

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 278

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

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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

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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:

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

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

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

A. A 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, as reported by March 1 of each year to the department in the appropriate schedule, as determined by the department, of the taxpayer's annual financial statement on insurance or contracts covering risks within the state during the preceding calendar year. The tax shall not be imposed on return premiums, dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks. The tax imposed

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pursuant to this section may be referred to as the "premium tax".

B. For a taxpayer that is an insurer lawfully organized 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

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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, a health insurance premium surtax is imposed at a rate of ~~[one]~~ three and twenty-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 ~~Hfl~~ small group health plans, ~~Hfl~~ dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year. The ~~[tax]~~ 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 section may be referred to as the "health insurance premium surtax".

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

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

A. The "health care affordability fund" is created in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Money in the fund

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at the end of a fiscal year shall not revert to any other fund. The department shall administer the fund, and money in the fund is subject to appropriation by the legislature for purposes provided by this section. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of human services or the secretary's authorized representative.

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

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

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

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

SECTION 4. TEMPORARY PROVISION--HEALTH CARE AFFORDABILITY IMPROVEMENT PROPOSAL.--The human services department shall, in coordination with the office of superintendent of insurance, develop a health care affordability improvement proposal that establishes a framework for affordability improvements. The proposal shall include a description of proposed cost reduction initiatives, income-based estimates of savings to consumers resulting from affordability initiatives, enrollment projections, estimates of the number of New Mexico residents who would benefit directly or through market impacts from the initiatives as a result of the proposed improvements and any other relevant information. The human services department and the office of superintendent of insurance shall present the proposal to the legislative finance committee, the legislative health and human services committee and the board of directors of the New Mexico health insurance exchange. Following the release of the proposal, the department shall provide ample opportunity for public input on the proposal, including public input sessions, opportunities to submit verbal or written comments and online information and webinars. The department

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shall submit a final proposal to the legislative finance committee, the legislative health and human services committee and the board of directors of the New Mexico health insurance exchange no later than December 1, 2020.

SECTION 5. APPLICABILITY.--The provisions of Sections 1 and 2 of this act apply to estimated payments made beginning on and after January 1, 2021.

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