

<b>LFC Requester:</b>	<b>Clark, Jon</b>
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**AGENCY BILL ANALYSIS  
2014 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*And*

**DFA@STATE.NM.US**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X   **Amendment**            
**Correction**           **Substitute**          

**Date** January 21, 2014  
**Bill No:** HB144-305 Jan 21

**Sponsor:** Rep. Thomas C. Taylor  
**Short**        No Insurance Tax for PRC  
**Title:**        Elections Account

**Reviewing**        Attorney General's Office  
**Person Writing**    Luis Carrasco, AAG  
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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHADED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY14</b>	<b>FY15</b>		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY14</b>	<b>FY15</b>	<b>FY16</b>		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

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

	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis:

House Bill 144 (“HB144”) proposes to amend Section 1-19A-10 of the Voter Action Act, NMSA 1978, Section 10-19A-1 to -17 (2003, as amended through 2007) (hereafter, “VAA”), to eliminate the existing requirement that one hundred thousand dollars (\$100,000.00) be collected from the insurance premium tax and deposited into the subaccount for Public Regulation Commission elections created thereunder. By eliminating the collection and deposit of such funds, the amount to be allocated to the Public Regulation Commission elections subaccount is reduced from three hundred thousand dollars (\$300,000.00) to two hundred thousand dollars (\$200,000.00) annually.

HB144 also proposes to amend NMSA 1978, Section 59A-6-5 (1984, as amended through 2011) to eliminate the reference to the VAA in Subsection (A)(3) thereof, which would effectively require that the Superintendent of Insurance pay the funds, which had been previously deposited into the Public Regulation Commission elections subaccount from the insurance premium tax, to the State Treasurer for credit into the Insurance Department Suspend Fund.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

HB144 would reduce the funds available for paying the costs of carrying out the provisions of the VAA related to Public Regulation Commission elections by thirty-three percent (33%). It is unclear whether such a reduction to the Public Regulation Commission’s elections subaccount would retain sufficient funding levels to ensure adequate administration of the VAA as it pertains to Public Regulation Commission elections.

**SIGNIFICANT LEGAL ISSUES**

Failure to maintain adequate funding in the Public Regulation Commission’s elections subaccount to ensure adequate administration of the provisions of the VAA as they pertain to the Public Regulation Commission may subject the State of New Mexico and its officials to legal challenges by candidates for Public Regulation Commission, others who are seeking public funding for their campaigns pursuant to the VAA, or others who claim to be aggrieved by inadequate funding.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

See “Administrative Implications with Enacting This Bill” below.

#### **ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

Should HB144 be signed into law, and a challenge be made that the limitation on funding to the Public Regulation Commission elections subaccount is inadequate to administer the VAA as it pertains to Public Regulation Commission elections, the Attorney General’s Office would likely be called upon to defend such a challenge. Additional personnel and financial resources may be required to defend such a challenge and such costs may be significant.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

None.

#### **TECHNICAL ISSUES OR DRAFTING ERROR**

None.

#### **OTHER SUBSTANTIVE LEGAL ISSUES**

None.

#### **ALTERNATIVES TO ENACTING THIS BILL**

N/A.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo. \$100,000 will be collected from the insurance premium tax and deposited into the Public Regulation Commission elections subaccount created pursuant to the VAA. Total annual funding in the Public Regulation Commission elections subaccount will remain at \$300,000 and will be available to carry out the provisions of the VAA related to Public Regulation Commission elections. These funds will not be credited to the Insurance Department Suspense Fund.

#### **AMENDMENTS NEEDED TO IMPROVE THIS BILL**

None.