

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 535

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
INCREASING FEES TO FUND THE WORKERS' COMPENSATION
ADMINISTRATION; INCREASING THE TELECOMMUNICATIONS RELAY SERVICE
SURCHARGE AND TRANSFERRING THE MONEY FROM THE INCREASE TO A NEW
988 LIFELINE FUND; ALLOWING THE STATE BUDGET DIVISION OF THE
DEPARTMENT OF FINANCE AND ADMINISTRATION TO APPROVE THE
EXPENDITURE OF UP TO ONE HUNDRED PERCENT OF THE
TELECOMMUNICATIONS ACCESS FUND FOR EXPENSES INCURRED BY THE
COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS IN
ADMINISTERING THE TELECOMMUNICATIONS ACCESS ACT; MAKING AN
APPROPRIATION.

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

SECTION 1. Section 52-5-19 NMSA 1978 (being Laws 1987,
Chapter 235, Section 52, as amended) is amended to read:

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underscoring material = new
~~[bracketed material] = delete~~

1 "52-5-19. FEE FOR FUNDING ADMINISTRATION--WORKERS'
2 COMPENSATION ADMINISTRATION FUND CREATED.--

3 A. Beginning with the calendar quarter ending
4 September 30, 2004 and for each calendar quarter thereafter,
5 there is assessed against each employer who is required or
6 elects to be covered by the Workers' Compensation Act a fee
7 equal to [~~two dollars thirty cents (\$2.30)~~] the following
8 amounts, multiplied by the number of employees covered by the
9 Workers' Compensation Act that the employer has on the last
10 working day of each quarter:

11 (1) prior to July 1, 2025, two dollars thirty
12 cents (\$2.30);

13 (2) beginning July 1, 2025 and prior to July
14 1, 2028, two dollars fifty-five cents (\$2.55);

15 (3) beginning July 1, 2028 and prior to July
16 1, 2033, two dollars sixty-eight cents (\$2.68); and

17 (4) beginning July 1, 2033, two dollars eighty
18 cents (\$2.80).

19 B. At the same time the fee pursuant to Subsection
20 A of this section is assessed, there is assessed against each
21 employee covered by the Workers' Compensation Act on the last
22 working day of each quarter a fee [~~of two dollars (\$2.00)~~] in
23 the following amounts, which shall be deducted from the wages
24 of the employee by the employer and remitted along with the fee
25 assessed on the employer:

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1 (1) prior to July 1, 2025, two dollars
 2 (\$2.00);

3 (2) beginning July 1, 2025 and prior to July
 4 1, 2028, two dollars twenty-five cents (\$2.25);

5 (3) beginning July 1, 2028 and prior to July
 6 1, 2033, two dollars thirty-eight cents (\$2.38); and

7 (4) beginning July 1, 2033, two dollars fifty
 8 cents (\$2.50).

9 C. The fees shall be remitted by the last day of
 10 the month following the end of the quarter for which they are
 11 due.

12 ~~[B.]~~ D. The taxation and revenue department may
 13 deduct from the gross fees collected an amount not to exceed
 14 five percent of the gross fees collected to reimburse the
 15 department for costs of administration.

16 ~~[C.]~~ E. The taxation and revenue department shall
 17 pay over the net fees collected to the state treasurer to be
 18 deposited by ~~[him]~~ the treasurer in a fund hereby created and
 19 to be known as the "workers' compensation administration fund".
 20 Expenditures shall be made from this fund on vouchers signed by
 21 the director for the necessary expenses of the workers'
 22 compensation administration; provided that an amount equal to
 23 thirty cents (\$.30) per employee of the fee assessed against an
 24 employer shall be distributed from the workers' compensation
 25 administration fund to the uninsured employers' fund.

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1 ~~[D-]~~ F. The workers' compensation fee authorized in
2 this section shall be administered and enforced by the taxation
3 and revenue department under the provisions of the Tax
4 Administration Act."

5 SECTION 2. Section 63-9F-11 NMSA 1978 (being Laws 1993,
6 Chapter 54, Section 11, as amended) is amended to read:

7 "63-9F-11. IMPOSITION OF SURCHARGE.--

8 A. A telecommunications relay service surcharge of
9 ~~[thirty-three]~~ one and sixty-six hundredths percent is imposed
10 on the gross amount paid:

11 (1) by customers, except customers whose
12 telephone service rates are reduced as authorized by the Low
13 Income Telephone Service Assistance Act, for intrastate
14 telecommunications services provided in this state;

15 (2) by customers for the intrastate portion of
16 interconnected voice over internet protocol service;

17 (3) by customers for intrastate mobile
18 telecommunications services that originate and terminate in the
19 same state, regardless of where the mobile telecommunications
20 services originate, terminate or pass through, provided by home
21 service providers to customers whose place of primary use is in
22 New Mexico; and

23 (4) by a prepaid consumer in a retail
24 transaction.

25 B. The telecommunications relay service surcharge

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1 shall be included on the monthly bill of each customer of a
2 local exchange company or other telecommunications company
3 providing intrastate telecommunications services,
4 interconnected voice over internet protocol services or
5 intrastate mobile telecommunications services and paid at the
6 time of payment of the monthly bill. Receipts from selling
7 those services to any other telecommunications company or
8 provider for resale are not subject to the surcharge. The
9 customer is liable for the payment of the surcharge to the
10 provider of intrastate mobile telecommunications services, the
11 provider of interconnected voice over internet protocol
12 services or the local exchange company or other
13 telecommunications company providing intrastate
14 telecommunications services to the customer.

15 C. For the purposes of the surcharge imposed on a
16 retail transaction pursuant to Paragraph (4) of Subsection A of
17 this section:

18 (1) the surcharge shall be collected by the
19 seller from the prepaid consumer with respect to each retail
20 transaction occurring in this state. The amount of the
21 surcharge shall be either separately stated on an invoice,
22 receipt or other similar document that is provided to the
23 prepaid consumer by the seller or otherwise disclosed to the
24 prepaid consumer;

25 (2) for the purposes of Paragraph (1) of this

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1 subsection, a retail transaction that is effected in person by
2 a prepaid consumer at a business location of the seller shall
3 be treated as occurring in this state if that business location
4 is in this state, and any other retail transaction is treated
5 as occurring in this state if the retail transaction is treated
6 as occurring in this state for purposes of the Gross Receipts
7 and Compensating Tax Act;

8 (3) the surcharge is the liability of the
9 prepaid consumer and not of the seller or any provider, except
10 that the seller shall be liable to remit all surcharges
11 collected from the prepaid consumer as provided in this
12 subsection, including all such surcharges that the seller is
13 deemed to collect where the amount of the surcharge has not
14 been separately stated on an invoice, receipt or other similar
15 document provided to the prepaid consumer by the seller;

16 (4) the amount of the surcharge that is
17 collected by a seller from a prepaid consumer, if such amount
18 is separately stated on an invoice, receipt or other similar
19 document provided to the prepaid consumer by the seller, shall
20 not be included in the base for measuring any tax, fee,
21 surcharge or other charge that is imposed by this state, any
22 political subdivision of this state or any intergovernmental
23 agency;

24 (5) when prepaid wireless communications
25 service is sold with one or more other products or services for

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1 a single, non-itemized price, the percentage specified in
2 Subsection A of this section shall apply to the entire non-
3 itemized price unless the seller elects to apply such
4 percentage to:

5 (a) if the amount of the prepaid
6 wireless communications service is disclosed to the prepaid
7 consumer as a dollar amount, such dollar amount; or

8 (b) if the seller can identify the
9 portion of the price that is attributable to the prepaid
10 wireless communications service by reasonable and verifiable
11 standards from its books and records that are kept in the
12 regular course of business for other purposes, including
13 non-tax purposes, such portion;

14 (6) if a minimal amount of prepaid wireless
15 communications service is sold with a prepaid wireless device
16 for a single, non-itemized price, the seller may elect not to
17 apply the percentage specified in Subsection A of this section
18 to such transaction. For the purposes of this paragraph, an
19 amount of service denominated as ten minutes or less, or five
20 dollars (\$5.00) or less, is minimal;

21 (7) surcharges collected by sellers shall be
22 remitted to the taxation and revenue department at the times
23 and in the manner provided with respect to the Gross Receipts
24 and Compensating Tax Act. The department shall establish
25 registration and payment procedures that substantially coincide

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1 with the registration and payment procedures that apply to the
2 Gross Receipts and Compensating Tax Act. A seller shall be
3 permitted to deduct and retain three percent of surcharges that
4 are collected by the seller from the prepaid consumer;

5 (8) the audit and appeal procedures applicable
6 to the Gross Receipts and Compensating Tax Act shall apply to
7 the surcharge;

8 (9) the taxation and revenue department shall
9 establish procedures by which a seller of prepaid wireless
10 communications services may document that a sale is not a
11 retail transaction, which procedures shall substantially
12 coincide with the procedures for documenting sale for resale
13 transactions for the Gross Receipts and Compensating Tax Act;
14 and

15 (10) notwithstanding Paragraph (1) of this
16 subsection, if a 911 surcharge is imposed on prepaid wireless
17 communications service pursuant to the Enhanced 911 Act, the
18 taxation and revenue department shall promulgate rules to
19 permit sellers to combine the surcharge imposed pursuant to
20 this section and the surcharge imposed pursuant to the Enhanced
21 911 Act into a single surcharge on the invoice, receipt or
22 other similar document that is provided to the prepaid
23 consumer. The department shall ensure that appropriate
24 surcharge revenues are directed proportionately to the
25 respective 911 and telecommunications relay service funds.

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1 D. A telecommunications company providing
2 intrastate telecommunications services, a home service provider
3 providing intrastate mobile telecommunications services and a
4 seller of interconnected voice over internet protocol services
5 shall, on sales subject to the telecommunications relay service
6 surcharge, assess and collect the surcharge and remit the
7 surcharge collected monthly to the taxation and revenue
8 department on or before the twenty-fifth day of the month
9 following collection. The department shall administer and
10 enforce the collection of the surcharge in accordance with the
11 Tax Administration Act.

12 E. The taxation and revenue department shall
13 transfer ~~[to the telecommunications access fund the amount]~~ the
14 following amounts of the net receipts of the telecommunications
15 relay service surcharge collected, less any amount deducted in
16 accordance with Subsection F of this section, ~~[Transfer of the~~
17 ~~net receipts from the surcharge to the telecommunications~~
18 ~~access fund shall be made]~~ within the month following the month
19 in which the surcharge is collected:

20 (1) twenty percent to the telecommunications
21 access fund; and

22 (2) eighty percent to the 988 lifeline fund.

23 F. The taxation and revenue department may deduct
24 an amount not to exceed three percent of the telecommunications
25 relay service surcharge collected as a charge for the

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1 administrative costs of collection and shall remit that amount
2 to the state treasurer for deposit in the general fund each
3 month.

4 G. The commission and the health care authority
5 shall report to the revenue stabilization and tax policy
6 committee annually by September 30 the following information
7 with respect to the prior fiscal year:

8 (1) the amount and source of revenue received
9 by the telecommunications access fund and the 988 lifeline
10 fund;

11 (2) the amount and category of expenditures
12 from the [~~fund~~] funds; and

13 (3) the balance of the [~~fund~~] funds on that
14 June 30."

15 SECTION 3. Section 63-9F-12 NMSA 1978 (being Laws 1993,
16 Chapter 54, Section 12, as amended) is amended to read:

17 "63-9F-12. TELECOMMUNICATIONS ACCESS FUND--ESTABLISHED.--
18 There is created in the state treasury the "telecommunications
19 access fund". Money appropriated to the fund or accruing to it
20 through gifts, grants, fees, surcharges, penalties or bequests
21 shall be delivered to the state treasurer for deposit in the
22 fund. The fund shall be invested as other state funds are
23 invested. Disbursements from the fund shall be made upon
24 warrants drawn by the secretary of finance and administration
25 pursuant to vouchers signed by the executive director of the

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1 commission. The commission shall administer the fund. Money
 2 in the fund is appropriated to the commission for the purpose
 3 of carrying out the provisions of the Telecommunications Access
 4 Act. The commission may request the state budget division of
 5 the department of finance and administration to approve the
 6 expenditure of funds deposited in the telecommunications access
 7 fund for the purpose of defraying salary and other necessary
 8 expenses incurred by the commission in the administration of
 9 the provisions of the Telecommunications Access Act. The state
 10 budget division may approve the expenditure of [~~not more than~~
 11 ~~ten~~] up to one hundred percent of the amount deposited in the
 12 telecommunications access fund during any fiscal year for
 13 expenses incurred by the commission in administering that act.
 14 In addition, money in the fund is subject to appropriation by
 15 the legislature to the commission for the performance of its
 16 duties pursuant to Chapter 28, Article 11B NMSA 1978 and to the
 17 signed language interpreting practices fund for the purpose of
 18 defraying salary and other necessary expenses incurred by the
 19 signed language interpreting practices board. Any unexpended
 20 or unencumbered balance remaining in the fund at the end of any
 21 fiscal year shall not revert."

22 SECTION 4. [NEW MATERIAL] 988 LIFELINE FUND.--The "988
 23 lifeline fund" is created as a nonreverting fund in the state
 24 treasury. The fund consists of distributions, appropriations,
 25 gifts, grants, donations and income from investment of the

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1 fund. The health care authority shall administer the fund, and
2 money in the fund is appropriated to the authority to
3 administer a confidential telecommunication service for
4 emotional, mental or alcohol and drug use support made
5 available to the public by the authority. Expenditures from
6 the fund shall be by warrant of the secretary of finance and
7 administration pursuant to vouchers signed by the secretary of
8 health care authority or the secretary's authorized
9 representative.

10 SECTION 5. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2025.