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FISCAL IMPACT REPORT

SPONSOR Ivey-Soto/Cook **ORIGINAL DATE** 2/12/15
LAST UPDATED 3/10/15 **HB** _____

SHORT TITLE Uniform Money Services Act **SB** 473/aSJC

ANALYST Elkins

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	\$650.0-\$1,050.0	\$350.0-\$450.0	Recurring	Money Services Regulatory Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$210.0	\$298.0	\$508.0	Recurring	Money Services Regulatory Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Administrative Office of the Courts (AOC)

Secretary of State (SOS)

SUMMARY

Synopsis of Senate Judiciary Committee Amendment

Senate Judiciary Committee Amendment to Senate Bill 473 makes the following changes:

- A person engaging in the business of money transmission must be licensed pursuant to Article 2 of the Uniform Money Services Act;
- Limiting a licensee's investment in the receivables that are payable to a licensee from authorized delegates pursuant to contracts that are not more than ten days past due or

- doubtful of collection in the aggregate amount of receivables does not exceed 50 percent;
- Removing the requirement that the unique identifier of any person engaged in money services be shown on all customer correspondence, solicitations or advertisements, and any other documents as established by rule or order of the director;
 - Repealing Section 58-20-1 NMSA 1978 “Business of selling negotiable checks, drafts, and money orders regulated” on July 1, 2016; and
 - Requiring the director of the Financial Institutions Division of RLD to promulgate the necessary rules to transition licensees pursuant to Section 58-20-1 NMSA 1978 to the licensing provisions of the Uniform Money Services Act.

Synopsis of Original Bill

Senate Bill 473 proposes to enact the Uniform Money Services Act relating to money services business and provides that a person may not engage in specific regulated activity such as money transmission, check cashing, and currency exchange unless a license is obtained from the Financial Institutions Division of RLD. The bill also outlines the relationship between licensees and their authorized delegates which includes, an authorized delegate may only provide money services that the licensee is authorized to provide. The director of the Financial Institutions Division will review and licenses applicants, conduct annual examinations of licensees, and promulgate rules to administer and enforce the Uniform Money Services Act. The act creates the money services regulatory fund, a nonreverting fund with revenues which consist of various license fees as well as appropriated or donated money. Money in the fund shall be invested by the State Investment Officer in the manner that land grant permanent funds are invested. Money in the fund is appropriated to the Financial Institutions Division to carry out the provisions of this act.

FISCAL IMPLICATIONS

With implementation of this bill, there is a nonrefundable application fee of \$2,000, an initial licensing fee of \$2,000, and a renewal fee of \$1,000. The Financial Institutions Division (FID) projects that the initial licensing of existing money services businesses will generate between \$650 thousand and \$1,050 thousand in initial licensing revenues. In subsequent years it is projected that renewal revenues be between \$300 thousand and \$450 thousand. FID does not currently regulate money services businesses; therefore it is difficult to accurately project total revenues. The projections are based on a conservative estimate of companies and delegates that would be licensed in the state. These projections are based on a range of 100 to 200 licensees and 10,000 delegates. The total number of delegates in the state is unknown. However, based on the number of delegates in Arizona, 13,000, this number appears to be reasonable. Revenue projections do not include examination and amendment fees that will be subsequently addressed by regulation.

FID estimates the operating budget impact in FY16 will be \$210 thousand. FID will incur expenses related to the examinations of these institutions inclusive of travel per diem and vehicle expenses. For FY17, FID estimates expenses to increase to \$298 thousand with the necessity of adding 3 examiners with funds from the Money Services Regulatory Fund. These expenses would be ongoing and sustainable based on projected revenues for the fund.

Licensees are required to pay FID the reasonable cost associated with examinations. These examination fees will offset a portion of the cost and reduce the estimated operating budget

impact.

SIGNIFICANT ISSUES

RLD offers the following commentary:

Senate Bill 473 is a Uniform Act that has been enacted by Alaska, Arkansas, Iowa, Puerto Rico, Texas, U.S. Virgin Islands, Vermont, and Washington. SB 473 has been tailored to meet the needs of New Mexico and has been reviewed by Uniform Law Commissioners for New Mexico. New Mexico is the only southern border state that does not regulate money services businesses.

The bill provides statutory authority for examinations of money services businesses. The examinations will promote compliance with this act and federal statutes, and will provide a way for FID to detect illegal activity and to refer such activity to the proper authorities.

Enacting this bill will promote compliance with the Bank Secrecy Act and the Patriot Act, both of which were enacted to detect and deter terrorist funding, money laundering, and human trafficking payments. Fraud victims frequently transmit money through money transmitters, as instructed, as there is currently no recourse for the victim upon relinquishing the funds.

Senate Bill 473 will require a person transmitting funds to provide information and some form of identification as defined by federal regulation 31 CFR 1010.312. The information obtained will allow for tracking potential illegal activity and it will also allow individuals with no criminal purposes to continue to transfer money to family members in the United States and in other countries.

Businesses with fiduciary duties and responsibilities to the citizens of New Mexico must have the necessary and appropriate reporting in place in order to better protect our consumers from fraud, money laundering, and possible terrorist activities. These regulatory expectations stem from federal agencies such as the Financial Crimes Enforcement Network (FinCEN) and the Office of Foreign Assets Control (OFAC).

FinCEN has sanctioned state regulators' examination reports to be utilized in lieu of FinCEN performing examinations. As a result, examination of money transmitters is left to the Internal Revenue Service and state regulators for the purpose of implementing anti-money laundering provisions.

According to AOC:

This bill proposes a new Uniform Money Services Act. The Uniform Law Commission has adopted this model code in 2000, and writes the following about why the law is necessary:

As the marketplace for financial services has become increasingly more diverse and competitive, consumers have been faced with an ever-expanding universe of businesses and industries offering currency exchange, money and wire transfers, and check cashing services. The purveyors of these services, however, are generally not subject to the same level of state and federal regulatory scrutiny as traditional state- and federally-chartered banks.

It is important to note that while the act is broadly inclusive, it does not apply with respect to state and federal governments or their instrumentalities, subdivisions, or contractors, to banks, securities broker-dealers, boards of trade, or providers of related payment, clearance, and settlement services, or to operators of payment and clearance systems between or among other excluded entities. In addition, the act does not apply with respect to the payday loan business, nor does it apply with respect to other businesses or entities that may incidentally transport physical currency or instruments in the normal course of business.

<http://uniformlaws.org/ActSummary.aspx?title=Money%20Services%20Act>

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