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HOUSE BILL 395

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY  
Danice Picraux

AN ACT

RELATING TO STATE REVENUE; IMPOSING A DAILY BED SURCHARGE ON  
CERTAIN LICENSED HEALTH FACILITIES; PROVIDING FOR A  
DISTRIBUTION TO THE MEDICAID PROGRAM; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] DAILY BED SURCHARGE--  
IMPOSITION--ADMINISTRATION.--

A. A daily bed surcharge is imposed on each  
licensed nursing home, licensed intermediate care facility for  
the mentally retarded and licensed residential treatment center  
at a rate not to exceed:

(1) six percent of the total annual accrual  
basis of gross receipts for a service provided by the nursing  
home, intermediate care facility for the mentally retarded or  
residential treatment center; or

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1                   (2) eight dollars eighty-two cents (\$8.82) per  
2 day for each occupied bed that the nursing home, intermediate  
3 care facility for the mentally retarded or residential  
4 treatment center may maintain under its license.

5                   B. The surcharge imposed pursuant to this section  
6 may be referred to as the "daily bed surcharge". Each licensed  
7 nursing home, licensed intermediate care facility for the  
8 mentally retarded and licensed residential treatment center is  
9 responsible for remitting the daily bed surcharge to the  
10 taxation and revenue department. The surcharge shall be  
11 remitted on or before the twenty-fifth day of the month  
12 following the month for which the surcharge is due. The  
13 taxation and revenue department shall administer and enforce  
14 the collection of the surcharge pursuant to the provisions of  
15 the Tax Administration Act.

16                   Section 2. [NEW MATERIAL] DISTRIBUTION--MEDICAID  
17 PROGRAM.--A distribution pursuant to Section 7-1-6.1 NMSA 1978  
18 shall be made to the general fund to be used solely for the  
19 medicaid program in an amount equal to the net receipts  
20 attributable to the daily bed surcharge.

21                   Section 3. [NEW MATERIAL] FEDERAL WAIVER.--The human  
22 services department shall study the feasibility of applying for  
23 a federal waiver to exempt medicare and private beds from the  
24 daily bed surcharge.

25                   Section 4. Section 7-1-2 NMSA 1978 (being Laws 1965,  
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1 Chapter 248, Section 2, as amended) is amended to read:

2 "7-1-2. APPLICABILITY.--The Tax Administration Act  
3 applies to and governs:

4 A. the administration and enforcement of the  
5 following taxes or tax acts as they now exist or may hereafter  
6 be amended:

- 7 (1) Income Tax Act;
- 8 (2) Withholding Tax Act;
- 9 (3) Venture Capital Investment Act;
- 10 (4) Gross Receipts and Compensating Tax Act  
11 and any state gross receipts tax;
- 12 (5) Liquor Excise Tax Act;
- 13 (6) Local Liquor Excise Tax Act;
- 14 (7) any municipal local option gross receipts  
15 tax;
- 16 (8) any county local option gross receipts  
17 tax;
- 18 (9) Special Fuels Supplier Tax Act;
- 19 (10) Gasoline Tax Act;
- 20 (11) petroleum products loading fee, which fee  
21 shall be considered a tax for the purpose of the Tax  
22 Administration Act;
- 23 (12) Alternative Fuel Tax Act;
- 24 (13) Cigarette Tax Act;
- 25 (14) Estate Tax Act;

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1 (15) Railroad Car Company Tax Act;  
2 (16) Investment Credit Act, Capital Equipment  
3 Tax Credit Act, rural job tax credit, Laboratory Partnership  
4 with Small Business Tax Credit Act and Technology Jobs Tax  
5 Credit Act;

6 (17) Corporate Income and Franchise Tax Act;

7 (18) Uniform Division of Income for Tax  
8 Purposes Act;

9 (19) Multistate Tax Compact;

10 (20) Tobacco Products Tax Act; ~~and~~

11 (21) the telecommunications relay service  
12 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
13 surcharge shall be considered a tax for the purposes of the Tax  
14 Administration Act; and

15 (22) the daily bed surcharge imposed on  
16 licensed nursing homes, intermediate care facilities for the  
17 mentally retarded and residential treatment centers, which  
18 surcharge shall be considered a tax for purposes of the Tax  
19 Administration Act until June 30, 2007;

20 B. the administration and enforcement of the  
21 following taxes, surtaxes, advanced payments or tax acts as  
22 they now exist or may hereafter be amended:

- 23 (1) Resources Excise Tax Act;  
24 (2) Severance Tax Act;  
25 (3) any severance surtax;

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- 1 (4) Oil and Gas Severance Tax Act;  
2 (5) Oil and Gas Conservation Tax Act;  
3 (6) Oil and Gas Emergency School Tax Act;  
4 (7) Oil and Gas Ad Valorem Production Tax Act;  
5 (8) Natural Gas Processors Tax Act;  
6 (9) Oil and Gas Production Equipment Ad  
7 Valorem Tax Act;  
8 (10) Copper Production Ad Valorem Tax Act;  
9 (11) any advance payment required to be made  
10 by any act specified in this subsection, which advance payment  
11 shall be considered a tax for the purposes of the Tax  
12 Administration Act;  
13 (12) Enhanced Oil Recovery Act;  
14 (13) Natural Gas and Crude Oil Production  
15 Incentive Act; and  
16 (14) intergovernmental production tax credit  
17 and intergovernmental production equipment tax credit;  
18 C. the administration and enforcement of the  
19 following taxes, surcharges, fees or acts as they now exist or  
20 may hereafter be amended:  
21 (1) Weight Distance Tax Act;  
22 (2) the workers' compensation fee authorized  
23 by Section 52-5-19 NMSA 1978, which fee shall be considered a  
24 tax for purposes of the Tax Administration Act;  
25 (3) Uniform Unclaimed Property Act;

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1 (4) 911 emergency surcharge and the network  
2 and database surcharge, which surcharges shall be considered  
3 taxes for purposes of the Tax Administration Act;

4 (5) the solid waste assessment fee authorized  
5 by the Solid Waste Act, which fee shall be considered a tax for  
6 purposes of the Tax Administration Act;

7 (6) the water conservation fee imposed by  
8 Section 74-1-13 NMSA 1978, which fee shall be considered a tax  
9 for the purposes of the Tax Administration Act; and

10 (7) the gaming tax imposed pursuant to the  
11 Gaming Control Act; and

12 D. the administration and enforcement of all other  
13 laws, with respect to which the department is charged with  
14 responsibilities pursuant to the Tax Administration Act, but  
15 only to the extent that the other laws do not conflict with the  
16 Tax Administration Act."

17 Section 5. DELAYED REPEAL.--Sections 1 through 3 of this  
18 act are repealed effective June 30, 2007.

19 Section 6. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2004.