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FISCAL IMPACT REPORT

ORIGINAL DATE 3/9/17

SPONSOR HBIC LAST UPDATED _____ HB CS/CS/32/HBICS

SHORT TITLE E911 Surcharges on Communications Services SB _____

ANALYST Romero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
\$3,632.0	\$3,856.0	\$4,333.0	Recurring	E911 Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$71.0	\$25.0	\$25.0	\$121.0	Recurring	TRD Operating

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 46

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Responses Not Received From

Department of Finance and Administration (DFA)

Department of Information Technology (DoIT)

SUMMARY

Synopsis of HBIC Substitute for House Bill 32

This substitute amends the Enhanced 911 Act to provide expansion of the current \$0.51 surcharge to be imposed on subscribers of communication services (rather than telecommunication companies) to support the provision of enhanced 911 emergency assistance services. The “enhanced 911 surcharge,” as defined by the bill, covers each active number using a Voice over Internet Protocol (VoIP) communications and is assessed to the retail customer, provided that it will not be assessed on the provision of broadband internet access service. The bill stipulates that the enhanced 911 surcharge shall not apply to prepaid wireless communication services. This substitute adds language to clarify the differences between the uses of “calls” under current law and the use of “communications” as a commonly used term to match current terminology used by today’s emergency 911 systems that do not rely solely on the use of land lines to connect E911 service providers with beneficiaries of this service.

The bill also amends the Enhanced 911 Act Section 63-9D-3 NMSA 1978 to add and revise a number of definitions including “communication service”, “enhanced 911 surcharge”, “ESInet”, “NG-911”, “surcharge collected”, and “VoIP service provider”. Amendments for corrections of terms used are also made to Sections 66-9D-7, 63-9D-8, 63-9D-8.1, 63-9D-10, and 63-9D-11 NMSA 1978.

Section 63-9D-11.1 NMSA 1978 is amended to extend to counties the same opportunities that municipalities have in adopting an ordinance making it a violation for any person to knowingly dial 911 for the purpose of reporting a false alarm, making a false complaint or reporting false information that results in an emergency response by any public safety agency.

Section 63-9D-11.1 NMSA 1978 is amended to extend to counties the same opportunities that municipalities have in adopting an ordinance making it a violation for any person to knowingly dial 911 for the purpose of reporting a false alarm, making a false complaint or reporting false information that results in an emergency response by any public safety agency. A new section is also added to the Enhanced 911 Act that proposes the imposition of the “prepaid wireless enhanced 911 surcharge” at a rate of 1.38% of the gross value of the retail transaction. However, the proposed legislation in the bill states that retail transactions considered as “minimal” worth \$5 or less offering ten minutes or less of talk-time are not required to be subject to the prepaid wireless enhanced 911 surcharge. The bill also repeals Section 63-9D-4.1 NMSA 1978.

This bill proposes that a communication service provider or “seller” would be allowed to deduct and retain 3% of prepaid wireless enhanced 911 surcharges that would be collected by the seller from the consumer.

FISCAL IMPLICATIONS

TRD notes the following:

There is an inherent level of complexity and a high degree of uncertainty associated with the estimated revenue impact for the bill. TRD acknowledges there is a chance the methodology used to estimate the fiscal impact of the bill could be over or under-estimating the expected amounts of tax revenues collected

through the proposed prepaid wireless enhanced 911 surcharge. This is based on the actual amount of revenues collected in the states of Colorado and Nebraska, shown below. Both states have had in effect a similar prepaid wireless surcharge of 1.4% in Colorado and of 1% in Nebraska.

Like the surcharge proposed in this bill, the surcharges effective in Colorado and Nebraska must be collected at the time a consumer purchases prepaid wireless service at a retail location, from a seller who delivers the service or on any purchase made by a consumer who has an address or mobile phone number associated with a Colorado or Nebraska location.

Fiscal Year	Colorado Prepaid Wireless Revenue (Thousands of Dollars)
2015	\$3,028.7
2016	\$2,858.2
2017*	\$1,455.7

*Through December 2016

Before the bill became law in Nebraska, their 2012 revenue forecast took into account a Public Service Commission’s estimate based on 146,000 prepaid wireless users averaging a retail transaction of \$50 per month. However, Nebraska’s Department of Revenue based their estimate on 304,600 users averaging a transaction amount of \$27.50 per month.”

Calendar Year	Nebraska Prepaid Wireless Revenue (Thousands of Dollars)	
	Actual	Estimated
2013	\$802.8	\$595.0
2014	\$1,125.1	\$1,088.0
2015	\$918.5	\$1,104.0
2016	\$1,153.0	n/a

SIGNIFICANT ISSUES

While this surcharge will raise revenue, it will also raise consumer costs for wireless phone service. However, expanding the surtax to include VoIP service providers would bring equity to the surcharge, so that all communication devices capable of making a 911 call would be taxed, instead of only land lines and mobile phones.

ADMINISTRATIVE IMPLICATIONS

Revenue Processing Division reports the bill would represent a minimal impact on their processes (\$11,000 non-recurring, \$25,000 recurring). This bill requires RPD to update the E911

services surcharge return form and taxpayer instructions, and create publications necessary to properly manage and educate taxpayers about the new Prepaid Wireless E911 Surcharge program. RPD would need to collaborate with ITD to help build and test all updates in GenTax and to consult on all E911 forms, instructions, and publications. RPD will require two additional FTE, especially in the first year of implementation to administer and provide support to sellers for the new Prepaid Wireless Surcharge program.

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.

TECHNICAL ISSUES

Section 1 B refers to "retail customer" and later in the bill refers to "subscribers". If these entities are the same, the language should be consistent.

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. Given that "prepaid wireless enhanced 911 surcharge applies to retail transactions occurring on or after July 1, 2017" the proposed effective date of the bill does not provide enough time to conduct all stages necessary for proper implementation of the program. A more reasonable timeframe for implementation would be January 1, 2018 for the changes to be combined with the normal semi-annual gross receipts tax updates.

IR/jle