

1 SENATE BILL 21

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH INSURANCE; INCREASING THE HEALTH INSURANCE
12 PREMIUM SURTAX; TEMPORARILY DISTRIBUTING A PORTION OF THE
13 REVENUE FROM THE INCREASE TO THE SURTAX TO A NEW HEALTH
14 INSURANCE PREMIUM SURTAX FUND FOR THE MEDICAL ASSISTANCE
15 PROGRAM.

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

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

20 "[NEW MATERIAL] DISTRIBUTION--HEALTH INSURANCE PREMIUM
21 SURTAX FUND.--Prior to July 1, 2021, a distribution pursuant to
22 Section 7-1-6.1 NMSA 1978 shall be made to the health insurance
23 premium surtax fund in an amount equal to seventy-one and
24 forty-three hundredths percent of the net receipts attributable
25 to the health insurance premium surtax for which estimated

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1 payments are made pursuant to Section 7-40-7 NMSA 1978
2 beginning on or after October 15, 2020."

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

5 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
6 "PREMIUM TAX" AND "HEALTH INSURANCE PREMIUM SURTAX".--

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

19 B. For a taxpayer that is an insurer lawfully
20 organized pursuant to the laws of the Republic of Mexico, the
21 premium tax shall apply solely to the taxpayer's gross premium
22 receipts from insurance policies issued by the taxpayer in New
23 Mexico that cover residents of New Mexico or property or risks
24 principally domiciled or located in New Mexico.

25 C. With respect to a taxpayer that is a property

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1 bondsman, "gross premiums" shall be considered any
2 consideration received as security or surety for a bail bond in
3 connection with a judicial proceeding.

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

20 E. In addition to the premium tax, a health
21 insurance premium surtax is imposed at a rate of [~~one~~] three
22 and one-half percent of the gross health insurance premiums and
23 membership and policy fees received by the taxpayer on hospital
24 and medical expense incurred insurance or contracts; nonprofit
25 health care plan contracts, excluding dental or vision only

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1 contracts; and health maintenance organization subscriber
2 contracts covering health risks within this state during the
3 preceding calendar year. The [~~tax~~] surtax shall not apply to
4 return health insurance premiums, dividends paid or credited to
5 policyholders or contract holders and health insurance premiums
6 received for reinsurance on New Mexico risks. The surtax
7 imposed pursuant to this section may be referred to as the
8 "health insurance premium surtax".

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

11 "[NEW MATERIAL] HEALTH INSURANCE PREMIUM SURTAX FUND.--The
12 "health insurance premium surtax fund" is created in the state
13 treasury. The fund consists of distributions, appropriations,
14 gifts, grants and donations. Money in the fund at the end of a
15 fiscal year shall revert to the general fund. The department
16 shall administer the fund, and money in the fund is
17 appropriated to the department for the medical assistance
18 program established pursuant to Titles 19 and 21 of the federal
19 Social Security Act. Disbursements from the fund shall be made
20 by warrant of the secretary of finance and administration
21 pursuant to vouchers signed by the secretary of human services
22 or the secretary's authorized representative."

23 SECTION 4. APPLICABILITY.--The provisions of Section 2 of
24 this act apply to estimated payments made pursuant to Section
25 7-40-7 NMSA 1978 beginning on or after October 15, 2020.

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