

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to billanalysis@dfa.nm.gov*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 3/13/2025*Check all that apply:***Bill Number:** SB 535Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** George K. Muñoz**Agency Name
and Code**NM Commission for Deaf and Hard
of Hearing 604**Short Title:** Public Peace, Health, Safety &
Welfare**Number:****Person Writing**Nathan Gomme**Phone:** (505) 796-5441**Email** Nathan.gomme@cdhh.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
		Recurring	General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
	\$4,494,522.62	\$4,269,796.5	Recurring	988 Lifeline Fund
	\$1,098,651.74	\$1,035,425.65	Recurring	Telecommunicat ions Access Fund

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Relating to 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.

FISCAL IMPLICATIONS

- **TRS Surcharge Modification:** SB 353 changes the Telecommunications Relay Service (TRS) surcharge from thirty-three hundredths of a percent to one and sixty-six hundredths of a percent, impacting the NMCDHH's funding.
- **Funding Allocation:** The new surcharge collection is split between the NMCDHH (20%) and the 988 Lifeline Fund (80%).
- **Administrative Fee:** 3% of the net collection from the 20% allocated to the Telecommunications Access Fund goes to the Taxation and Revenue Department.
- **Proposed Collection Rate Increase:** Increase to 1.66% of the collection, expected to generate over \$5.6 million annually.
- **Fund Allocation:** 80% to the 988 Lifeline Fund and 20% to the NMCDHH, with a 3% deduction for the Taxation and Revenue Department.
- **Estimated NMCDHH Funding Increase:** Potential increase of \$14,318.74 in the first fiscal year compared to FY24.
- **TRS Surcharge Revenue Decline:** The TRS surcharge revenue has been declining since FY11 due to decreasing telecommunication service costs and the surcharge being a percentage of the gross receipt amount.
- **Impact of Declining Carrier Bill Costs:** The price of unlimited data plans with voice plans has dropped by 40% since 2010, leading to a decrease in the surcharge yield.
- **Comparison with E911 Rate:** A flat rate like the E911 rate would provide a stable revenue collection based on the number of plans, unlike the TRS surcharge which is subject to varying carrier bill costs.
- **Funding Source:** SB 353, which initially funded the entire NMCDHH, would now only partially cover the annual budget.
- **Funding Decline:** NMCDHH anticipates a 5% annual decline in the upcoming fiscal year despite the percentage change with the SB 353 funding, with a 9% decline observed from FY23 to FY24.
- **Impact of Decline:** A 5% annual decline would reduce funding in FY27, while a 14% decline (like FY21) could significantly impact the 988 Lifeline Fund similar to the impact already seen by the NMCDHH.

SB 353 changes the imposition of the surcharge known as the Telecommunications Relay Service (TRS) surcharge in Section 2 of the bill. The New Mexico Commission for Deaf and Hard of Hearing (NMCDHH), when created, was intended to be fully funded by the TRS surcharge and as such is directly impacted by Section 2 of SB 353, which modifies the surcharge collected from thirty-three hundredths of a percent to one and sixty-six hundredths of a percent. However, the collection is now to be split between the NMCDHH and the creation of the 988 Lifeline Fund. The amount of the collection is divided, with twenty percent (20%) of the collection going to the Telecommunications Access Fund, which funds the NMCDHH, and eighty percent (80%) of the collection going to the 988 Lifeline Fund, and 3% of the net collection going to the Taxation and Revenue Department only from the 20% collection that is sent to the Telecommunications Access Fund.

The bill proposes an increase to the percentage of the collection to one and sixty-six hundredths of a percent, which will yield a larger total collection predicted to bring in approximately over five million dollars (\$5,618,153.28) based on the collections of FY24 for the telecommunications fund without the historic decrease shown in the collections for the TRS surcharge. This is also before the division of funds between the 988 Lifeline Fund and the 3% going to the Taxation and Revenue Department from the Telecommunications Access Fund. With 80% of this collection going to the 988 Lifeline Fund, that would account for just over four million dollars (\$4,494,522.62) in the first fiscal year, with 20% of this collection for the NMCDHH before the 3% is removed, totaling to just over one million dollars (\$1,123,630.66) in the first fiscal year, and after the 3% is removed, a total amount of \$1,098,651.74, which would potentially represent a \$14,318.74 increase over the NMCDHH FY24 collection amount.

The total collection of the fund based on the history of the TRS surcharge will be subject to the same decline already seen by the NMCDHH in terms of actual revenue collected, which has declined year after year since FY11. Being a fund that is a percentage of the gross receipt amount paid for monthly carrier bills; it is subject to the amount the actual telecommunication service costs without any of the additional amounts added to the monthly carrier bill. Year after year, the amount paid for carrier bills has dropped, and as a result, the percentage of the collection drops as well. The cheaper a plan becomes, the less the surcharge will yield, and since 2010, the price of an unlimited data plan with voice plans carrier bill has dropped by forty percent (40%). The risks of continuing the one and sixty-six hundredths of a percent will be that the initial revenue will be subject to the varying costs of the plans provided by the carriers; as such, there will be an instability in the projections of actual revenue collected, whereas a flat rate such as the E911 rate, which is a flat fifty-one cents (\$.51), would provide a stable collection based on the number of plans actually in effect throughout New Mexico. By contrast, the New Mexico Commission for Deaf collection with the thirty-three hundredths of a percent rate through the TRS has steadily dropped from the initial amount of just under four million dollars (\$3,977,243.10 exactly) in FY11 to the most recent amount in FY24 of just over one million dollars (\$1,084,333.00 exactly); this represents a total amount of seventy-two point seventy-four percent (72.74%) decline over the course of 14 years, which varies year after year in the amount the decline is. This decline has continued to occur despite the increased number of users in the state and nationally. That amount which was initially intended to fund the entire NMCDHH is now only a portion of the total annual budget, which has resulted in the NMCDHH requesting

additional general funds and the use of fund balances to continue operations. NMCDHH also continues to anticipate a decline in the amount of about 5% year after year, conservatively. The FY23 to FY24 decline was 9%, for example. Based on history, the conservative five percent decline would amount to a reduction of the total collected funds under SB 353. In the following years, FY27 would be \$5,337,245.62, followed by FY28 being \$5,070,383.34. In some extreme cases, such as the FY21 revenue collection, the TRS revenue dropped by 14 percent. If that occurred following the assumed initial collection amount of \$5,618,153.28, that would mean that in FY27, the revenue collection would drop to \$4,831,611.82. This would be almost the full amount of funding for the 988 Lifeline Fund before the division of funds occurs. This represents the historic volatility of the percentage calculation, whereas the flat rate would ensure minimal disruption in the continued operations of the two programs.

SIGNIFICANT ISSUES

- **Funding Shortage:** The bill does not address the funding challenges faced by NMCDHH and creates a similar challenge for the 988 Lifeline Fund due to adopting the percentage rate, which is expected to continue declining.
- **Increased Costs:** NMCDHH is facing increased costs and obligations, including mandated relay services and potential service restrictions. The same issue will occur with the 988 Lifeline Fund in the future.
- **Insufficient Revenue:** The proposed bill offers a potential increase in TRS revenue for NMCDHH and a starting fund for the 988 Lifeline fund, but it is insufficient to offset the funding requests from the General Fund and Fund Balance that will be needed to maintain those funds for NMCDHH and potentially creates a similar issue for the 988 Lifeline fund.

In addition to the challenges of the percentage rate, the NMCDHH with 80% of the TRS surcharge funds going to the 988 Lifeline program would continue to see the same decline in the proposed 20% of the TRS surcharge collection already seen since FY11, which results in the NMCDHH requesting additional general funds and the use of fund balances to offset increased costs and obligations such as the mandated relay services the state is expected to provide under federal law. This bill unfortunately does not address the challenges being seen in NMCDHH, which SB 372 does. It offers a potential increase in the total TRS revenue increase sent to the NMCDHH by \$14,318.74 in the next fiscal year but does not offset the current funding request from General Fund and Fund Balance, which amounts to \$1,884,850 in the appropriations proposal for FY26. The proposed 988 Lifeline Fund would be in the same situation with the initial funding dropping year after year. The services through the 988 Lifeline Fund being provided would begin to either be restricted or require additional funding from other funding sources in addition to potential needs to amend the language again. Both agencies would not be able to consistently be able to provide the services they were designed to provide, nor would they be able to address any additional costs to said services. This would represent future challenges and barriers to the intended services.

PERFORMANCE IMPLICATIONS

- **Funding Sustainability:** NMCDHH's ability to serve the Deaf, DeafBlind, Hard of

Hearing, Deaf Seniors, Deaf with Additional Disabilities, and individuals with speech disabilities would be restricted without additional funding sources.

- **Initial Funding:** The initial collection would establish the 988 Lifeline Fund with over four million dollars, but the funding would not continue at a constant level.
- **Long-Term Challenges:** The 988 Lifeline fund would eventually face the same barriers as NMCDHH services, unable to be funded solely by surcharge funding.

As stated in the Significant Issues section, the ability for the NMCDHH to continue services without additional funding sources would continue to restrict its ability to serve the Deaf, DeafBlind, Hard of Hearing, Deaf Seniors, and Deaf with Additional Disabilities as well as individuals with speech disabilities effectively despite the increase to the percentage of the collection overall. While the initial collection would establish the 988 Lifeline Fund with a little over four million dollars, that funding would not continue to materialize at a constant level; this could mean an impact on the services that are intended to be provided, a large investment initially that would over time see challenges in performing as intended. This would not occur initially with the 988 Lifeline Fund, but it would start to experience the same barriers as the NMCDHH services, no longer able to fund the program solely on the surcharge funding.

ADMINISTRATIVE IMPLICATIONS

- **Funding Collection Challenges:** Collecting funds for the 988 Lifeline program presents challenges, including increased work and oversight.
- **Funding Allocation Challenges:** Dividing the collected funding appropriately for the 988 Lifeline program would require additional staffing and resources.
- **Insufficient Funding for Additional FTE:** The bill's 3% surcharge on a smaller portion of collected funds would not be sufficient to fund another full-time employee (FTE) position.

The collection of the funds has continued to be a challenge. Adding the 988 Lifeline program would require oversight and an increased amount of work to first collect the funding at the new percentage, and second, dividing the funding appropriately. The first challenge of collecting the funds would be the more challenging part of this process and require sending out notice to all of the carriers impacted by this change and FTE increases to address these needs. However, the bill only takes the 3% for the smaller 20% of the collected surcharge, which, according to our breakdown, would only amount to \$33,978.92 a year, which would not be enough to fund another FTE position.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 372 proposes a flat rate collection in the Telecommunications Relay Service Surcharge of .51 cents. The amount collected would fully fund the NMCDHH and programs with room to address growth and need for the foreseeable future without a need for an additional language change.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

- **Funding Stability:** Combining SB 372 with the existing flat rate format seen in the E911 collection would provide a stable funding source.
- **Flat Rate Discussion:** A discussion could be held to determine a flat rate that would adequately fund both the NMCDHH and the 988 Lifeline Fund.
- **Alternative Funding Source:** A separate funding source could be established specifically for the 988 Lifeline Fund.

Working to combine the flat-rate language of SB 372 could provide a stable collection based on the historic E911 collection system that is already in effect. That flat rate would not be subject to challenges already seen since FY11 with the percentage collection already in place with the Telecommunications Relay Service Surcharge. A discussion on the flat rate could occur, which enables both the NMCDHH and the 988 Lifeline Fund to both receive the funding they need to effectively provide the services that are intended to be provided. Another alternative would be to create a separate funding source specifically for the 988 Lifeline Fund.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The bill contains multiple other sections for the purposes of this analysis and the focus on the Telecommunications Relay Service Surcharge in Section 2, by not enacting this bill the 988 Lifeline Fund would not be created.

AMENDMENTS