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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAX EXPENDITURES; PROVIDING TERMINATION DATES FOR CERTAIN HEALTH CARE AND INSURANCE TAX EXPENDITURES.

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

SECTION 1. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) for a municipality having a population of less than ten thousand according to the most recent federal

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1 decennial census and having per capita taxable gross receipts
2 for the previous calendar year that are less than the average
3 per capita taxable gross receipts for all municipalities for
4 that same calendar year:

5 (a) the total deductions claimed
6 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
7 from business locations attributable to the municipality
8 multiplied by the sum of the combined rate of all municipal
9 local option gross receipts taxes in effect in the municipality
10 for the month plus one and two hundred twenty-five thousandths
11 percent; and

12 (b) the total deductions claimed
13 pursuant to Section 7-9-93 NMSA 1978 for ~~[the]~~ a month prior to
14 July 1, 2020 by taxpayers from business locations attributable
15 to the municipality multiplied by the sum of the combined rate
16 of all municipal local option gross receipts taxes in effect in
17 the municipality for the month plus one and two hundred twenty-
18 five thousandths percent; or

19 (2) for a municipality not described in
20 Paragraph (1) of this subsection:

21 (a) the total deductions claimed
22 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
23 from business locations attributable to the municipality
24 multiplied by the sum of the combined rate of all municipal
25 local option gross receipts taxes in effect in the municipality

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1 on January 1, 2007 plus one and two hundred twenty-five
2 thousandths percent; and

3 (b) the total deductions claimed
4 pursuant to Section 7-9-93 NMSA 1978 for ~~[the]~~ a month prior to
5 July 1, 2020 by taxpayers from business locations attributable
6 to the municipality multiplied by the sum of the combined rate
7 of all municipal local option gross receipts taxes in effect in
8 the municipality on January 1, 2007 plus one and two hundred
9 twenty-five thousandths percent.

10 B. The distribution pursuant to Subsection A of
11 this section is in lieu of revenue that would have been
12 received by the municipality but for the deductions provided by
13 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
14 be considered gross receipts tax revenue and shall be used by
15 the municipality in the same manner as gross receipts tax
16 revenue, including payment of gross receipts tax revenue bonds.

17 C. For the purposes of this section, "business
18 locations attributable to the municipality" means business
19 locations:

- 20 (1) within the municipality;
- 21 (2) on land owned by the state, commonly known
22 as the "state fairgrounds", within the exterior boundaries of
23 the municipality;
- 24 (3) outside the boundaries of the municipality
25 on land owned by the municipality; and

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1 (4) on an Indian reservation or pueblo grant
2 in an area that is contiguous to the municipality and in which
3 the municipality performs services pursuant to a contract
4 between the municipality and the Indian tribe or Indian pueblo
5 if:

6 (a) the contract describes an area in
7 which the municipality is required to perform services and
8 requires the municipality to perform services that are
9 substantially the same as the services the municipality
10 performs for itself; and

11 (b) the governing body of the
12 municipality has submitted a copy of the contract to the
13 secretary.

14 D. A distribution pursuant to this section may be
15 adjusted for a distribution made to a tax increment development
16 district with respect to a portion of a gross receipts tax
17 increment dedicated by a municipality pursuant to the Tax
18 Increment for Development Act."

19 SECTION 2. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
20 Chapter 116, Section 2, as amended) is amended to read:

21 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
22 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

23 A. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to a county in an amount, subject to any
25 increase or decrease made pursuant to Section 7-1-6.15 NMSA

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1 1978, equal to the sum of:

2 (1) for a county having a population of less
3 than forty-eight thousand according to the most recent federal
4 decennial census:

5 (a) the total deductions claimed
6 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
7 from business locations within a municipality in the county
8 multiplied by the combined rate of all county local option
9 gross receipts taxes in effect for the month that are imposed
10 throughout the county;

11 (b) the total deductions claimed
12 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
13 from business locations in the county but not within a
14 municipality multiplied by the combined rate of all county
15 local option gross receipts taxes in effect for the month that
16 are imposed in the county area not within a municipality;

17 (c) the total deductions claimed
18 pursuant to Section 7-9-93 NMSA 1978 for ~~[the]~~ a month prior to
19 July 1, 2020 by taxpayers from business locations within a
20 municipality in the county multiplied by the combined rate of
21 all county local option gross receipts taxes in effect for the
22 month that are imposed throughout the county; and

23 (d) the total deductions claimed
24 pursuant to Section 7-9-93 NMSA 1978 for ~~[the]~~ a month prior to
25 July 1, 2020 by taxpayers from business locations in the county

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1 but not within a municipality multiplied by the combined rate
2 of all county local option gross receipts taxes in effect for
3 the month that are imposed in the county area not within a
4 municipality; or

5 (2) for a county not described in Paragraph
6 (1) of this subsection:

7 (a) the total deductions claimed
8 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
9 from business locations within a municipality in the county
10 multiplied by the combined rate of all county local option
11 gross receipts taxes in effect on January 1, 2007 that are
12 imposed throughout the county;

13 (b) the total deductions claimed
14 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
15 from business locations in the county but not within a
16 municipality multiplied by the combined rate of all county
17 local option gross receipts taxes in effect on January 1, 2007
18 that are imposed in the county area not within a municipality;

19 (c) the total deductions claimed
20 pursuant to Section 7-9-93 NMSA 1978 for ~~[the]~~ a month prior to
21 July 1, 2020 by taxpayers from business locations within a
22 municipality in the county multiplied by the combined rate of
23 all county local option gross receipts taxes in effect on
24 January 1, 2007 that are imposed throughout the county; and

25 (d) the total deductions claimed

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1 pursuant to Section 7-9-93 NMSA 1978 for ~~[the]~~ a month prior to
2 July 1, 2020 by taxpayers from business locations in the county
3 but not within a municipality multiplied by the combined rate
4 of all county local option gross receipts taxes in effect on
5 January 1, 2007 that are imposed in the county area not within
6 a municipality.

7 B. The distribution pursuant to Subsection A of
8 this section is in lieu of revenue that would have been
9 received by the county but for the deductions provided by
10 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
11 be considered gross receipts tax revenue and shall be used by
12 the county in the same manner as gross receipts tax revenue,
13 including payment of gross receipts tax revenue bonds.

14 C. A distribution pursuant to this section may be
15 adjusted for a distribution made to a tax increment development
16 district with respect to a portion of a gross receipts tax
17 increment dedicated by a county pursuant to the Tax Increment
18 for Development Act."

19 SECTION 3. Section 7-2-18.22 NMSA 1978 (being Laws 2007,
20 Chapter 361, Section 2) is amended to read:

21 "7-2-18.22. TAX CREDIT--RURAL HEALTH CARE PRACTITIONER
22 TAX CREDIT.--

23 A. For a taxable year beginning on or after January
24 1, 2012 but before January 1, 2021, a taxpayer who files an
25 individual New Mexico tax return, who is not a dependent of

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1 another individual, who is an eligible health care practitioner
2 and who has provided health care services in New Mexico in a
3 rural health care underserved area in a taxable year may claim
4 a credit against the tax liability imposed by the Income Tax
5 Act. The credit provided in this section may be referred to as
6 the "rural health care practitioner tax credit".

7 B. The rural health care practitioner tax credit
8 may be claimed and allowed in an amount that shall not exceed
9 five thousand dollars (\$5,000) for all eligible physicians,
10 osteopathic physicians, dentists, clinical psychologists,
11 podiatrists and optometrists who qualify pursuant to the
12 provisions of this section, except the credit shall not exceed
13 three thousand dollars (\$3,000) for all eligible dental
14 hygienists, physician assistants, certified nurse-midwives,
15 certified registered nurse anesthetists, certified nurse
16 practitioners and clinical nurse specialists.

17 C. To qualify for the rural health care
18 practitioner tax credit, an eligible health care practitioner
19 shall have provided health care during a taxable year for at
20 least two thousand eighty hours at a practice site located in
21 an approved, rural health care underserved area. An eligible
22 rural health care practitioner who provided health care
23 services for at least one thousand forty hours but less than
24 two thousand eighty hours at a practice site located in an
25 approved rural health care underserved area during a taxable

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1 year is eligible for one-half of the credit amount.

2 D. Before an eligible health care practitioner may
3 claim the rural health care practitioner tax credit, the
4 practitioner shall submit an application to the department of
5 health that describes the practitioner's clinical practice and
6 contains additional information that the department of health
7 may require. The department of health shall determine whether
8 an eligible health care practitioner qualifies for the rural
9 health care practitioner tax credit and shall issue a
10 certificate to each qualifying eligible health care
11 practitioner. The department of health shall provide the
12 taxation and revenue department appropriate information for all
13 eligible health care practitioners to whom certificates are
14 issued.

15 E. A taxpayer claiming the credit provided by this
16 section shall submit a copy of the certificate issued by the
17 department of health with the taxpayer's New Mexico income tax
18 return for the taxable year. If the amount of the credit
19 claimed exceeds a taxpayer's tax liability for the taxable year
20 in which the credit is being claimed, the excess may be carried
21 forward for three consecutive taxable years.

22 F. As used in this section:

23 (1) "eligible health care practitioner" means:

24 (a) a certified nurse-midwife licensed
25 by the board of nursing as a registered nurse and licensed by

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1 the public health division of the department of health to
2 practice nurse-midwifery as a certified nurse-midwife;

3 (b) a dentist or dental hygienist
4 licensed pursuant to the Dental Health Care Act;

5 (c) an optometrist licensed pursuant to
6 the provisions of the Optometry Act;

7 (d) an osteopathic physician licensed
8 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
9 or an osteopathic physician assistant licensed pursuant to the
10 provisions of the Osteopathic Physicians' Assistants Act;

11 (e) a physician or physician assistant
12 licensed pursuant to the provisions of Chapter 61, Article 6
13 NMSA 1978;

14 (f) a podiatrist licensed pursuant to
15 the provisions of the Podiatry Act;

16 (g) a clinical psychologist licensed
17 pursuant to the provisions of the Professional Psychologist
18 Act; and

19 (h) a registered nurse in advanced
20 practice who has been prepared through additional formal
21 education as provided in Sections 61-3-23.2 through 61-3-23.4
22 NMSA 1978 to function beyond the scope of practice of
23 professional registered nursing, including certified nurse
24 practitioners, certified registered nurse anesthetists and
25 clinical nurse specialists;

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1 (2) "health care underserved area" means a
2 geographic area or practice location in which it has been
3 determined by the department of health, through the use of
4 indices and other standards set by the department of health,
5 that sufficient health care services are not being provided;

6 (3) "practice site" means a private practice,
7 public health clinic, hospital, public or private nonprofit
8 primary care clinic or other health care service location in a
9 health care underserved area; and

10 (4) "rural" means an area or location
11 identified by the department of health as falling outside of an
12 urban area."

13 SECTION 4. Section 7-9-73.1 NMSA 1978 (being Laws 1991,
14 Chapter 8, Section 3, as amended) is amended to read:

15 "7-9-73.1. DEDUCTION--GROSS RECEIPTS--HOSPITALS.--Prior
16 to July 1, 2020, fifty percent of the receipts of hospitals
17 licensed by the department of health may be deducted from gross
18 receipts; provided, this deduction may be applied only to the
19 taxable gross receipts remaining after all other appropriate
20 deductions have been taken."

21 SECTION 5. Section 7-9-93 NMSA 1978 (being Laws 2004,
22 Chapter 116, Section 6, as amended) is amended to read:

23 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
24 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

25 A. Prior to July 1, 2020, receipts from payments by
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1 a managed health care provider or health care insurer for
2 commercial contract services or medicare part C services
3 provided by a health care practitioner that are not otherwise
4 deductible pursuant to another provision of the Gross Receipts
5 and Compensating Tax Act may be deducted from gross receipts,
6 provided that the services are within the scope of practice of
7 the person providing the service. Receipts from fee-for-
8 service payments by a health care insurer may not be deducted
9 from gross receipts. The deduction provided by this section
10 shall be separately stated by the taxpayer.

11 B. For the purposes of this section:

12 (1) "commercial contract services" means
13 health care services performed by a health care practitioner
14 pursuant to a contract with a managed health care provider or
15 health care insurer other than those health care services
16 provided for medicare patients pursuant to Title 18 of the
17 federal Social Security Act or for medicaid patients pursuant
18 to Title 19 or Title 21 of the federal Social Security Act;

19 (2) "health care insurer" means a person that:

20 (a) has a valid certificate of authority
21 in good standing pursuant to the New Mexico Insurance Code to
22 act as an insurer, health maintenance organization or nonprofit
23 health care plan or prepaid dental plan; and

24 (b) contracts to reimburse licensed
25 health care practitioners for providing basic health services

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1 to enrollees at negotiated fee rates;

2 (3) "health care practitioner" means:

3 (a) a chiropractic physician licensed
4 pursuant to the provisions of the Chiropractic Physician
5 Practice Act;

6 (b) a dentist or dental hygienist
7 licensed pursuant to the Dental Health Care Act;

8 (c) a doctor of oriental medicine
9 licensed pursuant to the provisions of the Acupuncture and
10 Oriental Medicine Practice Act;

11 (d) an optometrist licensed pursuant to
12 the provisions of the Optometry Act;

13 (e) an osteopathic physician licensed
14 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
15 or an osteopathic physician's assistant licensed pursuant to
16 the provisions of the Osteopathic Physicians' Assistants Act;

17 (f) a physical therapist licensed
18 pursuant to the provisions of the Physical Therapy Act;

19 (g) a physician or physician assistant
20 licensed pursuant to the provisions of Chapter 61, Article 6
21 NMSA 1978;

22 (h) a podiatrist licensed pursuant to
23 the provisions of the Podiatry Act;

24 (i) a psychologist licensed pursuant to
25 the provisions of the Professional Psychologist Act;

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1 (j) a registered lay midwife registered
2 by the department of health;

3 (k) a registered nurse or licensed
4 practical nurse licensed pursuant to the provisions of the
5 Nursing Practice Act;

6 (l) a registered occupational therapist
7 licensed pursuant to the provisions of the Occupational Therapy
8 Act;

9 (m) a respiratory care practitioner
10 licensed pursuant to the provisions of the Respiratory Care
11 Act;

12 (n) a speech-language pathologist or
13 audiologist licensed pursuant to the Speech-Language Pathology,
14 Audiology and Hearing Aid Dispensing Practices Act;

15 (o) a professional clinical mental
16 health counselor, marriage and family therapist or professional
17 art therapist licensed pursuant to the provisions of the
18 Counseling and Therapy Practice Act who has obtained a master's
19 degree or a doctorate;

20 (p) an independent social worker
21 licensed pursuant to the provisions of the Social Work Practice
22 Act; and

23 (q) a clinical laboratory that is
24 accredited pursuant to 42 U.S.C. Section 263a but that is not a
25 laboratory in a physician's office or in a hospital defined

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1 pursuant to 42 U.S.C. Section 1395x;

2 (4) "managed health care provider" means a
3 person that provides for the delivery of comprehensive basic
4 health care services and medically necessary services to
5 individuals enrolled in a plan through its own employed health
6 care providers or by contracting with selected or participating
7 health care providers. "Managed health care provider" includes
8 only those persons that provide comprehensive basic health care
9 services to enrollees on a contract basis, including the
10 following:

- 11 (a) health maintenance organizations;
- 12 (b) preferred provider organizations;
- 13 (c) individual practice associations;
- 14 (d) competitive medical plans;
- 15 (e) exclusive provider organizations;
- 16 (f) integrated delivery systems;
- 17 (g) independent physician-provider
18 organizations;
- 19 (h) physician hospital-provider
20 organizations; and
- 21 (i) managed care services organizations;
- 22 and

23 (5) "medicare part C services" means services
24 performed pursuant to a contract with a managed health care
25 provider for medicare patients pursuant to Title 18 of the

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1 federal Social Security Act."

2 SECTION 6. Section 7-9-96.1 NMSA 1978 (being Laws 2007,
3 Chapter 361, Section 7) is amended to read:

4 "7-9-96.1. CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF
5 CERTAIN HOSPITALS.--

6 A. A hospital licensed by the department of health
7 may claim a credit for each reporting period against the gross
8 receipts tax due for that reporting period as follows:

9 (1) for a hospital located in a municipality:

10 (a) on or after July 1, 2007 but before
11 July 1, 2008, in an amount equal to seven hundred fifty-five
12 thousandths percent of the hospital's taxable gross receipts
13 for that reporting period after all applicable deductions have
14 been taken;

15 (b) on or after July 1, 2008 but before
16 July 1, 2009, in an amount equal to one and fifty-one
17 hundredths percent of the hospital's taxable gross receipts for
18 that reporting period after all applicable deductions have been
19 taken;

20 (c) on or after July 1, 2009 but before
21 July 1, 2010, in an amount equal to two and two hundred sixty-
22 five thousandths percent of the hospital's taxable gross
23 receipts for that reporting period after all applicable
24 deductions have been taken;

25 (d) on or after July 1, 2010 but before

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1 July 1, 2011, in an amount equal to three and two hundredths
2 percent of the hospital's taxable gross receipts for that
3 reporting period after all applicable deductions have been
4 taken; and

5 (e) on or after July 1, 2011 but before
6 July 1, 2020, in an amount equal to three and seven hundred
7 seventy-five thousandths percent of the hospital's taxable
8 gross receipts for that reporting period after all applicable
9 deductions have been taken; and

10 (2) for a hospital located in the
11 unincorporated area of a county:

12 (a) on or after July 1, 2007 but before
13 July 1, 2008, in an amount equal to one percent of the
14 hospital's taxable gross receipts for that reporting period
15 after all applicable deductions have been taken;

16 (b) on or after July 1, 2008, but before
17 July 1, 2009, in an amount equal to two percent of the
18 hospital's taxable gross receipts for that reporting period
19 after all applicable deductions have been taken;

20 (c) on or after July 1, 2009 but before
21 July 1, 2010, in an amount equal to three percent of the
22 hospital's taxable gross receipts for that reporting period
23 after all applicable deductions have been taken;

24 (d) on or after July 1, 2010 but before
25 July 1, 2011, in an amount equal to four percent of the

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1 hospital's taxable gross receipts for that reporting period
2 after all applicable deductions have been taken; and

3 (e) on or after July 1, 2011 but before
4 July 1, 2020, in an amount equal to five percent of the
5 hospital's taxable gross receipts for that reporting period
6 after all applicable deductions have been taken.

7 B. For the purposes of this section, "hospital"
8 means a facility providing emergency or urgent care, inpatient
9 medical care and nursing care for acute illness, injury,
10 surgery or obstetrics and includes a facility licensed by the
11 department of health as a critical access hospital, general
12 hospital, long-term acute care hospital, psychiatric hospital,
13 rehabilitation hospital, limited services hospital and special
14 hospital."

15 SECTION 7. Section 59A-6-2 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 102, as amended) is amended to read:

17 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX.--

18 A. Prior to July 1, 2020, the premium tax provided
19 for in this section shall apply as to the following taxpayers:

20 (1) each insurer authorized to transact
21 insurance in New Mexico;

22 (2) each insurer formerly authorized to
23 transact insurance in New Mexico and receiving premiums on
24 policies remaining in force in New Mexico, except that this
25 provision shall not apply as to an insurer that withdrew from

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1 New Mexico prior to March 26, 1955;

2 (3) each plan operating under provisions of
3 Chapter 59A, Articles 46 through 49 NMSA 1978;

4 (4) each property bondsman, as that person is
5 defined in Section 59A-51-2 NMSA 1978, as to any consideration
6 received as security or surety for a bail bond in connection
7 with a judicial proceeding, which consideration shall be
8 considered "gross premiums" for the purposes of this section;
9 and

10 (5) each unauthorized insurer that has assumed
11 a contract or policy of insurance directly or indirectly from
12 an authorized or formerly authorized insurer and is receiving
13 premiums on such policies remaining in force in New Mexico,
14 except that this provision shall not apply if a ceding insurer
15 continues to pay the tax provided in this section as to such
16 policy or contract.

17 B. Each such taxpayer shall pay in accordance with
18 this subsection a premium tax of three and three-thousandths
19 percent of the gross premiums and membership and policy fees
20 received or written by it, as reported in Schedule T and
21 supporting schedules of its annual financial statement on
22 insurance or contracts covering risks within this state during
23 the preceding calendar year, less all return premiums,
24 including dividends paid or credited to policyholders or
25 contract holders and premiums received for reinsurance on New

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1 Mexico risks.

2 C. In addition to the premium tax imposed pursuant
3 to Subsection B of this section and prior to July 1, 2020, each
4 taxpayer described in Subsection A of this section that
5 transacts health insurance in New Mexico or is a plan described
6 in Chapter 59A, Article 46 or 47 NMSA 1978 shall pay a health
7 insurance premium surtax of one percent of the gross health
8 insurance premiums and membership and policy fees received by
9 it on hospital and medical expense incurred insurance or
10 contracts; nonprofit health care service plan contracts,
11 excluding dental or vision only contracts; and health
12 maintenance organization subscriber contracts covering health
13 risks within this state during the preceding calendar year,
14 less all return health insurance premiums, including dividends
15 paid or credited to policyholders or contract holders and
16 health insurance premiums received for reinsurance on New
17 Mexico risks. Except as provided in this section, all
18 references in the Insurance Code to the premium tax shall
19 include both the premium tax and the health insurance premium
20 surtax.

21 D. For each calendar quarter, an estimated payment
22 of the premium tax and the health insurance premium surtax
23 shall be made on April 15, July 15, October 15 and the
24 following January 15. The estimated payments shall be equal to
25 at least one-fourth of either the payment made during the

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1 previous calendar year or eighty percent of the actual payment
2 due for the current calendar year, whichever is greater. The
3 final adjustment for payments due for the prior year shall be
4 made with the return, which shall be filed on April 15 of each
5 year, at which time all taxes for that year are due. Dividends
6 paid or credited to policyholders or contract holders and
7 refunds, savings, savings coupons and similar returns or
8 credits applied or credited to payment of premiums for
9 existing, new or additional insurance shall, in the amount so
10 used, constitute premiums subject to tax under this section for
11 the year in which so applied or credited.

12 E. Exempted from the taxes imposed by this section
13 are:

14 (1) premiums attributable to insurance or
15 contracts purchased by the state or a political subdivision for
16 the state's or political subdivision's active or retired
17 employees; and

18 (2) payments received by a health maintenance
19 organization from the federal secretary of health and human
20 services pursuant to a contract issued under the provisions of
21 42 U.S.C. Section 1395 mm(g)."

22 SECTION 8. Section 59A-6-6 NMSA 1978 (being Laws 1984,
23 Chapter 127, Section 106, as amended) is amended to read:

24 "59A-6-6. PREEMPTION AND IN LIEU PROVISION.--

25 A. The state government of New Mexico preempts the

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1 field of taxation of insurers, nonprofit health care plans,
2 health maintenance organizations, prepaid dental plans,
3 prearranged funeral plans and insurance agents and solicitors
4 as such, and payment of the taxes, licenses and fees provided
5 for in the Insurance Code shall be in lieu of all other taxes,
6 licenses and fees of every kind now or hereafter imposed by
7 this state or any political subdivision thereof on any of the
8 foregoing specified entities, [~~excepting~~] except:

9 (1) the regular state, county and city taxes
10 on property located in New Mexico; [~~excepting~~] and

11 (2) the income tax on agents and solicitors.

12 B. If the premium taxes imposed in Section 59A-6-2
13 NMSA 1978 are terminated or otherwise repealed, the taxpayers
14 listed in Subsection A of Section 59A-6-2 NMSA 1978 shall be
15 required to pay all taxes from which they are exempted pursuant
16 to Subsection A of this section.

17 C. No provisions of law enacted after January 1,
18 1985 shall be deemed to modify the provisions of this section
19 except by amendment inserted into this section and adopted
20 pursuant to the provisions of Article 4 of the constitution of
21 New Mexico.

22 D. As used in this section, "agent" does not
23 include insurance adjusters. [~~No provision of law enacted~~
24 after January 1, 1985 shall be deemed to modify this provision
25 except by express reference to this section]."

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1 SECTION 9. Section 59A-54-10 NMSA 1978 (being Laws 1987,
2 Chapter 154, Section 10, as amended) is amended to read:

3 "59A-54-10. ASSESSMENTS.--

4 A. Following the close of each fiscal year, the
5 pool administrator shall determine the net premium, being
6 premiums less administrative expense allowances, the pool
7 expenses and claim expense losses for the year, taking into
8 account investment income and other appropriate gains and
9 losses. The assessment for each insurer shall be determined by
10 multiplying the total cost of pool operation by a fraction, the
11 numerator of which equals that insurer's premium and subscriber
12 contract charges or their equivalent for health insurance
13 written in the state during the preceding calendar year and the
14 denominator of which equals the total of all premiums and
15 subscriber contract charges written in the state; provided that
16 premium income shall include receipts of medicaid managed care
17 premiums but shall not include any payments by the secretary of
18 [~~health and~~] human services pursuant to a contract issued under
19 Section 1876 of the Social Security Act, as amended. The board
20 may adopt other or additional methods of adjusting the formula
21 to achieve equity of assessments among pool members, including
22 assessment of health insurers and reinsurers based upon the
23 number of persons they cover through primary, excess and stop-
24 loss insurance in the state.

25 B. If assessments exceed actual losses and

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underscored material = new
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1 administrative expenses of the pool, the excess shall be held
2 at interest and used by the board to offset future losses or to
3 reduce pool premiums. As used in this subsection, "future
4 losses" includes reserves for incurred but not reported claims.

5 C. The proportion of participation of each member
6 in the pool shall be determined annually by the board based on
7 annual statements and other reports deemed necessary by the
8 board and filed with it by the member. Any deficit incurred by
9 the pool shall be recouped by assessments apportioned among the
10 members of the pool pursuant to the assessment formula provided
11 by Subsection A of this section; provided that the assessment
12 for any pool member shall be allowed prior to January 1, 2021:

13 (1) as a fifty-percent credit on the premium
14 tax return for that member; and

15 (2) as a seventy-five-percent credit on the
16 premium tax return for that member for the assessments
17 attributable to pool policy holders that receive premiums, in
18 whole or in part, through the federal Ryan White CARE Act, the
19 Ted R. Montoya hemophilia program at the university of New
20 Mexico health sciences center, ~~the~~ children's medical
21 services of the family health bureau of the public health
22 division of the department of health or other program receiving
23 state funding or assistance.

24 D. The board may abate or defer, in whole or in
25 part, the assessment of a member of the pool if, in the opinion

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underscoring material = new
~~[bracketed material]~~ = delete

1 of the board, payment of the assessment would endanger the
2 ability of the member to fulfill its contractual obligation.
3 In the event an assessment against a member of the pool is
4 abated or deferred in whole or in part, the amount by which
5 such assessment is abated or deferred may be assessed against
6 the other members in a manner consistent with the basis for
7 assessments set forth in Subsection A of this section. The
8 member receiving the abatement or deferment shall remain liable
9 to the pool for the deficiency for four years."

10 SECTION 10. APPLICABILITY.--The provisions of Section 3
11 of this act apply to taxable years beginning on or after
12 January 1, 2012 but before January 1, 2021.

13 SECTION 11. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2012.