY24 HAFCS/HB 2 appropriates \$6.8 million to the boards identified in the bill. While fees suspensions would largely impact board expenditures, there would be a lesser impact when considering the fund balances held by all boards. *See Table Below.*

Name of Board	Avg. Annual Revenue	Fund Balance as of June 30, 2022	FY22 Board Expenditures*	FY24 HAFCS/ HB2 Appropriation *
Acupuncture Oriental Med.	\$177,300	\$93,697	\$167.70	\$167.70
Athletic Trainers	\$51,700	\$97,149	\$28.40	\$28.40
Dental Health Care	\$585,300	\$1,841,369	\$644	\$643.90
Chiropractic	\$206,042	\$718,253	\$152	\$152.00
Counseling and Therapy	\$615,268	\$1,802,310	\$462	\$462.20
Interior Designers	\$15,325	\$41,679	\$24.40	\$24.00
Massage Therapy	\$187,885	\$269,393	\$259.10	\$259.10
Board of Examiners Occupational Therapy	\$99,400	\$503,758	\$96.60	\$96.00
Optometry	\$96,010	\$184,463	\$118.50	\$118.50
Physical Therapy		\$1,581,610	\$172	\$235.60
Pharmacy	\$2,400,000	\$7,923,506	\$2,500	\$2,499.80
Podiatry	\$44,900	\$43	\$55.90	\$55.90
Psychologists	\$235,067	\$884,193	\$225.40	\$225.40
Respiratory Care Practitioners	\$212,320	\$292,288	\$106.20	\$106.20
Speech Language Pathology/ Audiology/Hearing		\$1,005,944	\$179	\$179.10
Total	\$4,926,517	\$20,141,729	\$5,191.20	\$6,833.40

*In thousands

Fund Balance as of June 30, 2021

Fund Balance as of January 31, 2023

Section 1 part B SHPACS/aSFC SB111 states:

The state shall suspend the collection of license fees for first-time licensure of persons in the professions and occupations listed in this section who reside¹ in the state of New

¹ Section 1-1-7 NMSA 1978. Residence; rules for determining. For the purpose of determining residence for voting, the place of residence is governed by the following rules: A. the residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return; B. the place where a person's family resides is presumed to be his place of residence, but a person who takes up or continues his abode with the intention of remaining at a place other than where his family resides is a resident where he abides; C. a change of residence is made only by the act of removal joined with the intent to remain in another place. There can be only one residence; D. a person does not gain or lose residence solely by reason of his presence or absence while employed in the service of the United States or of this state, or while a student at an institution of learning, or while kept in an institution at public expense, or while confined in a public prison or while residing upon an Indian or military reservation; E. no member of the armed forces of the United States, his spouse or his dependent is a resident of this state solely by reason of being stationed in this state; F. a person does not lose his residence if he leaves his home and goes to another country, state or place within this state for temporary purposes only and with the intention of returning; G. a person does not gain a residence in a place to which he comes for temporary purposes only; H. a person loses his residence in this state if he votes in another state in an election requiring residence in that state, and has not upon his return regained his residence in this state under the provisions of the constitution of New Mexico; I. "residence" is computed by not including the day on which the person's residence commences and by including the day of the election; J. a person does not acquire or lose residence by marriage only. The case of *In re Montoya*, 1973-NMSC-075, 85 N.M. 356, 512 P.2d 684 (S. Ct. 1973), provides the definition of domicile as follows: "Generally, physical presence within a state and the intention to make it one's home are the requisites of establishing domicile therein. 25 Am. Jur.2d Domicile §§ 20 and 24 (1966)."

Mexico; provided that this provision does not include businesses or managers or supervisors of businesses.

The applicable definition of residence is clearly set forth in Section 1-1-7 NMSA 1978, as quoted below. This definition will therefore apply to the contents of the substitute bill.

Fiscal Synopsis of SHPAC Substitute for Senate Bill 111

The appropriation of \$1 million contained in this bill is a nonrecurring expense from the general fund to the Regulation and Licensing Department for expenditures in FY24 through FY27 to offset lost revenue for those boards, commissions, and other departments that depend on licensing fees to support their regulatory enforcement activities. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the general fund. To qualify for the funds, such board, commission, or department must certify that the licensing funds or appropriations are insufficient to carry out its activities without additional monetary support.

This appropriation is estimated to be insufficient to replace the funding from suspended licensure fees.

The Public Education Department (PED) stated concerns about revenue loss from suspended first time licensure fees:

From July 1, 2022, through January 31, 2023, the Public Education Department (PED) collected \$793,400 in initial licensure fees, and PED is projected to collect about \$1.3 million in FY23. The licensure fees fund the personnel cost of the staff who work in the Licensure Bureau, Licensure Investigations, and Licensure Prosecutions, as well as coaching for educators that are leveling up, development of micro credentials for educators, and other educator quality activities.

PED has generally received about \$1.7 million from educator licensure fees (a mixture of both initial licensees and renewals) in recent years. Per LFC PED analyst, the following budget amounts for the last few years has been:

Educator Licensure Fund (other state funds)
FY23: \$1,904.6
FY22: \$1,662.0
FY21: \$1,638.9
FY20: \$1,697.0

The Medical Board (NMMB) took an average of the past three fiscal years' revenue and increased the projected revenues for FY23 through FY25 because it now licenses doctors of osteopathy and is estimated to bring in \$500 thousand per year for the next three fiscal years. The board stated SB111/SHPACS will impact budget revenue and the board responded it will have to request a fund balance for any expenditure shortfall. It is expected that \$1 million cannot sustain the loss of revenues for both independent licensure boards and RLD boards. The autonomous board has not experienced lost revenue, and reports having adequate funds to meet its budgetary needs, but this bill will result in approximately \$500 thousand of lost revenue in other state funds annually for the next three fiscal years.

The Board of Nursing, a revenue-generating agency that receives no appropriation from the general fund, said the elimination of initial licensure fees will have a significant impact on the

agency.

The number of initial licensing applications increased 184 percent from FY21 to FY22, and approximately 56 percent from FY22 to FY23. Estimating the amount of the proposed appropriation from the general fund to meet the operating costs of the agency is difficult. If the number of initial applications continues to grow at the current rate, the estimated revenue loss would be \$350.4 thousand.

The board also stated the cost of evaluating the impact of the suspension of licensing fees would cost the agency at least \$10 thousand per year to estimate any workforce or migratory changes. Revenue and operating expenses would be provided directly from the board.

The exact fiscal impact to RLD's Boards and Commissions Division has been difficult to determine for a number of reasons.

- RLD categorizes “first-time licensees” as those issued to individuals coming out of school, likely with low or no income until they get licensed, and possibly having incurred some amount of student debt.
- RLD states there is minimal historical digital data available on which to base estimates of the number of first-time licenses issued for various boards and commissions. However, the agency was able to create an estimate based on “initial” licenses, but that license type includes those coming from other jurisdictions (outside of the state).
- RLD states the average license fee for an initial license ranges from \$100 to \$600 depending on the license type and board. Some boards have only a few new licenses each year, while others could have a few hundred. The impact to the agency might be as little as \$100 for waiving a first-time license to upwards of \$30 thousand if 300 license fees were waived at that amount.
- HAFCS/HB2, the General Appropriations Act of 2023 appropriates the fund balances of each board. Of the boards included in SB111/SHPACS, a board fund balance might be as little as \$29 thousand up to \$2.5 million.
- RLD estimated approximately 50 percent of all license fees collected by the Boards and Commissions Division (BCD) in a fiscal year result from temporary, provisional, and initial license fees.

RLD said all boards included in HAFCS/HB2 would have enough fund balance to provide that limited “first-time licensee” fees to be waived, but suggests the duration of suspended fees be reduced to FY24 only, so each board would have time to analyze the fiscal impacts and outcomes of the enactment. RLD also noted they believe the fiscal impact will be minimal *if* an amendment would be adopted to remove the boards of Barbers and Cosmetologists, Body Art Practitioners, Landscape Architects, Public Accountants, Real Estate Brokers and Associate Brokers from the bill.

RLD reported that its Administrative Services Division (ASD) calculated the total license revenue collected by the BCD on behalf of the boards and commissions administratively attached to the RLD was over \$8.2 million in FY21 and over \$8.8 million in FY22. The two-year average is over \$8.6 million. This includes all applications, licenses, and renewals for all nearly 30 boards and commissions, 23 of which are explicitly listed in the bill, including the boards of crane operators, optometry, chiropractic health, dental health, podiatry, psychology,

counseling, occupational therapy, massage therapy, physical therapy, acupuncture and oriental medicine, speech-language pathology, audiology, athletic trainers, barbers and cosmetologists, body art practitioners, landscape architects, interior designers, private investigators, public accountancy, real estate appraisers, social workers, and the board of funeral services. RLD retains income derived from assessed license fees to pay for its operational costs and enforcement activities. The licensing revenue information from ASD for past years is not able to be broken down by temporary, provisional, or initial licensure, or renewals.

RLD reported additional operating and contract costs would be accrued to make modifications to the licensing software platforms for each of the impacted boards and commissions. They stated that, based upon costs incurred in recent years for changes and upgrades to those licensing software platforms, it utilized at least \$800 thousand for licensing software changes, but changes required with SB111/SHPACS would be “minimal” for system updates needing to be in place for FY24. RLD is working to complete its software modernization project in FY24 and plans to spend the \$5 million special appropriation in HAFCS/HB2. RLD responded operating and contract costs will correspond largely with the volume of “first-time” license applications occurring within identified boards and commissions. Because RLD is not able to provide a break out of “first-time” license amounts for these boards, there might be a risk of operating costs raising substantially despite information from the agency indicating minimal operating impacts.

SB111/SHPACS does not include a separate appropriation for boards and commissions outside of RLD, such as the Board of Veterinary Medicine, which responded about the fiscal impacts to its operating budget. The board reported an approximate revenue loss of \$21 thousand for FY24 and \$25 thousand for FY25: The board reports issuing 104 licenses in FY22, 67 in FY21, and 55 in FY20, an average of 75 veterinary licenses per year. The board hosts three license types, any of which might be considered “first time.” (1) regular licensure (2) licensure by endorsement, and (3) 60-day temporary permit. The cost for a regular exam and application is \$500 but the cost is discounted to \$300 during the month of May. Licensure by endorsement is also \$500 while a 60-day temporary permit is \$250. The board will likely request funding to update its licensing processes for FY25:

Over the last year, the agency has removed several practices and policies put in place by the previous Executive Director which made the licensing process somewhat burdensome and complex. The current process has been streamlined ... the agency is exploring new licensing software that would make the process an almost completely an online process. This would lead to faster licensing times and give the applicants more control of the process.

The board receives no general fund revenue and is supported by revenues from professional licenses, permits, and examination fees. The agency was appropriated \$125 thousand for shortfalls in FY21, followed by a supplemental appropriation of \$80 thousand in FY22. The board requested a \$6,700 increase in its FY24 contracts category to modernize its licensing system and is working to increase fee structures for the first time since 2013.

The board commented that the state is experiencing a shortage of veterinarians, a shortage that is mirrored on a national level:

Although New Mexico is experiencing a shortage of veterinarians, the shortage is not unique to New Mexico and remains a national issue. The number of individuals who are choosing to enter the veterinary practice has continually decreased and the number of individuals deciding to leave veterinary practice has increased.

It is unclear if providing suspended fees for applications will increase the number of veterinarians practicing in New Mexico if shortages are nationwide. Suspension of licensing fees might have adverse effects for a board that has one of the state's smallest operating budgets and has struggled with deficit during the past two fiscal years.

The Environment Department estimated a revenue loss of \$21.2 thousand annually: \$16 thousand for suspended licensure fees from the Medical Imaging and Radiation Therapy Program and \$5,200 from Utility Operator Certification Program (UOCP):

SB111/SHPACS would reduce MIRTAC Program revenue by \$16 thousand annually for the period of July 1, 2023, through June 30, 2026, (based on 10% of Program revenue coming from new applications) a total of \$48 thousand in the same period without reducing the requirements to issue certificates as required by law.

The New Mexico Environment Department's Drinking Water Bureau administers Utility Operator Certification through the authority at NMSA 1978, §§ 61-33-1 to -10 and 20.7.4 NMAC. The Utility Operator Certification Program ("UOCP") licenses water and wastewater operators that are required to operate drinking water and wastewater facilities throughout New Mexico. The New Mexico Environment Department does not receive any appropriation from the general fund to operate the UOCP and relies on certification fees to cover the UOCP administration costs.

SB111/SHPACS requires all impacted boards, commissions, and departments to (1) collect and analyze data related to the suspension of collecting initial, temporary, and provisional license fees to determine whether there was an increase in applicants submitting applications during the time the license fees were waived and whether the increase in submission was by New Mexicans or licensees from other jurisdictions; and (2) to demonstrate that the impacted board, commission or department requires money from the general fund to maintain sufficient operating budgets in FY24 through FY27 because of loss of income from collecting initial, provisional and temporary license fees, SB111 places an additional burden and cost on the New Mexico Environment Department to ensure compliance with the added responsibilities of collecting and analyzing data and drafting these reports. The New Mexico Environment Department estimates the impact of these directives will cost \$200 thousand in addition to the loss of revenue from the suspended licensure fees.

As a result, the Department would have slightly less revenue to conduct those programs. Unless NMED is fully reimbursed for these lost fees by the appropriation to RLD, the Department will have fewer resources to promote licensure, investigate complaints, or conduct daily business needed for the Program.

SIGNIFICANT ISSUES

Suspension of licensing fees for first-time licenses could provide financial relief for individuals who complete education in New Mexico and can provide proof of residency in the state.

Based on feedback from many of the affected agencies, the bill appropriation amount of \$1 million would likely be insufficient to fully cover the loss of licensing revenue of one fiscal year for the boards and commissions administratively attached to the RLD alone, and could fall short of covering lost licensing revenues for RLD boards and commissions, and several other state

agencies that are included.

SB111/SHPACS does not indicate how RLD might distribute the funds amongst the named boards and committees. Other boards and licensing entities including the Board of Nursing, the State Medical Board, Department of Health, Public Education Department, Board of Pharmacy (partially attached to RLD), Board of Veterinary Medicine, and the Department of Environment would be excluded from the \$1 million appropriation in the bill.

The Public Education Department commented on the inadequacy of the appropriation:

SB111/SHPACS would require that the departments affected certify that their licensing funds or appropriations are insufficient to carry out those activities without additional monetary support, in a request for a portion of the \$1 million appropriation. ... the \$1 million is estimated to be insufficient to defray the losses PED would experience from the proposed three-year suspension of initial licensure fees, in addition to the other impacted agencies.

PERFORMANCE IMPLICATIONS

If revenue significantly declines for agencies, board performance measures could be impacted. Additionally, boards could be at risk for becoming inoperable. The temporary suspension of the collection of license fees for initial licensure could impact certain board's performance in accomplishing their mission, goals, and objectives. Enterprise agencies that generate revenues from applications, initial licenses, renewal fees, and disciplinary fines might encounter financial hardship and struggle to budget and fund personnel, contract investigators, and expenses. The lack of revenue generated from initial licensure fees has potential to hinder the performance of the boards to promote licensure, investigate complaints, and conduct daily business.

ADMINISTRATIVE IMPLICATIONS

Senate Bill 111 requires all impacted boards, commissions, and departments to: (1) collect and analyze data related to the suspension of collecting initial, temporary, and provisional license fees to determine whether there was an increase in applicants submitting applications during the time the license fees were waived and whether the increase of submission was by New Mexicans or licensees from other jurisdictions; and (2) to demonstrate that the impacted board, commission or department requires money from the general fund to maintain sufficient operating budgets in FY24 through FY27 as a result of loss of income from collecting initial, provisional, and temporary license fees. This may place an additional burden and cost on the boards, commissions, and departments to ensure compliance with the added responsibilities of collecting and analyzing data and drafting reports.

According to RLD, administrative rulemaking processes would be required during FY23 for agencies to prepare for and comply with the provisions of this bill on the effective date. Additional funding for licensing and software modifications would be necessary for RLD to comply with the terms of this legislation. The agency also stated:

BCD is not able at this time to completely separate “first time” temporary, provisional, initial licensure or renewal fees to provide definite dollar amounts of the funds that would be lost if (SB111/SHPACS) were enacted, however, based

upon the BCD's review of the license types of the 24 licensing boards and commissions will be impacted...

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The House Commerce and Economic Development Committee Substitute for House Bill 83 (HCEDCS/HB83) requires the New Mexico Medical Board to enforce and administer the Podiatry Act, changes the title of “podiatrist” to podiatric physician, conforms sections of the Podiatry Act, provides for the Medical Board fund to receive funds collected under the Podiatry Act, creates a podiatry advisory committee, defines duties, and changes licensing reciprocity requirements for podiatrists. HCEDCS/HB83 also requires biennial podiatry licensure renewal, removes the taxation registration number requirement as a condition of license renewal, and adds a circumstance for a postgraduate education waiver while repealing sections of the Podiatry Act.

The amended Sunset Omnibus Bill, HGEIC/a HB 201, proposes to extend the life of six boards pursuant to the provisions of the Sunset Act with periods of extension of six years. The bill also eliminates the sunset dates for four others, which include many of the boards listed in SB111/SHPACS.

TECHNICAL ISSUES

It is unclear how disbursement from the replacement funding appropriation would occur or what will occur if funding is exhausted prematurely. Other category and contract expenses would be impacted by increasing expenditures. Enterprise agencies issue first-time licenses in different ways and for varying amounts, including by examination and through reciprocity.

The Regulation and Licensing Department (RLD) is continuing to collect and analyze data to determine whether the suspension of collecting initial, provisional, and temporary license fees increased participation in licensed professions and occupations and whether applications for new licenses were submitted by New Mexico residents or from other jurisdictions. The Boards and Commissions Division (BCD) at RLD is not currently able to separate temporary, provisional, initial licensure, or renewal fees and breaking down the types of provisional licenses applicable to all boards and commissions is technically difficult.

According to the Board of Nursing, managers or supervisors of businesses are not eligible for suspension of licensure fees, creating uncertainty for the agency in how to implement the provision because many health care facilities employ chief nursing officers and nurse managers at every clinical level. The agency also said the Nursing Practice Act does not refer to “nursing specialists” and excludes advanced practice registered nurses, certified nurse practitioners, certified registered nurse anesthetists, and clinical nursing specialists.

Section 1 of the bill defines “first-time license” to include provisional and initial licensure, certification, registration, permitting, or “other word” that indicates that an individual has been qualified to engage in a profession or occupation regulated by the state. Clarifying language could define licensure and permitting types indicated.

Regarding section 1.A. RLD responded:

As used in this section, “license” includes provisional or temporary licenses prior to initial licensure, and initial licensure, certification, registration or permitting of an individual as qualified to engage in a profession or occupation regulated by the state.

- a. “Qualified to engage in a profession or occupation” should mean a person who has passed required exams. Provisional and temporary licenses are generally issued while an applicant completes exams and/or work experience.

Some BCD boards and commissions charge a separate, statutorily-allowed application fee in addition to the license fee (for example, the Board of Optometry). Other boards or commissions only charge one fee, which includes the costs for both the application and the license. SB111 does not address “application fees” that are separate from license fees. There is certainly room for confusion as to whether or not application fees are intended to be suspended under SHPAC Sub. SB111. If application fees are not suspended under the bill, there will be substantial administrative complexity for the BCD when assessing such fees, and it is likely that individual administrative rulemaking processes for amending rules adopted by those boards/commissions would be necessary.

[Note: Any necessary administrative rulemaking activities would have to begin during FY23 in order to have such amendments/additions take place by the effective date of SB111, July 1, 2023.]

OTHER SUBSTANTIVE ISSUES

Some boards charge an application fee in addition to the license fee, depending upon statute. Others only charge one fee for both the application and the license. SB111/SHPACS does not address “application fees” that are separate from license fees. In addition to administrative rulemaking processes that boards may need prior to July 1, 2023, statutory changes to several of their practice acts might need to be examined/implemented to separate the application fee from the licensure fee. Certain boards might already waive the initial licensure fee for anyone who chooses New Mexico as their first state of licensure.

The Board of Nursing stated concerns about Section 1, Part B of the bill:

... managers or supervisors of businesses are not eligible for suspension of licensure fee. It’s unknown how the (board of nursing) would implement this (provision) as many health care facilities employ chief nursing officers and nurse managers at every clinical level and the application process does not identify this.

ALTERNATIVES

Removing enterprise agencies not associated with RLD. Create a study to see what impact waiving licensure fees will have before impacting budgets and disparage agencies so significantly.

The Nursing Board suggested an amendment in “Section 2. APPROPRIATION to include an appropriation from the General Fund to the New Mexico Medical Board to offset our lost revenue” (please see projected losses above in “Fiscal Implications”).

The Nursing Board said the Nursing Practice Act includes registered nurses, licensed practical nurses, nursing specialists, and lactation consultants. The proposed legislation could include the Lactation Care Provider Act, Chapter 61, Article 3B, NMSA 1978. The board also said:

...the Nursing Practice Act does not refer to “nursing specialists.” This legislation could...include Advanced Practice Registered Nurses, or Certified Nurse Practitioners (CNP), Certified Registered Nurse Anesthetists (CRNA), and Clinical Nursing Specialists (CNS) as noted in the Nursing Practice Act.

The Board of Veterinary Medicine, who had an FY24 operating budget of \$469.5 thousand suggested SB111/SHPACS could include an appropriation for boards and commissions that do not fall under RLD to offset the loss of revenue and to be exempt from the bill.

GA/ne/al/rl/hg/al/ne