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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Senate Taxation, Business &amp; Transportation Committee</u>	<b>LAST UPDATED</b> <u>03/10/25</u> <b>ORIGINAL DATE</b> <u>03/08/25</u>
<b>SHORT TITLE</b> <u>Travel Insurance Act</u>	<b>BILL NUMBER</b> <u>CS/Senate Bill 168/STBTCS</u>
<b>ANALYST</b> <u>Graeser</u>	

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Insurance Premiums	\$0	(\$0.0) to 260.0	(\$0.0) to 290.0	(\$0.0) to 320.0	(\$0.0) to 360.0	Recurring	General Fund
		(\$0.0) to 350.0	(\$0.0) to \$380.0	(\$0.0) to \$420.0	(\$0.0) to \$455.0		Other State Funds

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
OSI	No fiscal impact	\$100.0	\$100.0	\$200.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Office of the Superintendent of Insurance (OSI)  
Taxation and Revenue Department (TRD)

#### Agency Analysis Received on Original Bill From

New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of STBTC Substitute for Senate Bill 168

The Senate Taxation, Business and Transportation Committee substitute for Senate Bill 168 (SB168) enacts the "Travel Insurance Act."

This bill clearly defines the relationships and responsibilities among a limited line insurance producer, a travel administrator, a supplier of travel services and the supplier's customer. It defines a "cancellation fee waiver" and declares that a cancellation fee waiver is not insurance. The bill defines "travel assistance service" as a service for which the consumer is not indemnified based on a fortuitous event and that does not result in the transfer or shifting of risk that would constitute the business of insurance.

The bill adds several other new sections to the Insurance Code. Section 4 clarifies that travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance and specifies that travel insurance may be in the form of an individual, group, or blanket policy. Section 5 outlines requirements for travel protection plans, which must disclose whether the protection plan includes cancellation fee waivers, travel insurance, or travel assistance services and provide consumers with more information on the features and pricing of each. Section 7 allows the direct marketing of insurance to consumers through a website. Section 8 sets qualifications for travel administrators operating in the state, requiring that a travel administrator be a licensed property and casualty insurance producer in the state, hold a valid managing general agent license in the state, or hold a valid third-party administrator license in the state. Section 9 authorizes the Office of the Superintendent of Insurance (OSI) to promulgate rules to implement the act.

The bill also adds two prohibited practices to 59A-16-20 NMSA 1978, banning the marketing of blanket travel insurance as free and the offering, soliciting, or negotiating travel insurance or a travel protection plan through any option that requires a consumer to affirmatively deselect coverage.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted.

## FISCAL IMPLICATIONS

Travel plans that include travel insurance, cancellation fee waivers, and travel services are currently considered partially insurance and partially not insurance.<sup>1</sup> Only travel insurance is considered insurance, whereas cancellation fee waivers, and travel services are not. Insurance premiums beneficiaries like the fire protection fund, law enforcement fund, and the general fund will be held harmless.

The fiscal impacts will be minimal. The United States Travel Insurance Association (USTIA), estimates that Americans spent nearly \$4.27 billion on all types of travel protection in 2023. Applying a conventional 0.5 percent New Mexico share (based on share of personal income) and a 3.003 percent premium tax rate, yields an estimate that total premiums currently paid by the industry are about \$640 thousand if all travel protection is considered insurance.<sup>2</sup>

The bill defines cancellation fee waivers and travel services receipts as not insurance. Pursuant to advice from OSI, cancellation fee waivers and travel services are currently not considered insurance.

Cancellation fee waivers are not considered insurance because they only protect against a specific, limited risk (the cost of a cancellation fee) and do not provide broader financial protection against unforeseen events. In other words, a waiver only removes a pre-existing contractual obligation but does not seek to mitigate potential financial losses from uncertain

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<sup>1</sup> Travel insurance includes reimbursement for a list of incidents: (1) interruption or cancellation of a trip or an event; (2) loss of baggage or personal effects; (3) damages to accommodations or rental vehicles; (4) sickness, accident, disability or death occurring during travel; (5) emergency evacuation; or (6) repatriation of remains; but does not include major medical insurance.

<sup>2</sup> <https://ustia.org/resources/market-research/>

occurrences. For an insurance policy, the occurrence of a covered event is uncertain, and risk is spread among all policy holders, but with a cancellation fee waiver, the only uncertainty is whether the customer will choose to cancel and incur the fee.

LFC staff have determined that there is no change in insurance premiums.

SB168 will impose additional duties on OSI as it relates to licensing and regulation. SB168 contemplates a class of “travel administrators,” which require licensure under other sections of the insurance code, but whose actions are dictated by this bill. This in effect creates a new license type that will have to be overseen by OSI. OSI estimates it will need one position. The cost of salary, benefits, and associated costs is approximately \$100 thousand.

The Taxation and Revenue Department (TRD) assumes that New Mexico is currently not collecting any travel insurance premiums, despite the tax on travel insurance premiums imposed under 59A-12-18.1:

TRD assumes that New Mexico travelers traveling internationally are more likely to purchase travel insurance. An American Automobile Association (AAA) story from 2018 citing the increased popularity of international travel among Americans also highlighted that international travel is more expensive and requires purchasing travel reservations well in advance. The same article cited that in a 2018 AAA survey, 4 in 10 Americans are likely to purchase travel insurance for future international trips.<sup>3</sup> TRD assumes the AAA survey is representative of all U.S. international travelers and therefore assumes 4 in 10 New Mexicans traveling overseas will purchase travel insurance. To estimate the number of New Mexican international travelers, TRD started with data from the U.S. Department of Transportation on the number of passengers on domestic and international flights annually in the United States.<sup>4</sup> TRD assumed 50 percent of international travelers are from the United States for each year of travel including data for 2024. TRD then proportioned the number of U.S. international travelers in 2024 to each state based on the U.S. Census’s estimate of U.S. and state populations for 2024.<sup>5</sup> TRD grew the New Mexico population traveling by the 2024 over 2023 increase in U.S. passengers. Finally, TRD assumed 40 percent of those travelers would purchase travel insurance based on AAA survey. From those assumptions, in FY26, approximately 30,600 New Mexico travelers will purchase travel insurance and by FY29, 38,400 travelers will purchase travel insurance.

For the average cost of insurance, TRD viewed several websites that quote travel insurance costs. TRD used an estimate from Forbes, which states that average travel insurance per trip is 7 percent of travel costs but the percentage increases with age. Using their table of average travel insurance cost per trip by age, TRD arrived at an average of \$374.<sup>4</sup> TRD grew the average cost by an S&P consumer insurance index from their January 2025 forecast. TRD multiplied the annual average insurance cost by the estimated number of international New Mexico travelers per fiscal year.

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<sup>3</sup> <https://newsroom.aaa.com/2018/07/travel-insurance-vacation-investment-americans/>

<sup>4</sup> Bureau of Transportation Statistics T-100 Market data.

<sup>5</sup> Annual Estimates of the Resident Population for the United States, Regions, States, District of Columbia, and Puerto Rico: April 1, 2020, to July 1, 2024 (NST-EST2024-POP)

## SIGNIFICANT ISSUES

SB168 is the New Mexico adaptation of the Travel Insurance Model Act published by the National Association of Insurance Commissioners (NAIC).<sup>6</sup> According to NAIC, travel insurance is a type of insurance for risk associated with traveling such as loss of luggage, trip cancellation and delays. Travel insurance gives consumers peace of mind when booking a trip that they will be reimbursed for part of, or all their expenses should an undesirable event occur that prompts cancellation or interruption of the trip.

The major source of sales and premiums derive from insurance contracts that provide payments if a trip is cancelled or delayed. Other forms of insurance would reimburse the traveler for the loss of luggage of greater value than the amount covered by the airline. There is a list of services that constitute “travel insurance:”

1. Interruption or cancellation of a trip or an event;
2. Loss of baggage or personal effects;
3. Damages to accommodations or rental vehicles;
4. Sickness, accident, disability or death occurring during travel;
5. Emergency evacuation; and
6. Repatriation of remains.

There is a definition of "travel protection plans" as plans that provide (1) travel insurance, (2) travel assistance services, and (3) cancellation fee waivers. This causes confusion because travel insurance premiums are generally taxable but travel assistance and cancellation fee waivers are not taxable in the definition.

Section 59A-12-18.1 defines “travel insurance” as follows:

"Travel insurance" means insurance coverage for personal risks incident to planned travel, including the interruption or cancellation of a trip or event; the loss of baggage or personal effects; damage to accommodations or rental vehicles; or sickness, accident, disability or death during travel. "Travel insurance" does not include major medical plans that provide comprehensive medical protection for travelers on trips of six months or longer, such as for those working overseas as expatriates or deployed military personnel.

TRD notes the following:

Like other forms of insurance, travel insurance is a contract against risk. In this case, the risk is when traveling, one must pay upfront for transportation reservations, accommodation reservations, and tours fees, etc. and events out of one’s control can mean losing that investment. Under the tax policy of equity or fairness, this would treat equably another type of insurance not currently taxed and increase horizontal equity in the insurance market. The imposition of insurance premium tax on travel insurance will most likely be passed onto the consumer, thus increasing the cost of travel for those that choose to purchase travel insurance.

OSI notes the following:

- Any issues with the original bill were corrected in the committee substitute;
- The committee substitute preserves the Superintendent’s discretion to issue a travel

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<sup>6</sup> <https://content.naic.org/sites/default/files/inline-files/MDL-632.pdf>

insurance license by changing “shall” to “may.” This is consistent with the rest of the Insurance Code, which permits the Superintendent to issue licenses, but does not require her to do so.

- Removes duplicative language from the original bill that is already covered by Sections 59A-12-18.1, 59A-11-2, 59A-7-4, 59A-11-12 and 59A-6-1 NMSA 1978.
- The second clause of Subsection A of Section 9 of SB 168 was removed because per New Mexico statute, all travel insurance is classified as inland marine. *See* Section 59A-7-4 NMSA 1978.

## ADMINISTRATIVE IMPLICATIONS

SB168 will impose additional duties on OSI as it relates to licensing and regulation. SB168 contemplates a class of “travel administrators,” which require licensure under other sections of the insurance code, but whose actions are dictated by this bill. This in effect creates a new license type that will have to be overseen by OSI.

OSI will also be required to send out new notices and ensure the new type of license is entered into the National Association of Insurance Commissioners and the SBS.

TRD indicates minimum administrative costs:

TRD will update forms, instructions and publications. TRD will train employees on the inclusion of travel insurance under the Insurance Premium Tax. TRD will produce communications to impacted taxpayers who may need to register under the Insurance Premium Tax and file for the first time. TRD will be able to absorb these changes under current staff workload.

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