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FISCAL IMPACT REPORT

		LAST UPDATED	2/7/24
SPONSOR	STBTC	**ORIGINAL DATE**	2/4/24
SHORT TITLE	Premium Tax to Emergency Services Fund	**BILL NUMBER**	CS/Senate Bill 151/STBTCS/aSFC
		ANALYST	Gray

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Health Insurance Premium Tax		($2,900.0)	($10,950.0)	($11,200.0)	($11,550.0)	Recurring	General Fund
Health Insurance Premium Tax		$2,900.0	$10,950.0	$11,200.0	$11,550.0	Recurring	EMS Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD – IT & Admin	$34.1			$34.1	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Conflicts with Senate Bill 105

Sources of Information

LFC Files

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of SFC Amendment to STBTC Substitute for Senate Bill 151

The Senate Finance Committee amendment to the Senate Tax, Business and Transportation Committee substitute for Senate Bill 151 (SB151) removes the $22 million FY25 appropriation and reduces the distribution of the health insurance premium tax to the emergency medical services fund from 10 percent to 5 percent.

Synopsis of STBTC Substitute for Senate Bill 151

The Senate Tax, Business and Transportation Committee substitute for Senate Bill 151 (SB151) appropriates $22 million from the general fund to the emergency medical services fund in FY25. The bill also distributes 10 percent of the health insurance premium tax to the emergency medical services fund beginning in FY26.

The effective date of sections 1 and 2 of the bill is July 1, 2025.

FISCAL IMPLICATIONS

While this bill does not include a recurring appropriation, it diverts or "earmarks" revenue, representing a recurring loss from the general fund.

The last quarterly payment of premium tax is due July 15, and the revenue accrues back to June. This analysis uses an estimate from the Taxation and Revenue Department (TRD) on the STBTC substitute for SB151 and assumes the distributions will be half because of the change to the distribution rate. A revised analysis could be submitted upon receipt of TRD analysis of the amended bill.

LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities. Taxation and Revenue analysis notes the estimated loss of general fund in FY25 is approximately 0.2 percent of the forecasted recurring general fund revenue and SB151 will slightly increase revenue volatility.

The bill will increase funding for the EMS fund approximately tenfold, growing annual revenue from about $2.6 million to about $22 million. According to agency data, in FY24 249 entities applied for $1.9 million from the EMS fund, receiving on average $10 thousand. Of those, 16 entities, 6.4 percent, received $20 thousand grants, the maximum amount available, representing large municipalities and counties.

Currently, statute prohibits the use of EMS fund distributions on personnel, and it outlines that the fund is to be used for:

- Local grants: 75 percent
- System improvement projects: 22 percent
- Administrative costs: 3 percent

Currently, the EMS fund is supported by the Department of Health (DOH) operating budget. Additional resources could currently be added to the EMS fund through appropriations.

In FY24, local grants through the EMS fund totaled $1.98 million and system improvement projects totaled $488.3 thousand, according to DOH data. Under SB151, local grants would increase to $8.1 million, a $7 million, or 350 percent increase, and system improvement projects would increase to $2.5 million. There is no clear statutory or administrative definition of system improvement projects.

Statutory limitations preventing funding from being spent on personnel presents a serious implementation issue. For example, in FY24 75 entities, 30 percent of all that applied, received grants less than $6,000. Assuming the agency chooses to increase grants to all entities evenly, these 75 entities would get $30 thousand in state funding each year, which may not be expendable for costs outside personnel for small communities.

Limited Guardrails. Current law contains vague guardrails on how the department should prioritize funding. SB151 does not improve those guardrails. The tremendous increase in resources presents a risk that revenue diverted from the general fund will be earmarked and used in areas without the highest need.

To illustrate, this analysis assumes that the current distributions will continue and expand proportion to the funding and presents potential fiscal impacts by analyzing both a small and large municipality budget.

- **City of Raton.**
  - In FY19, the city of Raton's total non-personnel expenditures for the city's fire department was $225 thousand.
  - Assuming the city of Raton gets the same proportion of EMS fund revenue in FY25 as it did in FY24, it would receive about $45 thousand, which would account for 22 percent of the total operating costs and capital of the city's fire department.
  - This is likely far more than the EMS operating costs, the detailed budget of which is not available in public documents.
- **City of Las Cruces.**
  - The city of Las Cruces' FY22 operating budget for its Fire Department's emergency response program was $202 thousand.
  - If the Las Cruces Fire Department received the same proportion of the EMS fund revenue in FY25 as it did in FY24, it would receive about $51 thousand or about 25 percent of its fire response operating budget.

SB151 could subsidize local government's EMS department operating budgets by well over 25 percent statewide. SB151 will likely offset costs for services already provided by local governments, offsetting administrative burden without sufficient evidence that doing so would produce improved desired outcomes.

SIGNIFICANT ISSUES

Reporting Requirements. Currently, there are no reporting requirements statutorily required for the EMS fund. This presents a significant issue with limited legislative oversight on how the substantial funding increase is used and how communities are impacted.

Private EMS. According to DOH data, privately owned EMS services, operating under the American Medical Response (AMR) brand, received about $70 thousand in EMS fund revenue in FY24. If AMR received the same proportion of the EMS fund revenue in FY25 as it did in FY24, it would receive about $222 thousand. By earmarking this revenue as contemplated by HB151, the Legislature forgoes its ability to prioritize funding away from private entities—which may be able to increase rates to offset its costs—toward public entities.

State Funds Dedicated for Local Governments

Local governments have benefited from state support totaling $150 million in FY23. The fire protection fund, local government road fund, and the DWI grant fund represent some of the larger distributions to local governments. Over time, distributions from the county detention fund have roughly doubled, as well as distributions from the law enforcement protection fund (LEPF) and the fire protection fund (for cities).

Law Enforcement Funding. Legislation in 2023 (Senate Bill 491) increased distributions by adding an earmark of 10 percent of health insurance premium tax revenue for the LEPF, providing about $22 million in additional recurring revenue to the fund after revenue declines rendered the fund unable to sustain prior expansions to the program.

Fire Protection Funding. The fire protection fund receives 10 percent of insurance premium tax revenues related to property and vehicle insurance that would have otherwise reached the state's general fund. Prior to FY22, distributions to local governments from the fund were less than 42.2 percent of the projected balance of the fund. During the 2021 legislative session, the Legislature increased the distribution so that 100 percent of those earmarked revenues would reach local governments, at a cost to the general fund. The increased distributions are estimated to be over $20 million a year. Local government distributions from this source are expected to exceed $100 million a year, should insurance premium tax revenues continue current growth.

Local Government Distributions
(in millions)

Fund	Intended Use	Distributed to	Distributions FY19	Distributions FY23	% Change
Fire Protection Fund	Fire department operations	Cities	$32.8	$30.4	28.5%
		Counties	$23.0	$41.3	
Local Government Roads	Construction and maintenance of roads and transit	Counties & cities	$25.5	$26.1	2.4%
Local DWI Grant	DWI prevention and treatment	Counties	$17.8	$16.7	(-6.2%)
Small Cities Assistance	Cities with populations of <10,000	Cities	$15.2	$14.3	(-5.9%)
Small Counties Assistance	Counties with populations of <48,000	Counties	$7.0	$7.0	0.0%
Law Enforcement Protection	Police equipment and training	Counties	$1.4	$2.7	92.8%
		Cities	$3.2	$6.6	106.3%
County Detention	Housing offenders in county jails	Counties	$2.4	$5.0	108.3%
		Total Change	$128.3	$150.1	17.0%

Source: DFA, TRD, DHSEM, NMDOT

Cash Balances. Local governments also draw on fund balances and other taxes, fees, and enterprise activities to pay for services. At the end of FY23, municipal cash balances totaled $925.1 million while cash balances for counties totaled $1.41 billion, according to DFA.

Comparisons with Other States. New Mexico is a national outlier in how the state supports local governments. Nationally, states support about 55 percent of total direct expenditures. In New Mexico, the state supports about 66 percent of total direct expenditures. Since 2017, the state share has increased from 62 percent to 66 percent, while the local share decreased proportionally. SB151 will continue and exacerbate this trend.

State and Local Share of Direct Expenditures
New Mexico vs. National Average
(in thousands)

	New Mexico				National Average			
	2017		2021		2017		2021	
Expenditure Type	State Share	Local Share	State Share	Local Share	State Share	Local Share	State Share	Local Share
Operations	62%	38%	66%	34%	50%	50%	48%	52%
Capital outlay	35%	65%	41%	59%	42%	58%	36%	64%
Assistance and Subsidies	100%	0%	100%	0%	95%	5%	84%	16%
Other	65%	35%	68%	32%	80%	20%	49%	51%
TOTAL EXPENDITURES	**62%**	**38%**	**66%**	**34%**	**55%**	**45%**	**55%**	**45%**

Source: 2017 & 2021 Census of Governments, U.S. Census Bureau

The Census Bureau reports New Mexico's state and local expenditures have grown 23 percent from 2017 to 2021, with the largest increases occurring for operations and other costs at around 24 percent growth. Of that total growth, New Mexico's state expenditures grew by nearly 30 percent, while the local expenses grew by 12 percent. Capital outlay expenses have grown nearly 13 percent over that time, but nearly all of that growth is coming from the state. The same can be said of assistance and subsidies, which have no local share.

New Mexico State and Local Direct Expenditures by Type
(in thousands)

	2017			2021			% Change in Direct Expenditures		
Expenditure Type	State	Local	Total	State	Local	Total	State	Local	Total
Operations	$12,052.6	$7,260.3	$19,312.9	$15,661.4	$8,233.2	$23,894.6	30%	13%	24%
Capital outlay	$732.2	$1,373.6	$2,107.6	$988.2	$1,393.7	$2,381.9	35%	1%	13%
Assistance and Subsidies	$275.8	$0.0	$275.8	$320.7	$0.0	$320.7	16%	0%	16%
Other	$12,715.1	$6,870.5	$19,585.6	$16,414.3	$7,807.9	$24,222.1	29%	14%	24%
TOTAL Expenditures	**$25,775.7**	**$15,504.4**	**$41,281.9**	**$33,384.6**	**$17,434.8**	**$50,819.3**	**30%**	**12%**	**23%**

Note: Local government expenditures includes spending by all active local governmental units (counties, cities, townships, special districts, school districts). Expenditures exclude intergovernmental expenditures.

Source: 2017 & 2021 Census of Governments, U.S. Census Bureau

ADMINISTRATIVE IMPLICATIONS

TRD analysis notes:

> New Mexico's tax code is out of line with most states in that more complex distributions are made through the tax code. As an alternate to this proposal and revenue earmarks, the premium tax could be distributed to the general fund and emergency medical services needs could be provided for through general fund appropriations in HB2. The more complex the tax code's distributions, the costlier it is for TRD to maintain the GenTax system and the more risk is involved in programming changes.

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