

1 HOUSE BILL 278

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

3 INTRODUCED BY

4 Deborah A. Armstrong

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10 AN ACT

11 RELATING TO HEALTH INSURANCE; INCREASING THE HEALTH INSURANCE  
12 PREMIUM SURTAX; DISTRIBUTING A PORTION OF THE REVENUE FROM THE  
13 INCREASE TO THE SURTAX TO A NEW HEALTH CARE AFFORDABILITY FUND;  
14 CREATING THE HEALTH CARE AFFORDABILITY FUND TO BE USED TO  
15 REDUCE THE COST OF HEALTH CARE COVERAGE FOR NEW MEXICO  
16 RESIDENTS; REQUIRING THE HUMAN SERVICES DEPARTMENT TO REPORT ON  
17 EXPENDITURES FROM THE FUND; REQUIRING THE HUMAN SERVICES  
18 DEPARTMENT TO CREATE A PLAN WITH RECOMMENDATIONS TO THE  
19 LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE ON EXPENDITURES  
20 FROM THE HEALTH CARE AFFORDABILITY FUND.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 "[NEW MATERIAL] DISTRIBUTION--HEALTH INSURANCE PREMIUM

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

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

8 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF  
9 "PREMIUM TAX" AND "HEALTH INSURANCE PREMIUM SURTAX".--

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

22 B. For a taxpayer that is an insurer lawfully  
23 organized pursuant to the laws of the Republic of Mexico, the  
24 premium tax shall apply solely to the taxpayer's gross premium  
25 receipts from insurance policies issued by the taxpayer in New

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1 Mexico that cover residents of New Mexico or property or risks  
2 principally domiciled or located in New Mexico.

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

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

23 E. In addition to the premium tax, a health  
24 insurance premium surtax is imposed at a rate of ~~[one]~~ three  
25 and twenty-five hundredths percent of the gross health

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

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

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

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

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1           B. The purpose of the fund is to provide  
2 initiatives to reduce the cost of health care coverage for New  
3 Mexico residents, such as costs of premiums and cost-sharing,  
4 for health care plans through the New Mexico health insurance  
5 exchange and coverage programs through the department. Money  
6 in the fund shall not be used to pay for state contributions  
7 toward the medical assistance program established pursuant to  
8 Titles 19 and 21 of the federal Social Security Act. If a  
9 provision of the federal Patient Protection and Affordable Care  
10 Act is repealed and the repeal affects coverage for New Mexico  
11 residents, the fund may be used to maintain that coverage, as  
12 provided by law.

13           C. The department shall submit a report to the  
14 legislative health and human services committee on the  
15 expenditures from the fund no later than October 31 of each  
16 year, which shall include:

17                   (1) a summary of the initiatives implemented  
18 pursuant to Subsection B of this section;

19                   (2) the number of uninsured New Mexico  
20 residents who enrolled in coverage as a result of initiatives  
21 pursuant to Subsection B of this section; and

22                   (3) the amount in reduced costs and coverage  
23 assistance the initiatives provided in the three previous  
24 fiscal years, by income level, county and coverage source."

25           **SECTION 4. TEMPORARY PROVISION--HEALTH CARE AFFORDABILITY**

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1 PLAN.--

2 A. No later than December 1, 2020, the secretary of  
3 human services shall submit a plan with recommendations to the  
4 legislative health and human services committee on expenditures  
5 from the health care affordability fund to provide initiatives  
6 to assist New Mexico residents with the cost of health care  
7 coverage pursuant to Section 3 of this act for fiscal years  
8 2021 and 2022. The plan shall include:

9 (1) estimates of the number of uninsured New  
10 Mexico residents who would enroll in health care coverage as a  
11 result of the initiatives;

12 (2) proposals and analysis for improvements to  
13 the affordability of health care coverage and in uses of the  
14 fund;

15 (3) estimates of the number of New Mexico  
16 residents that would benefit directly or through market impacts  
17 from the initiatives as a result of the proposed improvements;

18 (4) estimates of the amount in reduced costs  
19 and coverage assistance that may be provided by income level,  
20 county and coverage source; and

21 (5) recommendations for statutory changes to  
22 implement initiatives that may benefit New Mexico residents and  
23 small businesses, in accordance with requirements of the  
24 constitution of New Mexico.

25 B. The human services department shall provide

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1 ample opportunities for public input for the plan, including  
2 public input sessions, opportunities to submit verbal or  
3 written comments and online information and webinars.

4 C. A draft plan shall be presented to the board of  
5 directors of the New Mexico health insurance exchange and to  
6 the medical advisory committee of the department of health at  
7 least sixty days prior to the submission of the plan to the  
8 legislative health and human services committee. A copy of the  
9 plan submitted to that committee shall be transmitted to the  
10 legislative finance committee.

11 SECTION 5. APPLICABILITY.--The provisions of Section 2 of  
12 this act apply to estimated payments made beginning on and  
13 after July 1, 2020.

14 SECTION 6. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2020.