

FIFTY-SIXTH LEGISLATURE
SECOND SESSION

February 8, 2024

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 7, as amended

Amendment sponsored by Representative Mark Duncan

1. Strike House Appropriations and Finance Committee Amendments 2 and 3.

2. On page 1, line 12, after "FUND", insert "AND HEALTH INSURANCE PREMIUM SURTAX".

3. On page 1, line 21, strike "fifty-five" and insert in lieu thereof "one hundred".

4. On page 2, between lines 5 and 6, insert:

"SECTION 2. Section 7-40-3 NMSA 1978 (being Laws 2018, Chapter 57, Section 3, as amended) is amended to read:

"7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-INSURED GROUP TAX".--

A. The tax imposed pursuant to this subsection may be referred to as the "premium tax". The premium tax is imposed at a rate of three and three-thousandths percent of the gross premiums and membership and policy fees received or written by a taxpayer or, with respect to a taxpayer that is an insured that procures, continues or renews insurance with a nonadmitted insurer, paid by the taxpayer, on insurance or contracts covering risks within the state during the preceding calendar year. The premium tax shall not be imposed on self-insured groups or on return premiums, dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks.

B. For a taxpayer that is an insurer lawfully organized

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pursuant to the laws of the Republic of Mexico, the premium tax shall apply solely to the taxpayer's gross premium receipts from insurance policies issued by the taxpayer in New Mexico that cover residents of New Mexico or property or risks principally domiciled or located in New Mexico.

C. With respect to a taxpayer that is a property bondsman, "gross premiums" shall be considered any consideration received as security or surety for a bail bond in connection with a judicial proceeding.

D. The premium tax provided in Subsection A of this section is imposed on the gross premiums received of a surplus lines broker, less return premiums, on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license, as reported by the surplus lines broker to the department on forms and in the manner prescribed by the department. For purposes of this subsection, "gross premiums" shall include any additional amount charged the insured, including policy fees, risk purchasing group fees and inspection fees; but "premiums" shall not include any additional amount charged the insured for local, state or federal taxes; regulatory authority fees; or examination fees, if any. For a surplus lines policy issued to an insured whose home state is New Mexico and where only a portion of the risk is located in New Mexico, the entire premium tax shall be paid in accordance with this section.

E. In addition to the premium tax, except as provided in Subsection F of this section, a health insurance premium surtax is imposed at a rate of [~~three and seventy-five~~] one and sixty-five hundredths percent of the gross health insurance premiums and membership and policy fees received by the taxpayer on hospital and medical expense incurred insurance or contracts; nonprofit health care plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year. The

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surtax shall not apply to return health insurance premiums, dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. The surtax imposed pursuant to this subsection may be referred to as the "health insurance premium surtax".

F. If an act of the United States congress is signed into law that imposes the annual fee on health insurance providers pursuant to Section 9010 of the federal Patient Protection and Affordable Care Act, or that imposes a substantially similar fee on the same class of taxpayers, the rate of the health insurance premium surtax shall be decreased at a rate equal to the rate of the annual fee imposed; provided that the rate of the health insurance premium surtax shall not be less than one percent. A reduction in the health insurance premium surtax pursuant to this subsection shall go into effect on the later of the effective date of the imposition of the federal annual fee or ninety days after the congressional act imposing the federal annual fee is signed into law.

G. A tax is imposed at a rate of nine-tenths percent on the net premiums, as defined in the Group Self-Insurance Act, received or written by a self-insured group within the state during the preceding calendar year. The tax imposed pursuant to this subsection may be referred to as the "self-insured group tax".

SECTION 3. [NEW MATERIAL] SAVINGS FROM HEALTH INSURANCE PREMIUM SURTAX DECREASE TO CONSUMERS.--A taxpayer subject to the health insurance premium surtax shall expend in an amount equal to the difference in the amount of surtax that would have been paid by the taxpayer at the rate prior to July 1, 2026 and the amount of surtax paid at the rate after July 1, 2026 to reduce health care premiums and cost sharing for New Mexico residents who purchase health care coverage on the New Mexico health insurance exchange.

SECTION 4. EFFECTIVE DATE.--The effective date of the

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provisions of this act is July 1, 2026."

Mark Duncan

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____