

1 SENATE BILL 381

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

11 RELATING TO TAXATION; AMENDING AND ENACTING SECTIONS OF THE
12 NMSA 1978 TO PROVIDE FUNDING FOR EMERGENCY MEDICAL SERVICES,
13 AMBULANCE SERVICES AND RELATED REGIONAL OFFICES, PLANNING AND
14 ADMINISTRATION; PROVIDING FOR AN EMERGENCY MEDICAL SERVICES
15 PREMIUM SURTAX ON CERTAIN INSURANCE PREMIUMS; CREATING THE
16 EMERGENCY MEDICAL SERVICES PROTECTION FUND; MAKING AN
17 APPROPRIATION.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. [NEW MATERIAL] EMERGENCY MEDICAL SERVICES
21 PROTECTION FUND.--

22 A. The "emergency medical services protection fund"
23 is created in the state treasury. The fund shall consist of
24 proceeds from the emergency medical services premium surtax
25 imposed pursuant to Subsection D of Section 59A-6-2 NMSA 1978,

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1 as well as any other gifts, grants, fees, bequests or money
2 otherwise accruing to the fund. Earnings from investment of
3 the fund shall be credited to the fund, and money in the fund
4 shall not revert or be transferred to any other fund at the end
5 of a fiscal year. Money in the fund shall be appropriated by
6 the legislature annually to the department of health for the
7 purposes set forth in Subsection B of this section upon
8 warrants drawn by the secretary of finance and administration
9 pursuant to vouchers signed by the secretary of health or the
10 secretary of health's authorized representative.

11 B. For fiscal year 2012 and beyond, distributions
12 from the emergency medical services protection fund shall be
13 used only for the purposes set forth below, in amounts that the
14 secretary of health deems appropriate within the guidelines
15 indicated:

16 (1) no less than thirty-four percent of the
17 distributions shall be made to provide funds to ambulance
18 services that:

19 (a) receive less than one thousand
20 emergency calls per year; and

21 (b) have no paid, full-time personnel;

22 (2) no less than thirty-one percent of the
23 distributions shall be used to support local emergency medical
24 services entities that respond to at least twenty-five but not
25 more than one thousand emergency calls per year and that have

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1 no paid, full-time personnel by providing funds for:

2 (a) the use of advanced technology
3 equipment;

4 (b) operational costs other than
5 salaries and benefits of local emergency medical services
6 personnel;

7 (c) the purchase, repair and maintenance
8 of emergency medical services ambulances, equipment and
9 supplies; and

10 (d) the training and licensing of local
11 emergency medical services personnel;

12 (3) no more than thirty-one percent of the
13 distributions shall be used for the department of health to
14 contract with nonprofit entities to establish or operate
15 regional offices that provide regional emergency medical
16 services planning and development services, technical
17 assistance and support and coordination with emergency medical
18 services agencies statewide; and

19 (4) no more than four percent of the
20 distributions shall be made to the department of health for
21 administration of the emergency medical services protection
22 fund.

23 C. As used in this section:

24 (1) "ambulance" means a vehicle, including a
25 motor vehicle or watercraft, designed and used or intended to

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1 be used for the transportation of sick or injured persons;
2 (2) "emergency medical services" means the
3 services rendered by providers in response to an individual's
4 need for immediate medical care to prevent loss of life or
5 aggravation of physical or psychological illness or injury;

6 (3) "local emergency medical services entity"
7 means an ambulance service, medical rescue service, fire
8 department rescue service, air ambulance service or other
9 prehospital care provider:

10 (a) that responds to an individual's
11 need for immediate medical care in order to prevent loss of
12 life or aggravation of physical or psychological illness or
13 injury on a routine, not seasonal, basis; and

14 (b) that meets department of health
15 guidelines concerning personnel training, use of run forms that
16 the emergency medical services bureau has approved,
17 participation in mutual aid agreements and medical control; and

18 (4) "regional office" means an emergency
19 medical services planning and development agency formally
20 recognized and supported by the department of health.

21 SECTION 2. Section 59A-6-2 NMSA 1978 (being Laws 1984,
22 Chapter 127, Section 102, as amended) is amended to read:

23 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX--
24 EMERGENCY MEDICAL SERVICES PREMIUM SURTAX.--

25 A. The premium tax provided for in this section

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1 shall apply as to the following taxpayers:

2 (1) each insurer authorized to transact
3 insurance in New Mexico;

4 (2) each insurer formerly authorized to
5 transact insurance in New Mexico and receiving premiums on
6 policies remaining in force in New Mexico, except that this
7 provision shall not apply as to an insurer that withdrew from
8 New Mexico prior to March 26, 1955;

9 (3) each plan operating under provisions of
10 Chapter 59A, Articles 46 through 49 NMSA 1978;

11 (4) each property bondsman, as that person is
12 defined in Section 59A-51-2 NMSA 1978, as to any consideration
13 received as security or surety for a bail bond in connection
14 with a judicial proceeding, which consideration shall be
15 considered "gross premiums" for the purposes of this section;
16 and

17 (5) each unauthorized insurer that has assumed
18 a contract or policy of insurance directly or indirectly from
19 an authorized or formerly authorized insurer and is receiving
20 premiums on such policies remaining in force in New Mexico,
21 except that this provision shall not apply if a ceding insurer
22 continues to pay the tax provided in this section as to such
23 policy or contract.

24 B. Each such taxpayer shall pay in accordance with
25 this subsection a premium tax of three and three-thousandths
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1 percent of the gross premiums and membership and policy fees
2 received or written by it, as reported in Schedule T and
3 supporting schedules of its annual financial statement on
4 insurance or contracts covering risks within this state during
5 the preceding calendar year, less all return premiums,
6 including dividends paid or credited to policyholders or
7 contract holders and premiums received for reinsurance on New
8 Mexico risks.

9 C. In addition to the premium tax imposed pursuant
10 to Subsection B of this section, each taxpayer described in
11 Subsection A of this section that transacts health insurance in
12 New Mexico or is a plan described in Chapter 59A, Article 46 or
13 47 NMSA 1978 shall pay a health insurance premium surtax of one
14 percent of the gross health insurance premiums and membership
15 and policy fees received by it on hospital and medical expense
16 incurred insurance or contracts; nonprofit health care service
17 plan contracts, excluding dental or vision only contracts; and
18 health maintenance organization subscriber contracts covering
19 health risks within this state during the preceding calendar
20 year, less all return health insurance premiums, including
21 dividends paid or credited to policyholders or contract holders
22 and health insurance premiums received for reinsurance on New
23 Mexico risks. Except as provided in this section, all
24 references in the Insurance Code to the premium tax shall
25 include both the premium tax and the health insurance premium

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1 surtax.

2 D. In addition to the premium tax imposed pursuant
3 to Subsection B of this section, each taxpayer described in
4 Subsection A of this section that transacts property insurance
5 in the state or offers insurance as described in Section
6 59A-7-4 NMSA 1978 shall pay an emergency medical services
7 premium surtax of one-tenth percent on the gross insurance
8 premiums and membership and policy fees that the insurer
9 receives on homeowners' insurance, as the superintendent
10 defines "homeowners' insurance" by rule, during the preceding
11 calendar year, less all returned homeowners' insurance
12 premiums, including dividends paid or credited to policyholders
13 and homeowners' insurance premiums received for reinsurance on
14 New Mexico risks. Except as provided in this section, all
15 references in the Insurance Code to the premium tax shall
16 include both the premium tax and the emergency medical services
17 premium surtax.

18 ~~[D-]~~ E. For each calendar quarter, an estimated
19 payment of the premium tax, ~~[and]~~ the health insurance premium
20 surtax and the emergency medical services premium surtax shall
21 be made on April 15, July 15, October 15 and the following
22 January 15. The estimated payments shall be equal to at least
23 one-fourth of either the payment made during the previous
24 calendar year or eighty percent of the actual payment due for
25 the current calendar year, whichever is greater. The final

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1 adjustment for payments due for the prior year shall be made
2 with the return, which shall be filed on April 15 of each year,
3 at which time all taxes for that year are due. Dividends paid
4 or credited to policyholders or contract holders and refunds,
5 savings, savings coupons and similar returns or credits applied
6 or credited to payment of premiums for existing, new or
7 additional insurance shall, in the amount so used, constitute
8 premiums subject to tax under this section for the year in
9 which so applied or credited.

10 ~~[E-]~~ F. Exempted from the taxes imposed by this
11 section are:

12 (1) premiums attributable to insurance or
13 contracts purchased by the state or a political subdivision for
14 the state's or political subdivision's active or retired
15 employees; and

16 (2) payments received by a health maintenance
17 organization from the federal secretary of health and human
18 services pursuant to a contract issued under the provisions of
19 42 U.S.C. Section 1395 mm(g)."

20 **SECTION 3.** Section 59A-6-5 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 105, as amended) is amended to read:

22 "59A-6-5. DISTRIBUTION OF DIVISION COLLECTIONS.--

23 A. All money received by the division for fees,
24 licenses, penalties and taxes shall be paid daily by the
25 superintendent to the state treasurer and credited to the

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1 "insurance department suspense fund" except as provided by:

2 (1) the Law Enforcement Protection Fund Act;

3 (2) Section 59A-6-1.1 NMSA 1978; and

4 (3) the Voter Action Act.

5 B. The superintendent may authorize refund of money
6 erroneously paid as fees, licenses, penalties or taxes from the
7 insurance department suspense fund under request for refund
8 made within three years after the erroneous payment. In the
9 case of premium taxes erroneously paid or overpaid in
10 accordance with law, refund may also be requested as a credit
11 against premium taxes due in any annual or quarterly premium
12 tax return filed within three years of the erroneous or excess
13 payment.

14 C. The "insurance operations fund" is created in
15 the state treasury. The fund shall consist of the
16 distributions made to it pursuant to Subsection D of this
17 section. The legislature shall annually appropriate from the
18 fund to the division those amounts necessary for the division
19 to carry out its responsibilities pursuant to the Insurance
20 Code and other laws. Any balance in the fund at the end of a
21 fiscal year greater than one-half of that fiscal year's
22 appropriation shall revert to the general fund.

23 D. At the end of every month, after applicable
24 refunds are made pursuant to Subsection B of this section, the
25 treasurer shall make the following transfers from the balance

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1 remaining in the insurance department suspense fund:

2 (1) to the "fire protection fund", that part
3 of the balance derived from property and vehicle insurance
4 business;

5 (2) to the insurance operations fund, that
6 part of the balance derived from the fees imposed pursuant to
7 Subsections A and E of Section 59A-6-1 NMSA 1978 other than
8 fees derived from property and vehicle insurance business;
9 [~~and~~]

10 (3) to the emergency medical services
11 protection fund, that part of the balance derived from the
12 emergency medical services surtax imposed pursuant to
13 Subsection D of Section 59A-6-2 NMSA 1978; and

14 [~~(3)~~] (4) to the general fund, the balance
15 remaining in the insurance department suspense fund derived
16 from all other kinds of insurance business."