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## FISCAL IMPACT REPORT

SPONSOR SCORC ORIGINAL DATE 2/23/17  
 LAST UPDATED 3/03/17 HB \_\_\_\_\_

SHORT TITLE Telecomm Surcharges on Modern Technologies SB 411/SCORCS

ANALYST Chenier

### REVENUE (dollars in thousands)

<u>Estimated Revenue</u>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY17</b>	<b>FY18</b>	<b>FY19</b>		
	\$432.0	\$432.0	Recurring	Telecommunication Access Fund From Surcharge Applied to VoIP*
	\$840.0	\$840.0	Recurring	Telecommunication Access Fund From Surcharge Applied to Prepaid Wireless*
<b>N/A</b>	<b>1,272.0</b>	<b>1,272.0</b>	<b>Recurring</b>	<b>Total Telecomm Access Fund</b>
	\$38.2	\$38.2	Recurring	General Fund

\*To comply with federal law

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

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		Up To \$171.0	Up To \$125.0	Up To \$296.0	Recurring	TRD

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to an appropriation in HB2

#### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Tax and Revenue Department (TRD)

Commission for the Deaf and Hard of Hearing (CDHH)

## SUMMARY

### Synopsis of SCORC Substitute

The Senate Corporations and Transportation Committee Substitute for Senate Bill 411 would modify the application of the Telecommunications Relay Service Surcharge to include modern telecommunication technologies; exempts certain telecommunications; and clarifies the provisions of the Telecommunications Access Act. The modern telecommunication technology includes Interconnected Voice over Internet Protocol (VoIP) which allows for phone calls to be made over the internet exactly how older phones made phone calls. The bill also includes modern forms of access telecommunication technologies such as prepaid calling cards. The Federal Communications Commission (FCC) Regulation has two subsections under “Title 47 Chapter 1 Subchapter B Part 64”; “Subsection F” for Interconnected VoIP and “Subsection DD” for prepaid phone services. Under these two subsections both Interconnected VoIP and prepaid phone services are telecommunications services. Customers who have their telecommunications services due to the Low Income Telephone Service Assistance Act are not subject to the surcharge. The surcharge rate has not been changed but the bill explains how the surcharge will apply to interconnected VoIP and retail prepaid mobile telecommunications services transactions.

The substitute clarifies and specifies the exact way in which the telecommunication relay services surcharge is to be billed, imposed, and collected. The substitute does not allow the surcharge to be included in the base for measuring any other tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency. The substitute also sets a minimum amount for charging the surcharge on prepaid wireless of \$5.00 or 10 minutes or less.

The bill also exempts customers whose telephone services rates are reduced as authorized by the Low Income Telephone Services Assistance Act.

## FISCAL IMPLICATIONS

No agency responses were received for the analysis of the substituted bill.

The Telecommunications Access Act surcharge funds the Telecommunications Relay Services (TRS) to provide telecommunications relay services to the hearing-impaired and speech impaired individuals in New Mexico, and is the primary source of funding for the New Mexico Commission for Deaf and Hard of Hearing. The New Mexico Commission for Deaf and Hard of Hearing (NMCDHH) is the Administrator of the Relay services for New Mexico. NMCDHH supervise and work with the Relay vendor for New Mexico and handle all complaints related to TRS services.

TRS surcharge revenue in New Mexico has steadily decreased, having done so by 32.57% from FY12-FY16, and is projected to decrease another 6.03 percent in FY17. As a result, the last several years have required the use of the NMCDHH fund balance to ensure all services continue. The agency has reduced its remaining budget for all services, with the only exception being relay services.

TRD is required to deduct no more than three percent of the telecommunications relay service surcharge, a charge for the administrative costs of collection, and shall remit that amount to the state treasurer for deposit to the general fund.

TRD provided the following:

TRD stated that electronic forms of voice communication, including technology like VoIP, are steadily increasing adoption levels and are raising their presence in the marketplace. The Federal Communications Commission (FCC) Voice Telephone Services Status Report shows that interconnected VoIP subscriptions nationwide increased 9 percent per year between 2014 and 2015. If we apply this annual flat growth rate to the number of interconnected VoIP subscriptions in New Mexico as reported by the FCC in 2013 (147,000 subscribers), we would estimate 175,000 subscribers in 2015 and 190,000 subscribers in 2016. Under current statute, those VoIP providers capable of providing telecommunication services, are not subject to the surcharge faced by land line and mobile telecommunication service providers. Assuming an average number of VoIP subscribers of 217,000 subscribers between 2017 and 2018, and an average monthly cost of \$50, the 0.33 percent surcharge would generate about \$36 thousand monthly.

Using data from a survey published by the International Association for the Wireless Telecommunications Industry (CTIA), there were an estimated 420,000 prepaid wireless subscribers in New Mexico in 2013 (considering 23.4 percent of the wireless market was held by prepaid connections). The latest results show a 6 percent growth of wireless connections nationwide between 2014 and 2015. If we apply this annual flat growth rate to the number of prepaid wireless subscribers, we would estimate 501,600 prepaid wireless subscribers in 2016. Assuming an average monthly cost of \$40 a month per line, the 0.33 percent surcharge would generate approximately \$840 thousand in revenue collected in FY18, taking into account the 3 percent administrative fee deduction and retained by the Department.

The Audit and Compliance Division (ACD) reports the bill would have a moderate impact as changes to the form RPD-41114 will need to be made, and ACD will need to train staff to assist taxpayers. The Information Technology Division (ITD) reports implementing these changes to current law proposed by the bill would have a moderate impact of approximately 500 hours or about 3 ½ months at a cost of \$35,000.

If the Taxation and Revenue Department (TRD) determines that regulating the surcharge's sourcing is needed to ensure the state receives its correct share of surcharge revenue, sourcing the surcharge as defined in the federal Mobile Telecommunications Sourcing Act (instead of by the subscriber's billing address) may require regulations. Audit procedures will need to be developed.

## **SIGNIFICANT ISSUES**

CDHH stated that the Telecommunications Access Act surcharge funds the Telecommunications Relay Services (TRS) to provide telecommunications relay services to the hearing-impaired and speech impaired individuals in New Mexico, and is the primary source of funding for the New Mexico Commission for Deaf and Hard of Hearing. The New Mexico Commission for Deaf and Hard of Hearing (NMCDHH) is the Administrator of the Relay services for New Mexico. NMCDHH supervise and work with the Relay vendor for New Mexico and handle all complaints related to TRS services.

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The costs of relay services has increased steadily over the years, with the projected rate per minute of the traditional relay services to reach \$2.6245 nationally. This is a 33 percent increase over last

year's rate of \$2.2904, according the Federal TRS Report to the FCC "CG Docket No. 03-123". The FCC on December 15, 2016 developed rules and regulations for the transition of relay provisions from the TTY relay services (that we currently use and oversee) to a new system known as Real Time Text.

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