

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 278

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

AN ACT

RELATING TO HEALTH INSURANCE; INCREASING THE HEALTH INSURANCE
PREMIUM SURTAX; DISTRIBUTING A PORTION OF THE REVENUE FROM THE
INCREASE TO THE SURTAX TO A NEW HEALTH CARE AFFORDABILITY FUND;
CREATING THE HEALTH CARE AFFORDABILITY FUND TO BE USED TO
REDUCE THE COST OF HEALTH CARE COVERAGE FOR NEW MEXICO
RESIDENTS; REQUIRING THE HUMAN SERVICES DEPARTMENT, WITH THE
ASSISTANCE OF THE OFFICE OF SUPERINTENDENT OF INSURANCE AND THE
DEPARTMENT OF FINANCE AND ADMINISTRATION, TO MONITOR THE FUND;
REQUIRING THE HUMAN SERVICES DEPARTMENT, IN COORDINATION WITH
THE OFFICE OF SUPERINTENDENT OF INSURANCE, TO DEVELOP A HEALTH
CARE AFFORDABILITY IMPROVEMENT PROPOSAL.

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

SECTION 1. A new section of the Tax Administration Act is
enacted to read:

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1 "[NEW MATERIAL] DISTRIBUTION--HEALTH INSURANCE PREMIUM
2 SURTAX--HEALTH CARE AFFORDABILITY FUND.--A distribution
3 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
4 health care affordability fund in an amount equal to fifty-five
5 percent of the net receipts attributable to the health
6 insurance premium surtax."

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

9 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
10 "PREMIUM TAX" AND "HEALTH INSURANCE PREMIUM SURTAX".--

11 A. A tax is imposed at a rate of three and three-
12 thousandths percent of the gross premiums and membership and
13 policy fees received or written by a taxpayer, as reported by
14 March 1 of each year to the department in the appropriate
15 schedule, as determined by the department, of the taxpayer's
16 annual financial statement on insurance or contracts covering
17 risks within the state during the preceding calendar year. The
18 tax shall not be imposed on return premiums, dividends paid or
19 credited to policyholders or contract holders and premiums
20 received for reinsurance on New Mexico risks. The tax imposed
21 pursuant to this section may be referred to as the "premium
22 tax".

23 B. For a taxpayer that is an insurer lawfully
24 organized pursuant to the laws of the Republic of Mexico, the
25 premium tax shall apply solely to the taxpayer's gross premium

1 receipts from insurance policies issued by the taxpayer in New
2 Mexico that cover residents of New Mexico or property or risks
3 principally domiciled or located in New Mexico.

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

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

24 E. In addition to the premium tax, a health
25 insurance premium surtax is imposed at a rate of [~~one~~] three

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1 and twenty-five hundredths percent of the gross health
2 insurance premiums and membership and policy fees received by
3 the taxpayer on hospital and medical expense incurred insurance
4 or contracts; nonprofit health care plan contracts, excluding
5 dental or vision only contracts; and health maintenance
6 organization subscriber contracts covering health risks within
7 this state during the preceding calendar year. The [~~tax~~]
8 surtax shall not apply to return health insurance premiums,
9 dividends paid or credited to policyholders or contract holders
10 and health insurance premiums received for reinsurance on New
11 Mexico risks. The surtax imposed pursuant to this section may
12 be referred to as the "health insurance premium surtax"."

13 **SECTION 3.** A new section of the Human Services Department
14 Act is enacted to read:

15 "[NEW MATERIAL] HEALTH CARE AFFORDABILITY FUND--REPORTING
16 REQUIREMENTS.--

17 A. The "health care affordability fund" is created
18 in the state treasury. The fund consists of distributions,
19 appropriations, gifts, grants and donations. Money in the fund
20 at the end of a fiscal year shall not revert to any other fund.
21 The department shall administer the fund, and money in the fund
22 is subject to appropriation by the legislature for purposes
23 provided by this section. Disbursements from the fund shall be
24 made by warrant of the secretary of finance and administration
25 pursuant to vouchers signed by the secretary of human services

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1 or the secretary's authorized representative.

2 B. The purpose of the fund is to provide
3 initiatives to reduce the cost of health care coverage for New
4 Mexico residents, such as costs of premiums and cost-sharing,
5 for health care plans through the New Mexico health insurance
6 exchange and coverage programs through the department. As
7 provided by law:

8 (1) at least sixty percent of the money in the
9 fund in a fiscal year shall be expended to reduce costs for
10 individuals who qualify for federal premium tax credits
11 pursuant to the federal Patient Protection and Affordable Care
12 Act; and

13 (2) if a provision of the federal Patient
14 Protection and Affordable Care Act is repealed and the repeal
15 affects coverage for New Mexico residents, money in the fund
16 may be expended to maintain that coverage. Money in the fund
17 shall not be used to pay for state contributions toward the
18 medical assistance program established pursuant to Titles 19
19 and 21 of the federal Social Security Act.

20 C. The human services department, with the
21 assistance of the office of superintendent of insurance and the
22 department of finance and administration, shall monitor
23 expenditures of the fund and take measures to ensure solvency
24 of the fund."

25 SECTION 4. TEMPORARY PROVISION--HEALTH CARE AFFORDABILITY

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1 IMPROVEMENT PROPOSAL.--The human services department shall, in
2 coordination with the office of superintendent of insurance,
3 develop a health care affordability improvement proposal that
4 establishes a framework for affordability improvements. The
5 proposal shall include a description of proposed cost reduction
6 initiatives, income-based estimates of savings to consumers
7 resulting from affordability initiatives, enrollment
8 projections, estimates of the number of New Mexico residents
9 who would benefit directly or through market impacts from the
10 initiatives as a result of the proposed improvements and any
11 other relevant information. The human services department and
12 the office of superintendent of insurance shall present the
13 proposal to the legislative finance committee, the legislative
14 health and human services committee and the board of directors
15 of the New Mexico health insurance exchange. Following the
16 release of the proposal, the department shall provide ample
17 opportunity for public input on the proposal, including public
18 input sessions, opportunities to submit verbal or written
19 comments and online information and webinars. The department
20 shall submit a final proposal to the legislative finance
21 committee, the legislative health and human services committee
22 and the board of directors of the New Mexico health insurance
23 exchange no later than December 1, 2020.

24 SECTION 5. APPLICABILITY.--The provisions of Sections 1
25 and 2 of this act apply to estimated payments made beginning on

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1 and after January 1, 2021.

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