

1 SENATE BILL 227

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; ASSESSING AN ADDITIONAL HEALTH INSURANCE
12 PREMIUM SURTAX TO FUND SUBSTANCE USE DISORDER RESPONSE THROUGH
13 STATE MEDICAL ASSISTANCE PROGRAMS AND THROUGH COUNTY HEALTH
14 CARE ASSISTANCE FUNDS STATEWIDE; PROVIDING FOR THE CREATION OF
15 A SUBSTANCE USE DISORDER RESPONSE PLAN FOR MEDICAL ASSISTANCE
16 RECIPIENTS AND THE DISTRIBUTION OF A PORTION OF HEALTH
17 INSURANCE PREMIUM SURTAX PROCEEDS TO IMPLEMENT THE PLAN;
18 AMENDING A PROVISION OF THE INDIGENT HOSPITAL AND COUNTY HEALTH
19 CARE ACT TO PROVIDE FOR DISTRIBUTION OF A PORTION OF HEALTH
20 INSURANCE PREMIUM SURTAX PROCEEDS; MAKING AN APPROPRIATION.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. A new section of the Public Assistance Act is
24 enacted to read:

25 "[NEW MATERIAL] SUBSTANCE USE DISORDER RESPONSE PLAN--

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1 LICENSED SUBSTANCE ABUSE ASSISTANTS--REPORTING.--

2 A. The secretary, in cooperation with medical
3 assistance contractors, shall devise a substance use disorder
4 response plan that identifies policies for increasing the
5 supply of behavioral health workforce trained in substance use
6 disorder treatment statewide and for funding a robust response
7 statewide to the demand for timely, evidence-based substance
8 use disorder services for medical assistance recipients
9 statewide through the application of health insurance premium
10 surtax revenues collected pursuant to the provisions of
11 Subsection C of Section 59A-6-2 NMSA 1978.

12 B. As part of the substance use disorder response
13 plan, the secretary shall adopt and promulgate rules to allow a
14 substance abuse associate licensed in accordance with the
15 Counseling and Therapy Practice Act to be reimbursed for the
16 following services provided to medical assistance recipients
17 within the licensed substance abuse associate's scope of
18 practice:

19 (1) providing interventions directly to
20 individuals, couples, families and groups;

21 (2) employing practice theory and research
22 findings;

23 (3) providing screening, assessment,
24 consultation, development of treatment plans, case management,
25 counseling, referral, appraisal, crisis intervention,

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1 education, reporting or recordkeeping pertaining specifically
2 to alcohol and drug abuse counseling;

3 (4) providing generalist services in the role
4 of educator, assistant or mediator;

5 (5) taking a social history; and

6 (6) conducting a home study."

7 SECTION 2. Section 27-5-7 NMSA 1978 (being Laws 1965,
8 Chapter 234, Section 7, as amended) is amended to read:

9 "27-5-7. HEALTH CARE ASSISTANCE FUND.--

10 A. There is created in the county treasury of each
11 county a "health care assistance fund".

12 B. Collections under the levy made pursuant to the
13 Indigent Hospital and County Health Care Act, distributions
14 made to the fund in accordance with the provisions of Paragraph
15 (4) of Subsection E of Section 59A-6-5 NMSA 1978 and all
16 payments shall be placed into the fund, and the amount placed
17 in the fund shall be budgeted and expended only for the
18 purposes specified in the Indigent Hospital and County Health
19 Care Act, by warrant upon vouchers approved by the county.
20 Payments for indigent hospitalizations shall not be made from
21 any other county fund.

22 C. The fund shall be audited in the manner that
23 other state and county funds are audited, and all records of
24 payments and verified statements of qualification upon which
25 payments were made from the fund shall be open to the public.

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1 D. Any balance remaining in the fund at the end of
2 the fiscal year shall carry over into the ensuing year, and
3 that balance shall be taken into consideration in the
4 determination of the ensuing year's budget and certification of
5 need for purposes of making a tax levy.

6 E. Money may be transferred to the fund from other
7 sources, but no transfers may be made from the fund for any
8 purpose other than those specified in the Indigent Hospital and
9 County Health Care Act."

10 **SECTION 3.** Section 59A-6-2 NMSA 1978 (being Laws 1984,
11 Chapter 127, Section 102, as amended) is amended to read:

12 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX.--

13 A. The premium tax provided for in this section
14 shall apply as to the following taxpayers:

15 (1) each insurer authorized to transact
16 insurance in New Mexico;

17 (2) each insurer formerly authorized to
18 transact insurance in New Mexico and receiving premiums on
19 policies remaining in force in New Mexico, except that this
20 provision shall not apply as to an insurer that withdrew from
21 New Mexico prior to March 26, 1955;

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

24 (4) each property bondsman, as that person is
25 defined in Section 59A-51-2 NMSA 1978, as to any consideration

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1 received as security or surety for a bail bond in connection
2 with a judicial proceeding, which consideration shall be
3 considered "gross premiums" for the purposes of this section;
4 and

5 (5) each unauthorized insurer that has assumed
6 a contract or policy of insurance directly or indirectly from
7 an authorized or formerly authorized insurer and is receiving
8 premiums on such policies remaining in force in New Mexico,
9 except that this provision shall not apply if a ceding insurer
10 continues to pay the tax provided in this section as to such
11 policy or contract.

12 B. Each such taxpayer shall pay in accordance with
13 this subsection a premium tax of three and three-thousandths
14 percent of the gross premiums and membership and policy fees
15 received or written by it, as reported in Schedule T and
16 supporting schedules of its annual financial statement on
17 insurance or contracts covering risks within this state during
18 the preceding calendar year, less all return premiums,
19 including dividends paid or credited to policyholders or
20 contract holders and premiums received for reinsurance on New
21 Mexico risks.

22 C. In addition to the premium tax imposed pursuant
23 to Subsection B of this section, each taxpayer described in
24 Subsection A of this section that transacts health insurance in
25 New Mexico or is a plan described in Chapter 59A, Article 46 or

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1 47 NMSA 1978 shall pay a health insurance premium surtax of one
2 and one-hundredth percent of the gross health insurance
3 premiums and membership and policy fees received by it on
4 hospital and medical expense incurred insurance or contracts;
5 nonprofit health care service plan contracts, excluding dental
6 or vision only contracts; and health maintenance organization
7 subscriber contracts covering health risks within this state
8 during the preceding calendar year, less all return health
9 insurance premiums, including dividends paid or credited to
10 policyholders or contract holders and health insurance premiums
11 received for reinsurance on New Mexico risks. Except as
12 provided in this section, all references in the Insurance Code
13 to the premium tax shall include both the premium tax and the
14 health insurance premium surtax.

15 D. For each calendar quarter, an estimated payment
16 of the premium tax and the health insurance premium surtax
17 shall be made on April 15, July 15, October 15 and the
18 following January 15. The estimated payments shall be equal to
19 at least one-fourth of the payment made during the previous
20 calendar year or one-fifth of the actual payment due for the
21 current calendar year, whichever is greater. The final
22 adjustment for payments due for the prior year shall be made
23 with the return, which shall be filed on April 15 of each year,
24 at which time all taxes for that year are due. Dividends paid
25 or credited to policyholders or contract holders and refunds,

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1 savings, savings coupons and similar returns or credits applied
2 or credited to payment of premiums for existing, new or
3 additional insurance shall, in the amount so used, constitute
4 premiums subject to tax under this section for the year in
5 which so applied or credited.

6 E. Exempted from the taxes imposed by this section
7 are:

8 (1) premiums attributable to insurance or
9 contracts purchased by the state or a political subdivision for
10 the state's or political subdivision's active or retired
11 employees; and

12 (2) payments received by a health maintenance
13 organization from the federal secretary of health and human
14 services pursuant to a contract issued under the provisions of
15 42 U.S.C. Section 1395 mm(g)."

16 SECTION 4. Section 59A-6-5 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 105, as amended) is amended to read:

18 "59A-6-5. DISTRIBUTION OF OFFICE COLLECTIONS.--

19 A. All money received by the office of
20 superintendent of insurance for fees, licenses, penalties and
21 taxes shall be paid daily by the superintendent to the state
22 treasurer and credited to the "insurance department suspense
23 fund" except as provided by the Law Enforcement Protection Fund
24 Act.

25 B. The superintendent may authorize the refund of

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

9 C. If required by a compact to which New Mexico has
10 joined pursuant to law, the superintendent shall authorize the
11 allocation of premiums collected pursuant to Section 59A-14-12
12 NMSA 1978 to other states that have joined the compact pursuant
13 to an allocation formula agreed upon by the compacting states.

14 D. 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 E 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 shall revert to the general fund.

22 E. At the end of every month, after applicable
23 refunds are made pursuant to Subsection B of this section and
24 after any allocations have been made pursuant to Subsection C
25 of this section, the treasurer shall make the following

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1 transfers from the balance remaining in the insurance
2 department suspense fund:

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

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

10 [~~and~~]

11 (3) to the substance use disorder response
12 fund, an amount equal to four hundred ninety-five thousandths
13 percent of the net receipts attributable to the health
14 insurance premium surtax;

15 (4) an amount equal to four hundred ninety-
16 five thousandths percent of the net receipts attributable to
17 the health insurance premium surtax, to be distributed in equal
18 parts to each health care assistance fund; and

19 [~~(3)~~] (5) to the general fund, the balance
20 remaining in the insurance department suspense fund derived
21 from all other kinds of insurance business."

22 SECTION 5. [NEW MATERIAL] SUBSTANCE USE DISORDER RESPONSE
23 FUND--CREATION--DISTRIBUTIONS--APPROPRIATION.--The "substance
24 use disorder response fund" is created in the state treasury.
25 The fund shall consist of distributions from proceeds of the

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1 health insurance premium surtax distributed in accordance with
2 the provisions of Paragraph (3) of Subsection E of Section
3 59A-6-5 NMSA 1978; appropriations; transfers; gifts; grants;
4 donations; and bequests made to the fund. Money in the fund is
5 appropriated to the human services department to fund the
6 substance use disorder response plan established pursuant to
7 Section 1 of this 2018 act. Money in the fund shall be
8 disbursed on warrants signed by the secretary of finance and
9 administration pursuant to vouchers signed by the secretary of
10 human services or the secretary's authorized representative.
11 Money in the fund shall be invested as provided for other state
12 funds, and income earned on the fund shall be credited to the
13 fund. Any unexpended or unencumbered balance remaining at the
14 end of a fiscal year shall not revert to the general fund.

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