

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 223

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

AN ACT

RELATING TO INSURANCE; TRANSFERRING THE DUTY TO COLLECT
INSURANCE PREMIUM TAXES TO THE TAXATION AND REVENUE DEPARTMENT;
CREATING THE INSURANCE PREMIUM TAX ACT; TRANSFERRING FUNCTIONS,
PERSONNEL, APPROPRIATIONS, MONEY AND PROPERTY; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 10 of this act may be cited as the "Insurance Premium
Tax Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Insurance Premium Tax Act:

A. "authorized insurer" means an insurer holding a
valid and subsisting certificate of authority to transact
insurance in this state;

1 B. "certificate of authority" means the certificate
2 of authority required to transact insurance in this state
3 pursuant to Section 59A-5-10 NMSA 1978;

4 C. "department" means the taxation and revenue
5 department;

6 D. "health maintenance organization" means "health
7 maintenance organization" as that term is used in Chapter 59A,
8 Article 46 NMSA 1978;

9 E. "home state" means "home state" as that term is
10 used in Chapter 59A, Article 14 NMSA 1978;

11 F. "insurance" means a contract whereby a person
12 undertakes to pay or indemnify another as to loss from certain
13 specified contingencies or perils, or to pay or grant a
14 specified amount or determinable benefit in connection with
15 ascertainable risk contingencies, or to act as surety;

16 G. "insurer" includes every person engaged as
17 principal and as indemnitor, surety or contractor in the
18 business of entering into contracts of insurance;

19 H. "nonprofit health care plan" means "health care
20 plan" as that term is used in Chapter 59A, Article 47 NMSA
21 1978;

22 I. "secretary" means the secretary of taxation and
23 revenue or the secretary's authorized designee;

24 J. "state" means, when used in context indicating a
25 jurisdiction other than New Mexico, any state, district,

1 commonwealth, territory or possession of the United States of
2 America;

3 K. "superintendent" means the superintendent of
4 insurance or the superintendent's duly authorized
5 representative acting in official capacity;

6 L. "surplus lines broker" means "surplus lines
7 broker" as that term is used in Section 59A, Article 14 NMSA
8 1978;

9 M. "taxpayer" means:

10 (1) an authorized insurer;

11 (2) an insurer formerly authorized to transact
12 insurance in New Mexico and receiving premiums on policies
13 remaining in force in New Mexico, except an insurer that
14 withdrew from New Mexico prior to March 26, 1955;

15 (3) a plan operating under provisions of
16 Chapter 59A, Articles 46 through 49 NMSA 1978;

17 (4) a property bondsman, as that person is
18 defined in Section 59A-51-2 NMSA 1978;

19 (5) an unauthorized insurer that has assumed a
20 contract or policy of insurance directly or indirectly from an
21 authorized or formerly authorized insurer and is receiving
22 premiums on such policies remaining in force in New Mexico;
23 provided that the ceding insurer does not continue to pay the
24 taxes imposed pursuant to the Insurance Premium Tax Act as to
25 such policy or contract; or

.210528.6ms

1 (6) an insured who in this state procures,
2 continues or renews insurance with a nonadmitted insurer
3 pursuant to Section 59A-15-4 NMSA 1978; and

4 N. "transact insurance" with respect to an
5 insurance contract or a business of insurance includes any of
6 the following, by mail or otherwise or whether or not for
7 profit:

- 8 (1) solicitation or inducement;
9 (2) negotiation;
10 (3) effectuation of an insurance contract;
11 (4) transaction of matters subsequent to
12 effectuation and arising out of such a contract;
13 (5) maintenance in this state of an office or
14 personnel performing any function in furtherance of an
15 insurer's business of insurance; or
16 (6) maintenance by an insurer of assets in
17 trust in this state for the benefit, security or protection of
18 its policyholders or its policyholders and creditors.

19 SECTION 3. [NEW MATERIAL] IMPOSITION AND RATE OF TAX--
20 DENOMINATION OF "PREMIUM TAX" AND "HEALTH INSURANCE PREMIUM
21 SURTAX".--

22 A. A tax is imposed at a rate of three and three-
23 thousandths percent of the gross premiums and membership and
24 policy fees received or written by a taxpayer, as reported by
25 March 1 of each year to the department in the appropriate

1 schedule, as determined by the department, of the taxpayer's
2 annual financial statement on insurance or contracts covering
3 risks within the state during the preceding calendar year. The
4 tax shall not be imposed on return premiums, dividends paid or
5 credited to policyholders or contract holders and premiums
6 received for reinsurance on New Mexico risks. The tax imposed
7 pursuant to this section may be referred to as the "premium
8 tax".

9 B. For a taxpayer that is an insurer lawfully
10 organized pursuant to the laws of the Republic of Mexico, the
11 premium tax shall apply solely to the taxpayer's gross premium
12 receipts from insurance policies issued by the taxpayer in New
13 Mexico that cover residents of New Mexico or property or risks
14 principally domiciled or located in New Mexico.

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

19 D. The premium tax provided in Subsection A of this
20 section is imposed on the gross premiums received of a surplus
21 lines broker, less return premiums, on surplus lines insurance
22 where New Mexico is the home state of the insured transacted
23 under the surplus lines broker's license, as reported by the
24 surplus lines broker to the department on forms and in the
25 manner prescribed by the department. For purposes of this

.210528.6ms

1 subsection, "gross premiums" shall include any additional
2 amount charged the insured, including policy fees, risk
3 purchasing group fees and inspection fees; but "premiums" shall
4 not include any additional amount charged the insured for
5 local, state or federal taxes; regulatory authority fees; or
6 examination fees, if any. For a surplus lines policy issued to
7 an insured whose home state is New Mexico and where only a
8 portion of the risk is located in New Mexico, the entire
9 premium tax shall be paid in accordance with this section.

10 E. In addition to the premium tax, a health
11 insurance premium surtax is imposed at a rate of one percent of
12 the gross health insurance premiums and membership and policy
13 fees received by the taxpayer on hospital and medical expense
14 incurred insurance or contracts; nonprofit health care plan
15 contracts, excluding dental or vision only contracts; and
16 health maintenance organization subscriber contracts covering
17 health risks within this state during the preceding calendar
18 year. The tax shall not apply to return health insurance
19 premiums, dividends paid or credited to policyholders or
20 contract holders and health insurance premiums received for
21 reinsurance on New Mexico risks. The surtax imposed pursuant
22 to this section may be referred to as the "health insurance
23 premium surtax".

24 SECTION 4. [NEW MATERIAL] RECIPROCITY PROVISION.--

25 A. When by or pursuant to the laws of any other

1 state or foreign country or province, any taxes, in the
2 aggregate, are or would be imposed upon New Mexico insurers
3 doing business or that might seek to do business in such state,
4 country or province, or upon the agents or representatives of
5 such insurers or upon brokers or adjusters, which are in excess
6 of such taxes, in the aggregate, directly imposed upon similar
7 insurers, or upon the agents or representatives of such
8 insurers, or upon brokers, or upon adjusters, of such other
9 state, country or province under the statutes of this state, so
10 long as such laws of such other state, country or province
11 continue in force or are so applied, the same taxes, in the
12 aggregate, may be imposed by the secretary upon the insurers,
13 or upon the agents or representatives of such insurers, or upon
14 brokers of such other state, country or province, doing
15 business or seeking to do business in New Mexico. Any tax
16 imposed by any city, county or other political subdivision or
17 agency of such other state, country or province on New Mexico
18 insurers or their agents, representatives, brokers or adjusters
19 shall be deemed to be imposed by such state, country or
20 province within the meaning of this section.

21 B. This section does not apply as to:

- 22 (1) personal income taxes;
23 (2) ad valorem taxes on real or personal
24 property; or
25 (3) special purpose obligations or

.210528.6ms

1 assessments, or assessments under insurance guaranty fund laws,
2 imposed by another state in connection with particular kinds of
3 insurance, except that assessment of insurers for financing of
4 public safety, health and protection purposes is not exempt
5 under this subsection. Except that deductions from premium
6 taxes or other taxes otherwise payable, allowed on account of
7 real or personal property taxes paid shall be taken into
8 consideration by the secretary in determining propriety and
9 extent of reciprocity action under this section.

10 C. For purposes of this section, domicile of an
11 alien insurer, other than Canadian insurer, shall be that state
12 designated by the insurer in writing filed with the secretary
13 at time of authorization in this state or within six months
14 after the effective date of the New Mexico Insurance Code,
15 whichever date is the later, and may be any one of the
16 following states:

17 (1) that in which the insurer was first
18 authorized to transact insurance;

19 (2) that in which is located the insurer's
20 principal place of business in the United States; or

21 (3) that in which is held the largest deposit
22 of trusted assets of the insurer for protection of its
23 policyholders in the United States.

24 D. If the insurer makes no such designation, its
25 domicile shall be deemed to be that state in which is located

1 its principal place of business in the United States.

2 E. The domicile of a Canadian insurer shall be
3 Canada and the province of Canada in which its head office is
4 located.

5 SECTION 5. [NEW MATERIAL] EXEMPTIONS.--Exempted from the
6 taxes imposed pursuant to the Insurance Premium Tax Act are:

7 A. premiums attributable to insurance or contracts
8 purchased by the state or a political subdivision for the
9 state's or political subdivision's active or retired employees;

10 B. payments received by a health maintenance
11 organization from the federal secretary of health and human
12 services pursuant to a risk-sharing contract issued under the
13 provisions of 42 U.S.C. Section 1395mm(g);

14 C. any business transacted pursuant to the
15 provisions of the Service Contract Regulation Act;

16 D. the premiums from each policy or plan issued or
17 offered pursuant to the Minimum Healthcare Protection Act
18 during the first three years of the issuance of the master
19 policy or individual policy; and

20 E. the money collected and placed in trust pursuant
21 to Section 59A-49-6 NMSA 1978.

22 SECTION 6. [NEW MATERIAL] CREDIT--MEDICAL INSURANCE POOL
23 ASSESSMENTS.--The assessment for any New Mexico medical
24 insurance pool member pursuant to Section 59A-54-10 NMSA 1978
25 shall be allowed as a fifty percent credit on the tax return

.210528.6ms

1 for that member and a seventy-five percent credit on the tax
2 return for that member for the assessments attributable to pool
3 policyholders that receive premiums, in whole or in part,
4 through the federal Ryan White CARE Act, the Ted R. Montoya
5 hemophilia program at the university of New Mexico health
6 sciences center, the children's medical services bureau of the
7 public health division of the department of health or other
8 program receiving state funding or assistance.

9 SECTION 7. [NEW MATERIAL] DATE PAYMENT DUE.--

10 A. Except as provided in Subsection B of this
11 section, for each calendar quarter, an estimated payment of the
12 premium tax and the health insurance premium surtax shall be
13 made on April 15, July 15, October 15 and the following January
14 15. The estimated payments shall be equal to at least
15 one-fourth of the payment made during the previous calendar
16 year or one-fifth of the actual payment due for the current
17 calendar year, whichever is greater. The final adjustment for
18 payments due for the prior year shall be made with the return
19 filed on April 15, at which time all taxes for that year are
20 due.

21 B. Within sixty days after expiration of a calendar
22 quarter, a surplus lines broker shall pay the premium tax due
23 on surplus lines insurance where New Mexico is the home state
24 of the insured transacted under the surplus lines broker's
25 license during such calendar quarter, as reported to the

1 department.

2 SECTION 8. [NEW MATERIAL] PENALTY FOR FAILURE TO PAY
3 TAX--SERVING PROCESS--APPOINTMENT OF SECRETARY AS PROCESS
4 AGENT.--

5 A. Every taxpayer and surplus lines broker subject
6 to the provisions of the Insurance Premium Tax Act that fail to
7 file when due any report for taxation, regardless of whether
8 tax is due, or to pay when due any tax as required by the
9 Insurance Premium Tax Act shall be liable to the state for the
10 amount thereof and for penalty of one thousand dollars (\$1,000)
11 for each month or part thereof the taxpayer or surplus lines
12 broker has failed to file the report or pay the tax after
13 demand therefor. Services of process in any action against a
14 person to recover the tax, fee or penalty may be made upon the
15 secretary as attorney for service of process as provided in
16 Subsection B of this section.

17 B. Service of process against a taxpayer or surplus
18 lines broker for whom the secretary is attorney shall be made
19 by delivering to and leaving with the secretary two copies of
20 the process.

21 C. Upon such service, the secretary shall forthwith
22 forward by prepaid registered or certified mail, return receipt
23 requested, one of the copies of such process showing date and
24 time of service on the secretary to the person currently
25 designated by the taxpayer or surplus lines broker to receive

.210528.6ms

1 the copy as provided in Subsections F through H of this
2 section. Service of process on the taxpayer or surplus lines
3 broker shall be complete upon receipt or, in the event of
4 refusal to accept, the date of such refusal.

5 D. Process served as provided in this section shall
6 for all purposes constitute valid and binding personal service
7 within this state upon the taxpayer or surplus lines broker.
8 If summons is served under this section, the time within which
9 the taxpayer or surplus lines broker is required to appear
10 shall be extended an additional ten days beyond that otherwise
11 allowed by New Mexico rules of civil procedure.

12 E. The secretary shall keep a record of the day and
13 time of service of legal process under this section.

14 F. Before the superintendent of insurance
15 authorizes a taxpayer or surplus lines broker to transact
16 insurance in this state, each taxpayer and surplus lines broker
17 shall appoint the secretary as the taxpayer's or surplus lines
18 broker's attorney to receive service of legal process issued
19 against the taxpayer and surplus lines broker in this state.
20 The appointment shall be on a form as designated and furnished
21 by the department, accompanied by a copy of resolution of the
22 board of directors or like governing body of the taxpayer and
23 surplus lines broker, if applicable, or other appropriate
24 instrument acceptable to the secretary, showing that those who
25 executed the appointment were duly authorized to do so on

1 behalf of the taxpayer and surplus lines broker.

2 G. The appointment shall be irrevocable, shall bind
3 the taxpayer and surplus lines broker and any successor in
4 interest to the assets or liabilities of the taxpayer or
5 surplus lines broker, as applicable, and shall remain in effect
6 as long as there exists any contract of the taxpayer or surplus
7 lines broker in this state or any obligation of the taxpayer
8 and surplus lines broker arising out of the taxpayer's or
9 surplus lines broker's transactions in this state.

10 H. The taxpayer or surplus lines broker shall file
11 the appointment with the secretary as part of the taxpayer's or
12 surplus lines broker's application for certificate of
13 authority, together with a designation of the person to whom
14 the secretary shall forward process against the taxpayer or
15 surplus lines broker served upon the secretary. The taxpayer
16 or surplus lines broker may change such designation by a new
17 filing.

18 SECTION 9. [NEW MATERIAL] DISTRIBUTION OF PREMIUM TAX--
19 REFUNDS.--

20 A. All money received by the department for premium
21 taxes shall be paid daily by the secretary to the state
22 treasurer and credited to the insurance department suspense
23 fund.

24 B. The department may authorize the refund of money
25 erroneously paid as taxes from the insurance department

.210528.6ms

1 suspense fund under request for refund made within three years
2 after the erroneous payment. In the case of premium taxes
3 erroneously paid or overpaid in accordance with law, refund may
4 also be requested as a credit against premium taxes due in any
5 annual or quarterly premium tax return filed within three years
6 of the erroneous or excess payment.

7 C. At the end of every month, after applicable
8 refunds are made pursuant to Subsection B of this section, the
9 state treasurer shall make the following transfers from the
10 balance remaining in the insurance department suspense fund:

11 (1) to the fire protection fund, that part of
12 the balance derived from property and vehicle insurance
13 business; and

14 (2) to the general fund, the balance remaining
15 in the insurance department suspense fund.

16 **SECTION 10.** [NEW MATERIAL] DEPARTMENT SHALL PROMULGATE
17 RULES.--The department shall promulgate rules to carry out the
18 provisions of the Insurance Premium Tax Act.

19 **SECTION 11.** Section 7-1-8.8 NMSA 1978 (being Laws 2009,
20 Chapter 243, Section 10, as amended) is amended to read:

21 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
22 AGENCIES.--An employee of the department may reveal to:

23 A. a committee of the legislature for a valid
24 legislative purpose, return information concerning any tax or
25 fee imposed pursuant to the Cigarette Tax Act;

1 B. the attorney general, return information
2 acquired pursuant to the Cigarette Tax Act for purposes of
3 Section 6-4-13 NMSA 1978 and the master settlement agreement
4 defined in Section 6-4-12 NMSA 1978;

5 C. the commissioner of public lands, return
6 information for use in auditing that pertains to rentals,
7 royalties, fees and other payments due the state under land
8 sale, land lease or other land use contracts;

9 D. the secretary of human services or the
10 secretary's delegate under a written agreement with the
11 department, the last known address with date of all names
12 certified to the department as being absent parents of children
13 receiving public financial assistance, but only for the purpose
14 of enforcing the support liability of the absent parents by the
15 child support enforcement division or any successor
16 organizational unit;

17 E. the department of information technology, by
18 electronic media, a database updated quarterly that contains
19 the names, addresses, county of address and taxpayer
20 identification numbers of New Mexico personal income tax
21 filers, but only for the purpose of producing the random jury
22 list for the selection of petit or grand jurors for the state
23 courts pursuant to Section 38-5-3 NMSA 1978;

24 F. the state courts, the random jury lists produced
25 by the department of information technology under Subsection E

.210528.6ms

1 of this section;

2 G. the director of the New Mexico department of
3 agriculture or the director's authorized representative, upon
4 request of the director or representative, the names and
5 addresses of all gasoline or special fuel distributors,
6 wholesalers and retailers;

7 H. the public regulation commission, return
8 information with respect to the Corporate Income and Franchise
9 Tax Act required to enable the commission to carry out its
10 duties;

11 I. the state racing commission, return information
12 with respect to the state, municipal and county gross receipts
13 taxes paid by racetracks;

14 J. the gaming control board, tax returns of license
15 applicants and their affiliates as provided in Subsection E of
16 Section 60-2E-14 NMSA 1978;

17 K. the director of the workers' compensation
18 administration or to the director's representatives authorized
19 for this purpose, return information to facilitate the
20 identification of taxpayers that are delinquent or noncompliant
21 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
22 1978;

23 L. the secretary of workforce solutions or the
24 secretary's delegate, return information for use in enforcement
25 of unemployment insurance collections pursuant to the terms of

1 a written reciprocal agreement entered into by the department
2 with the secretary of workforce solutions for exchange of
3 information;

4 M. the New Mexico finance authority, information
5 with respect to the amount of municipal and county gross
6 receipts taxes collected by municipalities and counties
7 pursuant to any local option municipal or county gross receipts
8 taxes imposed, and information with respect to the amount of
9 governmental gross receipts taxes paid by every agency,
10 institution, instrumentality or political subdivision of the
11 state pursuant to Section 7-9-4.3 NMSA 1978; [~~and~~]

12 N. the secretary of human services or the
13 secretary's delegate; provided that a person who receives the
14 confidential return information on behalf of the human services
15 department shall not reveal the information and shall be
16 subject to the penalties in Section 7-1-76 NMSA 1978 if the
17 person fails to maintain the confidentiality required:

18 (1) that return information needed for reports
19 required to be made to the federal government concerning the
20 use of federal funds for low-income working families; and

21 (2) the names and addresses of low-income
22 taxpayers for the limited purpose of outreach to those
23 taxpayers; provided that the human services department shall
24 pay the department for expenses incurred by the department to
25 derive the information requested by the human services

.210528.6ms

1 department if the information requested is not readily
2 available in reports for which the department's information
3 systems are programmed; and

4 0. the superintendent of insurance, return
5 information with respect to the premium tax and the health
6 insurance premium surtax."

7 SECTION 12. Section 29-13-3 NMSA 1978 (being Laws 1983,
8 Chapter 289, Section 3, as amended) is amended to read:

9 "29-13-3. DISTRIBUTION OF CERTAIN INSURANCE COLLECTIONS--
10 LAW ENFORCEMENT PROTECTION FUND CREATED.--There is created in
11 the state treasury the "law enforcement protection fund". Ten
12 percent of all money received for fees, licenses and penalties
13 [~~and taxes~~] from life, general casualty and title insurance
14 business pursuant to the New Mexico Insurance Code [~~except for~~
15 ~~money received from the health insurance premium surtax,~~
16 ~~imposed by Subsection C of Section 59A-6-2 NMSA 1978]~~ shall be
17 paid monthly to the state treasurer and credited to the fund.
18 On or before June 30 of each year, the state treasurer shall
19 transfer to the general fund any balance in the law enforcement
20 protection fund in excess of one hundred thousand dollars
21 (\$100,000) that is not obligated for expenses in that current
22 fiscal year."

23 SECTION 13. Section 59A-5-33 NMSA 1978 (being Laws 1984,
24 Chapter 127, Section 100) is amended to read:

25 "59A-5-33. RECIPROCITY PROVISION.--

1 A. When by or pursuant to the laws of any other
2 state or foreign country or province, any [~~taxes~~] licenses and
3 other fees, in the aggregate, and any fines, penalties, deposit
4 requirements or other material requirements, obligations,
5 prohibitions or restrictions are or would be imposed upon New
6 Mexico insurers doing business or that might seek to do
7 business in such state, country or province, or upon the agents
8 or representatives of such insurers or upon brokers or
9 adjusters, which are in excess of such [~~taxes~~] licenses and
10 other fees, in the aggregate, or which are in excess of the
11 fines, penalties, deposit or other requirements, obligations,
12 prohibitions or restrictions directly imposed upon similar
13 insurers, or upon the agents or representatives of such
14 insurers, or upon brokers, or upon adjusters, of such other
15 state, country, or province under the statutes of this state,
16 so long as such laws of such other state, country or province
17 continue in force or are so applied, the same [~~taxes~~] licenses
18 and other fees, in the aggregate, or fines, penalties or
19 deposit requirements or other material requirements,
20 obligations, prohibitions or restrictions of whatever kind may
21 be imposed by the superintendent upon the insurers, or upon the
22 agents or [~~representatives~~] representatives of such insurers,
23 or upon brokers of such other state, country or province, doing
24 business or seeking to do business in New Mexico. Any [~~tax~~]
25 license or other fee or obligation imposed by any city, county

.210528.6ms

1 or other political subdivision or agency of such other state,
2 country or province on New Mexico insurers or their agents,
3 representatives, brokers or adjusters shall be deemed to be
4 imposed by such state, country or province within the meaning
5 of this section.

6 B. This section does not apply [~~as~~] to

7 [~~(1) personal income taxes; or~~

8 ~~(2) ad valorem taxes on real or personal~~

9 ~~property; or~~

10 ~~(3)] special purpose obligations or~~

11 assessments, or assessments under insurance guaranty fund laws,
12 imposed by another state in connection with particular kinds of
13 insurance, except that assessment of insurers for financing of
14 public safety, health, and protection purposes is not exempt
15 under this subsection. [~~Except that deductions from premium~~
16 ~~taxes or other taxes otherwise payable, allowed on account of~~
17 ~~real or personal property taxes paid, shall be taken into~~
18 ~~consideration by the superintendent in determining propriety~~
19 ~~and extent of reciprocity action under this section.]~~

20 C. For purposes of this section, domicile of an

21 alien insurer, other than Canadian insurer, shall be [~~that~~] the
22 state designated by the insurer in writing and filed with the
23 superintendent at the time of authorization in this state or
24 within six [~~(6)] months after the effective date of the~~
25 Insurance Code, whichever date is the later, and may be any one

1 of the following states:

2 (1) that in which the insurer was first
3 authorized to transact insurance; ~~[or]~~

4 (2) that in which is located the insurer's
5 principal place of business in the United States; or

6 (3) that in which is held the largest deposit
7 of trusted assets of the insurer for protection of its
8 policyholders in the United States.

9 D. If the insurer makes no ~~[such]~~ designation ~~[its]~~
10 pursuant to Subsection C of this section, the insurer's
11 domicile shall be deemed to be that state in which is located
12 its principal place of business in the United States.

13 ~~[D-]~~ E. The domicile of a Canadian insurer shall be
14 Canada and the province of Canada in which its head office is
15 located."

16 **SECTION 14.** Section 59A-6-3 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 103) is amended to read:

18 "59A-6-3. INSURER MUST PAY TAX ON WITHDRAWAL FROM
19 STATE.--Any insurer holding certificate of authority to
20 transact insurance in New Mexico ~~[which]~~ that ceases to do
21 business in the state shall thereupon file with the
22 ~~[superintendent]~~ secretary of taxation and revenue a report of
23 its premiums collected to date of such cessation of business
24 ~~[which]~~ that are subject to the premium tax ~~[as provided by~~
25 ~~Section 102 of this article]~~ or the health insurance premium

.210528.6ms

1 surtax and not theretofore reported, and forthwith pay to the
2 [~~superintendent~~] secretary the tax thereon and surrender its
3 certificate of authority to the superintendent. Upon receipt,
4 the secretary shall submit a copy of the report to the
5 superintendent and shall certify that all tax obligations have
6 been satisfied by the withdrawing insurer."

7 SECTION 15. Section 59A-6-4 NMSA 1978 (being Laws 1984,
8 Chapter 127, Section 104, as amended) is amended to read:

9 "59A-6-4. PENALTY FOR FAILURE TO [~~REPORT OR~~] PAY [~~TAX OR~~]
10 FEES.--Every insurer, nonprofit health care plan, health
11 maintenance organization, prepaid dental plan or prearranged
12 funeral plan transacting business in New Mexico that fails to
13 [~~file when due any report for taxation, regardless of whether~~
14 ~~tax is due, or to~~] pay when due any [~~tax or~~] fees as required
15 in [~~this~~] Chapter 59A, Article [~~shall~~] 6 NMSA 1978 may be
16 liable to the state for the amount thereof and for penalty of
17 up to one thousand dollars (\$1,000) for each month or part
18 thereof it has failed to [~~file the report or~~] pay the [~~tax or~~]
19 fees [~~after demand therefor~~] when due. Services of process in
20 any action against a person to recover the [~~tax~~] fee or penalty
21 may be made upon the superintendent as attorney for service of
22 process as provided in Section 59A-5-32 NMSA 1978."

23 SECTION 16. Section 59A-6-5 NMSA 1978 (being Laws 1984,
24 Chapter 127, Section 105, as amended) is amended to read:

25 "59A-6-5. DISTRIBUTION OF OFFICE COLLECTIONS.--

1 A. All money received by the office of
2 superintendent of insurance for fees, licenses and penalties
3 [~~and taxes~~] shall be paid daily by the superintendent to the
4 state treasurer and credited to the "insurance department
5 suspense fund" except as provided by the Law Enforcement
6 Protection Fund Act.

7 B. The superintendent may authorize the refund of
8 money erroneously paid as fees, licenses or penalties [~~or~~
9 ~~taxes~~] from the insurance department suspense fund [~~under~~] upon
10 request for refund, if the request is made within [~~three years~~]
11 one year after the erroneous payment. [~~In the case of premium~~
12 ~~taxes erroneously paid or overpaid in accordance with law,~~
13 ~~refund may also be requested as a credit against premium taxes~~
14 ~~due in any annual or quarterly premium tax return filed within~~
15 ~~three years of the erroneous or excess payment.~~

16 ~~G. If required by a compact to which New Mexico has~~
17 ~~joined pursuant to law, the superintendent shall authorize the~~
18 ~~allocation of premiums collected pursuant to Section 59A-14-12~~
19 ~~NMSA 1978 to other states that have joined the compact pursuant~~
20 ~~to an allocation formula agreed upon by the compacting states.~~

21 ~~D.]~~ C. The "insurance operations fund" is created
22 in the state treasury. The fund shall consist of the
23 distributions made to it pursuant to Subsection [~~E~~] D of this
24 section. The legislature shall annually appropriate from the
25 fund to the division those amounts necessary for the division

.210528.6ms

1 to carry out its responsibilities pursuant to the Insurance
2 Code and other laws. Any balance in the fund at the end of a
3 fiscal year shall revert to the general fund.

4 ~~[E.]~~ D. At the end of every month, after applicable
5 refunds are made pursuant to Subsection B of this section, ~~[and~~
6 ~~after any allocations have been made pursuant to Subsection C~~
7 ~~of this section]~~ the state treasurer shall make the following
8 transfers from the balance remaining in the insurance
9 department suspense fund:

10 (1) to the "fire protection fund", that part
11 of the balance derived from property and vehicle insurance
12 business;

13 (2) to the insurance operations fund, that
14 part of the balance derived from the fees imposed pursuant to
15 Subsections A and E of Section 59A-6-1 NMSA 1978 other than
16 fees derived from property and vehicle insurance business; and

17 (3) to the general fund, the balance remaining
18 in the insurance department suspense fund derived from all
19 other kinds of insurance business."

20 **SECTION 17.** Section 59A-6-6 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 106, as amended) is amended to read:

22 "59A-6-6. PREEMPTION AND IN LIEU PROVISION.--The state
23 government of New Mexico preempts the field of taxation of
24 insurers, nonprofit health care plans, health maintenance
25 organizations, prepaid dental plans, prearranged funeral plans

1 and insurance producers as such. [~~and~~] The payment of the
 2 taxes, licenses and fees provided for in the Insurance Premium
 3 Tax Act and the Insurance Code shall be in lieu of all other
 4 taxes, licenses and fees of every kind now or hereafter imposed
 5 by this state or any political subdivision thereof on any of
 6 the foregoing specified entities, excepting the regular state,
 7 county and city taxes on property located in New Mexico and
 8 excepting the income tax on insurance producers. [~~No provision~~
 9 ~~of law enacted after January 1, 1985 shall be deemed to modify~~
 10 ~~this provision except by express reference to this section]~~ The
 11 provisions of this section shall not apply to revenues or
 12 receipts that are not directly attributable to persons,
 13 entities and activities subject to the provisions of the
 14 Insurance Code."

15 SECTION 18. Section 59A-15-4 NMSA 1978 (being Laws 1984,
 16 Chapter 127, Section 259.1) is amended to read:

17 "59A-15-4. INSURANCE INDEPENDENTLY PROCURED--DUTY TO
 18 REPORT [~~AND PAY TAX~~].--

19 A. Each insured who in this state procures or
 20 continues or renews insurance with a nonadmitted insurer on a
 21 risk located or to be performed in whole or in part in this
 22 state, other than insurance procured through a surplus lines
 23 licensee pursuant to Chapter 59A, Article 14 [~~of the Insurance~~
 24 ~~Code~~] NMSA 1978 shall, within [~~90~~] ninety days after the date
 25 such insurance was so procured, continued or renewed, file a

.210528.6ms

1 written report of the same with the superintendent, upon forms
2 prescribed by ~~[him]~~ the superintendent, showing the name and
3 address of the insured or insureds, name and address of the
4 insurer, the subject of the insurance, a general description of
5 the coverage, the amount of premium currently charged therefor
6 and such additional pertinent information as is reasonably
7 requested by the superintendent.

8 ~~[B. Gross premiums charged for such insurance, less~~
9 ~~any return premiums, are subject to a tax at the same rate as~~
10 ~~is applicable to premium of authorized insurers under Section~~
11 ~~102 of the Insurance Code. At the time of filing the report~~
12 ~~required in the first paragraph of this section, the insured~~
13 ~~shall pay the tax to the superintendent.~~

14 ~~G.]~~ B. If an independently procured policy covers
15 risks or exposures only partially located or to be performed in
16 this state, the ~~[tax payable]~~ taxes, fees and penalties imposed
17 pursuant to the Insurance Code and the Insurance Premium Tax
18 Act shall be computed on the portion of the premium properly
19 attributable to the risks or exposures located or to be
20 performed in this state and reported to the secretary of
21 taxation and revenue. In no event, however, shall a tax be
22 payable solely because the risk in question, or any portion
23 thereof, is located or to be performed in this state.

24 ~~[D. Delinquent taxes hereunder shall bear interest~~
25 ~~at the rate of twelve percent per annum.~~

1 ~~F.]~~ C. This section does not abrogate or modify,
 2 and shall not be construed or deemed to abrogate or modify, any
 3 provision of [~~Section 258 or any other provision of this~~] the
 4 Insurance Code.

5 ~~E.]~~ D. This section does not apply to life
 6 insurance, health insurance or annuities."

7 **SECTION 19.** Section 59A-20-33 NMSA 1978 (being Laws 1984,
 8 Chapter 127, Section 398, as amended) is amended to read:

9 "59A-20-33. STANDARD NONFORFEITURE LAW--INDIVIDUAL
 10 DEFERRED ANNUITIES.--

11 A. This section shall not apply to any reinsurance,
 12 group annuity purchased under a retirement plan or plan of
 13 deferred compensation established or maintained by an employer,
 14 including a partnership or sole proprietorship or by an
 15 employee organization, or by both, other than a plan providing
 16 individual retirement accounts or individual retirement
 17 annuities under Section 408 of the Internal Revenue Code of
 18 1986, as now or hereafter amended, premium deposit fund,
 19 variable annuity, investment annuity, immediate annuity, any
 20 deferred annuity contract after annuity payments have commenced
 21 or reversionary annuity, nor to any contract that shall be
 22 delivered outside this state through an agent or other
 23 representative of the insurer issuing the contract.

24 B. In the case of contracts issued on or after the
 25 operative date of this section as defined in Subsection [~~L~~] P

.210528.6ms

1 of this section, no contract of annuity, except as stated in
2 Subsection A of this section, shall be delivered or issued for
3 delivery in this state unless it contains in substance the
4 following provisions, or corresponding provisions [~~which~~] that
5 in the opinion of the superintendent are at least as favorable
6 to the contractholder, upon cessation of payment of
7 considerations under the contract:

8 (1) that upon cessation of payment of
9 considerations under a contract or upon the written request of
10 the contract owner, the insurer shall grant a paid-up annuity
11 benefit on a plan stipulated in the contract of such value as
12 is specified in Subsections [~~D, E, F, G and I~~] H, I, J, K and M
13 of this section;

14 (2) if a contract provided for a lump sum
15 settlement at maturity, or at any other time, that upon
16 surrender of the contract at or prior to the commencement of
17 any annuity payments, the insurer shall pay in lieu of any
18 paid-up annuity benefit a cash surrender benefit of such amount
19 as is specified in Subsections [~~D, E, G and I~~] H, I, K and M of
20 this section. The insurer may reserve the right to defer the
21 payment of such cash surrender benefit for a period not to
22 exceed six months after demand therefor with surrender of the
23 contract after making written request and receiving written
24 approval of the superintendent. The request shall address the
25 necessity and equatability to all policyholders of the

1 deferral;

2 (3) a statement of the mortality table, if
3 any, and interest rates used in calculating any minimum paid-up
4 annuity, cash surrender or death benefits that are guaranteed
5 under the contract, together with sufficient information to
6 determine the amounts of such benefits; and

7 (4) a statement that any paid-up annuity, cash
8 surrender or death benefits that may be available under the
9 contract are not less than the minimum benefits required by any
10 statute of the state in which the contract is delivered and an
11 explanation of the manner in which such benefits are altered by
12 the existence of any additional amounts credited by the insurer
13 to the contract, any indebtedness to the insurer on the
14 contract or any prior withdrawals from or partial surrenders of
15 the contract.

16 C. Notwithstanding the requirements of this
17 section, any deferred annuity contract may provide that if no
18 considerations have been received under a contract for a period
19 of two full years and the portion of the paid-up annuity
20 benefit at maturity on the plan stipulated in the contract
21 arising from prior considerations paid would be less than
22 twenty dollars (\$20.00) monthly, the insurer may at its option
23 terminate such contract by payment in cash of the then present
24 value of such portion of the paid-up annuity benefit,
25 calculated on the basis of the mortality table, if any, and

.210528.6ms

1 interest rate specified in the contract for determining the
2 paid-up annuity benefit, and by such payment shall be relieved
3 of any further obligation under such contract.

4 ~~[G.]~~ D. The minimum values as specified in
5 Subsections ~~[D, E, F, G and I]~~ H, I, J, K and M of this section
6 of any paid-up annuity, cash surrender or death benefits
7 available under an annuity contract shall be based upon minimum
8 nonforfeiture amounts as defined in this section. ~~[(1)]~~ The
9 minimum nonforfeiture amount at any time at or prior to the
10 commencement of any annuity payments shall be equal to an
11 accumulation up to such time at rates of interest as indicated
12 in ~~[Paragraph (2) of]~~ Subsection ~~[G]~~ E of this section of the
13 net considerations, as hereinafter defined, paid prior to such
14 time, decreased by the sum of ~~[Subparagraphs (a) through (d)]~~
15 Paragraphs (1) through (4) of this subsection:

16 ~~[(a)]~~ (1) any prior withdrawals from or
17 partial surrenders of the contract accumulated at rates of
18 interest as indicated in ~~[Paragraph (2) of]~~ Subsection ~~[G]~~ E of
19 this section;

20 ~~[(b)]~~ (2) an annual contract charge of fifty
21 dollars (\$50.00), accumulated at rates of interest as indicated
22 in ~~[Paragraphs (2) of]~~ Subsection ~~[G]~~ E of this section;

23 ~~[(c)]~~ (3) any ~~[premium]~~ tax pursuant to the
24 Insurance Premium Tax Act paid by the insurer for the contract,
25 accumulated at rates of interest as indicated in ~~[Paragraph (2)]~~

1 of] Subsection [G] E of this section; and

2 [~~(d)~~] (4) the amount of any indebtedness to
3 the insurer on the contract, including interest due and
4 accrued.

5 E. The net considerations for a given contract year
6 used to define the minimum nonforfeiture amount shall be an
7 amount equal to eighty-seven and one-half percent of the gross
8 considerations credited to the contract during that contract
9 year. [~~(2)~~] The interest rate used in determining minimum
10 nonforfeiture amounts shall be an annual rate of interest
11 determined as the lesser of three percent per annum and the
12 following, which shall be specified in the contract if the
13 interest rate will be reset:

14 [~~(a)~~] (1) the five-year constant maturity
15 treasury rate reported by the federal reserve as of a date, or
16 average over a period, rounded to the nearest one-twentieth
17 percent, specified in the contract no longer than fifteen
18 months prior to the contract issue date or redetermination date
19 pursuant to [~~Subparagraph (d) of~~] Paragraph [2] (2) of [~~Section~~
20 ~~G of~~] this [~~section; (b)~~] subsection reduced by one hundred
21 twenty-five basis points, [~~(e)~~] where the resulting interest
22 rate is not less than one percent; and

23 [~~(d)~~] (2) the interest rate shall apply for an
24 initial period and may be redetermined for additional periods.
25 The redetermination date, basis and period, if any, shall be

.210528.6ms

1 stated in the contract. The basis is the date or average over
2 a specified period that produces the value of the five-year
3 constant maturity treasury rate to be used at each
4 redetermination date.

5 ~~[(3)]~~ F. Notwithstanding the provisions of
6 ~~[Paragraphs (1) and (2) of Subsection G]~~ Subsections D and E of
7 this section, during the period or term that a contract
8 provides substantive participation in an equity indexed
9 benefit, it may increase the reduction described in
10 ~~[Subparagraph (b) of]~~ Paragraph ~~[(2)]~~ (1) of Subsection ~~[G]~~ E
11 of this section by up to an additional one hundred basis points
12 to reflect the value of the equity index benefit. The present
13 value at the contract issue date, and at each redetermination
14 date thereafter, of the additional reduction shall not exceed
15 the market value of the benefit. The superintendent may
16 require a demonstration that the present value of the reduction
17 does not exceed the market value of the benefit. Lacking such
18 a demonstration that is acceptable to the superintendent, the
19 superintendent may disallow or limit the additional reduction.

20 ~~[(4)]~~ G. The superintendent may adopt rules to
21 implement the provisions of ~~[Paragraph (3) of]~~ Subsection ~~[G]~~ F
22 of this section and to provide for further adjustments to the
23 calculation of minimum nonforfeiture amounts for contracts that
24 provide substantive participation in an equity index benefit
25 and for other contracts that the superintendent determines

1 adjustments are justified.

2 ~~[D.]~~ H. Any paid-up annuity benefit available under
3 a contract shall be such that its present value on the date
4 annuity payments are to commence is at least equal to the
5 minimum nonforfeiture amount on that date. Such present value
6 shall be computed using the mortality table, if any, and the
7 interest rates specified in the contract for determining the
8 minimum paid-up annuity benefits guaranteed in the contract.

9 ~~[E.]~~ I. For contracts that provide cash surrender
10 benefits, such cash surrender benefits available prior to
11 maturity shall not be less than the present value as of the
12 date of surrender of that portion of the maturity value of the
13 paid-up annuity benefit that would be provided under the
14 contract at maturity arising from considerations paid prior to
15 the time of cash surrender reduced by the amount appropriate to
16 reflect any prior withdrawals from or partial surrenders of the
17 contract, such present value being calculated on the basis of
18 an interest rate not more than one percent higher than the
19 interest rate specified in the contract for accumulating the
20 net considerations to determine such maturity value, decreased
21 by the amount of any indebtedness to the insurer on the
22 contract, including interest due and accrued, and increased by
23 any existing additional amounts credited by the insurer to the
24 contract. In no event shall any cash surrender benefit be less
25 than the minimum nonforfeiture amount at that time. The death

.210528.6ms

1 benefit under such contracts shall be at least equal to the
2 cash surrender benefit.

3 ~~[F-]~~ J. For contracts that do not provide cash
4 surrender benefits, the present value of any paid-up annuity
5 benefit available as a nonforfeiture option at any time prior
6 to maturity shall not be less than the present value of that
7 portion of the maturity value of the paid-up annuity benefit
8 provided under the contract arising from considerations paid
9 prior to the time the contract is surrendered in exchange for,
10 or changed to, a deferred paid-up annuity, such present value
11 being calculated for the period prior to the maturity date on
12 the basis of the interest rate specified in the contract for
13 accumulating the net considerations to determine such maturity
14 value, and increased by any existing additional amounts
15 credited by the insurer to the contract. For contracts that do
16 not provide any death benefits prior to the commencement of any
17 annuity payments, such present values shall be calculated on
18 the bases of such interest rate and the mortality table
19 specified in the contract for determining the maturity value of
20 the paid-up annuity benefit. However, in no event shall the
21 present value of a paid-up annuity benefit be less than the
22 minimum nonforfeiture amount at that time.

23 ~~[G-]~~ K. For the purpose of determining the benefits
24 calculated under Subsections ~~[E and F]~~ I and J of this section,
25 in the case of annuity contracts under which an election may be

1 made to have annuity payments commence at optional maturity
2 dates, the maturity date shall be deemed to be the latest date
3 for which election shall be permitted by the contract, but
4 shall not be deemed to be later than the anniversary of the
5 contract next following the annuitant's seventieth birthday or
6 the tenth anniversary of the contract, whichever is later.

7 ~~[H.]~~ L. Any contract that does not provide cash
8 surrender benefits or does not provide death benefits at least
9 equal to the minimum nonforfeiture amount prior to the
10 commencement of any annuity payments shall include a statement
11 in a prominent place in the contract that such benefits are not
12 provided.

13 ~~[I.]~~ M. Any paid-up annuity, cash surrender or
14 death benefits available at any time, other than on the
15 contract anniversary under any contract with fixed scheduled
16 considerations, shall be calculated with allowance for the
17 lapse of time and the payment of any scheduled considerations
18 beyond the beginning of the contract year in which cessation of
19 payment of considerations under the contract occurs.

20 ~~[J.]~~ N. For any contract that provides, within the
21 same contract by rider or supplemental contract provision, both
22 annuity benefits and life insurance benefits that are in excess
23 of the greater of cash surrender benefits or a return of the
24 gross considerations with interest, the minimum nonforfeiture
25 benefits shall be equal to the sum of the minimum nonforfeiture

.210528.6ms

1 benefits for the annuity portion and the minimum nonforfeiture
2 benefits, if any, for the life insurance portion computed as if
3 each portion were a separate contract. Notwithstanding the
4 provisions of Subsections [~~D, E, F, G and I~~] H, I, J, K and M
5 of this section, additional benefits payable [~~(a)~~] in the event
6 of total and permanent disability, [~~(b)~~] as reversionary
7 annuity or deferred reversionary annuity benefits, or [~~(c)~~] as
8 other policy benefits additional to life insurance, endowment
9 and annuity benefits, and considerations for all such
10 additional benefits, shall be disregarded in ascertaining the
11 minimum nonforfeiture amounts, paid-up annuity, cash surrender
12 and death benefits that may be required by this section. The
13 inclusion of such additional benefits shall not be required in
14 any paid-up benefits, unless such additional benefits
15 separately would require minimum nonforfeiture amounts, paid-up
16 annuity, cash surrender and death benefits.

17 [~~K.~~] O. The superintendent may adopt rules to
18 implement the provisions of this section.

19 [~~L.~~] P. After July 1, 2003, an insurer may elect to
20 apply its provisions to annuity contracts on a contract-form
21 by contract-form basis before July 1, 2005. In all other
22 instances this section shall become operative with respect to
23 annuity contracts issued by the insurer after June 30, 2005."

24 **SECTION 20.** Section 59A-22-50 NMSA 1978 (being Laws
25 2010, Chapter 94, Section 1, as amended) is amended to read:

1 "59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

2 A. A health insurer shall make reimbursement for
3 direct services at a level not less than eighty-five percent
4 of premiums across all health product lines, except
5 individually underwritten health insurance policies,
6 contracts or plans, that are governed by the provisions of
7 Chapter 59A, Article 22 NMSA 1978, the Health Maintenance
8 Organization Law and the Nonprofit Health Care Plan Law.
9 Reimbursement shall be made for direct services provided over
10 the preceding three calendar years, but not earlier than
11 calendar year 2010, as determined by reports filed with the
12 office of superintendent of insurance. Nothing in this
13 subsection shall be construed to preclude a purchaser from
14 negotiating an agreement with a health insurer that requires
15 a higher amount of premiums paid to be used for reimbursement
16 for direct services for one or more products or for one or
17 more years.

18 B. For individually underwritten health care
19 policies, plans or contracts, the superintendent shall
20 establish, after notice and informal hearing, the level of
21 reimbursement for direct services, as determined by the
22 reports filed with the office of superintendent of insurance,
23 as a percent of premiums. Additional informal hearings may
24 be held at the superintendent's discretion. In establishing
25 the level of reimbursement for direct services, the

.210528.6ms

1 superintendent shall consider the costs associated with the
2 individual marketing and medical underwriting of these
3 policies, plans or contracts at a level not less than
4 seventy-five percent of premiums. A health insurer writing
5 these policies shall make reimbursement for direct services
6 at a level not less than that level established by the
7 superintendent pursuant to this subsection over the three
8 calendar years preceding the date upon which that rate is
9 established, but not earlier than calendar year 2010.

10 Nothing in this subsection shall be construed to preclude a
11 purchaser of one of these policies, plans or contracts from
12 negotiating an agreement with a health insurer that requires
13 a higher amount of premiums paid to be used for reimbursement
14 for direct services.

15 C. An insurer that fails to comply with the
16 reimbursement requirements pursuant to this section shall
17 issue a dividend or credit against future premiums to all
18 policyholders in an amount sufficient to assure that the
19 benefits paid in the preceding three calendar years plus the
20 amount of the dividends or credits are equal to the required
21 direct services reimbursement level pursuant to Subsection A
22 of this section for group health coverage and blanket health
23 coverage or the required direct services reimbursement level
24 pursuant to Subsection B of this section for individually
25 underwritten health policies, contracts or plans for the

1 preceding three calendar years. If the insurer fails to
2 issue the dividend or credit in accordance with the
3 requirements of this section, the superintendent shall
4 enforce these requirements and may pursue any other penalties
5 as provided by law, including general penalties pursuant to
6 Section 59A-1-18 NMSA 1978.

7 D. After notice and hearing, the superintendent
8 may adopt and promulgate reasonable rules necessary and
9 proper to carry out the provisions of this section.

10 E. For the purposes of this section:

11 (1) "direct services" means services
12 rendered to an individual by a health insurer or a health
13 care practitioner, facility or other provider, including case
14 management, disease management, health education and
15 promotion, preventive services, quality incentive payments to
16 providers and any portion of an assessment that covers
17 services rather than administration and for which an insurer
18 does not receive a tax credit pursuant to the Medical
19 Insurance Pool Act [~~or the Health Insurance Alliance Act~~];
20 provided, however, that "direct services" does not include
21 care coordination, utilization review or management or any
22 other activity designed to manage utilization or services;

23 (2) "health insurer" means a person duly
24 authorized to transact the business of health insurance in
25 the state pursuant to the Insurance Code but does not include

.210528.6ms

1 a person that only issues a limited-benefit policy intended
2 to supplement major medical coverage, including medicare
3 supplement, vision, dental, disease-specific, accident-only
4 or hospital indemnity-only insurance policies, or that only
5 issues policies for long-term care or disability income; and

6 (3) "premium" means all income received from
7 individuals and private and public payers or sources for the
8 procurement of health coverage, including capitated payments,
9 self-funded administrative fees, self-funded claim
10 reimbursements, recoveries from third parties or other
11 insurers and interests less any [premium] tax paid pursuant
12 to [~~Section 59A-6-2 NMSA 1978~~] the Insurance Premium Tax Act
13 and fees associated with participating in a health insurance
14 exchange that serves as a clearinghouse for insurance."

15 SECTION 21. Section 59A-23C-10 NMSA 1978 (being Laws
16 2010, Chapter 94, Section 2, as amended) is amended to read:

17 "59A-23C-10. HEALTH INSURERS--DIRECT SERVICES.--

18 A. A health insurer shall make reimbursement for
19 direct services at a level not less than eighty-five percent
20 of premiums across all health product lines over the
21 preceding three calendar years, but not earlier than calendar
22 year 2010, as determined by reports filed with the office of
23 superintendent of insurance. Nothing in this subsection
24 shall be construed to preclude a purchaser from negotiating
25 an agreement with a health insurer that requires a higher

1 amount of premiums paid to be used for reimbursement for
2 direct services for one or more products or for one or more
3 years.

4 B. An insurer that fails to comply with the
5 eighty-five percent reimbursement requirement in Subsection A
6 of this section shall issue a dividend or credit against
7 future premiums to all policyholders in an amount sufficient
8 to assure that the benefits paid in the preceding three
9 calendar years plus the amount of the dividends or credits
10 equal eighty-five percent of the premiums collected in the
11 preceding three calendar years. If the insurer fails to
12 issue the dividend or credit in accordance with the
13 requirements of this section, the superintendent shall
14 enforce the requirements and may pursue any other penalties
15 as provided by law, including general penalties pursuant to
16 Section 59A-1-18 NMSA 1978.

17 C. After notice and hearing, the superintendent
18 may adopt and promulgate reasonable rules necessary and
19 proper to carry out the provisions of this section.

20 D. For the purposes of this section:

21 (1) "direct services" means services
22 rendered to an individual by a health insurer or a health
23 care practitioner, facility or other provider, including case
24 management, disease management, health education and
25 promotion, preventive services, quality incentive payments to

.210528.6ms

1 providers and any portion of an assessment that covers
2 services rather than administration and for which an insurer
3 does not receive a tax credit pursuant to the Medical
4 Insurance Pool Act [~~or the Health Insurance Alliance Act~~];
5 provided, however, that "direct services" does not include
6 care coordination, utilization review or management or any
7 other activity designed to manage utilization or services;

8 (2) "health insurer" means a person duly
9 authorized to transact the business of health insurance in
10 the state pursuant to the Insurance Code but does not include
11 a person that only issues a limited-benefit policy intended
12 to supplement major medical coverage, including medicare
13 supplement, vision, dental, disease-specific, accident-only
14 or hospital indemnity-only insurance policies, or that only
15 issues policies for long-term care or disability income; and

16 (3) "premium" means all income received from
17 individuals and private and public payers or sources for the
18 procurement of health coverage, including capitated payments,
19 self-funded administrative fees, self-funded claim
20 reimbursements, recoveries from third parties or other
21 insurers and interests less any [~~premium~~] tax paid pursuant
22 to [~~Section 59A-6-2 NMSA 1978~~] the Insurance Premium Tax Act
23 and fees associated with participating in a health insurance
24 exchange that serves as a clearinghouse for insurance."

25 SECTION 22. Section 59A-39-5 NMSA 1978 (being Laws

1 1984, Chapter 127, Section 662) is amended to read:

2 "59A-39-5. ATTORNEY.--

3 A. "Attorney", as used in [~~this article~~] Chapter
4 59A, Article 39 NMSA 1978, refers to the attorney-in-fact of
5 a reciprocal insurer. The attorney may be an individual,
6 firm or corporation.

7 B. The attorney of a foreign reciprocal insurer,
8 which insurer is duly authorized to transact insurance in
9 this state, shall not, by virtue of the discharge of its
10 duties as such attorney with respect to the insurer's
11 transactions in this state, be thereby deemed to be doing
12 business in this state within the meaning of any laws of this
13 state applying to foreign persons, firms or corporations.

14 C. The subscribers and the attorney-in-fact
15 comprise a reciprocal insurer and single entity for the
16 purposes of the Insurance Premium Tax Act and Sections [102
17 to 106 (premium tax and related provisions), inclusive, of
18 the Insurance Code] 59A-6-3 through 59A-6-6 NMSA 1978 as to
19 all operations under the insurer's certificate of authority."

20 SECTION 23. Section 59A-40-5 NMSA 1978 (being Laws
21 1984, Chapter 127, Section 688) is amended to read:

22 "59A-40-5. [~~FEES, TAXES AND~~] REPORTS.--[~~The insurer~~
23 ~~shall pay to New Mexico annually a premium tax based solely~~
24 ~~upon its gross premium receipts from insurance policies~~
25 ~~issued by it in New Mexico which cover residents of New~~

.210528.6ms

1 ~~Mexico or property or risks principally domiciled or located~~
2 ~~in this state, as shown by reports of the insurer filed with~~
3 ~~the superintendent each year, upon the same percentage rate~~
4 ~~and in the same manner as apply to authorized insurers~~
5 ~~transacting in New Mexico the same kinds of insurance.]~~ The
6 insurer shall [also] pay [such other] any applicable fees and
7 charges [~~and taxes~~] as are required under the Insurance Code
8 to be paid by [such] other authorized insurers transacting in
9 New Mexico the same kind of insurance. The insurer shall
10 make the same reports to the superintendent and the national
11 association of insurance commissioners as are required of
12 such other authorized insurers, but in such adapted forms as
13 may for the purpose be prescribed by the superintendent."

14 SECTION 24. Section 59A-46-51 NMSA 1978 (being Laws
15 2010, Chapter 94, Section 3, as amended) is amended to read:

16 "59A-46-51. HEALTH MAINTENANCE ORGANIZATIONS--DIRECT
17 SERVICES.--

18 A. A health maintenance organization shall make
19 reimbursement for direct services at a level not less than
20 eighty-five percent of premiums across all health product
21 lines, except individually underwritten health insurance
22 policies, contracts or plans, that are governed by the
23 provisions of Chapter 59A, Article 22 NMSA 1978, the Health
24 Maintenance Organization Law and the Nonprofit Health Care
25 Plan Law. Reimbursement shall be made for direct services

1 provided over the preceding three calendar years, but not
2 earlier than calendar year 2010, as determined by reports
3 filed with the office of superintendent of insurance.

4 Nothing in this subsection shall be construed to preclude a
5 purchaser from negotiating an agreement with a health
6 maintenance organization that requires a higher amount of
7 premiums paid to be used for reimbursement for direct
8 services for one or more products or for one or more years.

9 B. For individually underwritten health care
10 policies, plans or contracts, the superintendent shall
11 establish, after notice and informal hearing, the level of
12 reimbursement for direct services, as determined by the
13 reports filed with the office of superintendent of insurance,
14 as a percent of premiums. Additional informal hearings may
15 be held at the superintendent's discretion. In establishing
16 the level of reimbursement for direct services, the
17 superintendent shall consider the costs associated with the
18 individual marketing and medical underwriting of these
19 policies, plans or contracts at a level not less than
20 seventy-five percent of premiums. A health insurer or health
21 maintenance organization writing these policies, plans or
22 contracts shall make reimbursement for direct services at a
23 level not less than that level established by the
24 superintendent pursuant to this subsection over the three
25 calendar years preceding the date upon which that rate is

.210528.6ms

1 established, but not earlier than calendar year 2010.
2 Nothing in this subsection shall be construed to preclude a
3 purchaser of one of these policies, plans or contracts from
4 negotiating an agreement with a health insurer or health
5 maintenance organization that requires a higher amount of
6 premiums paid to be used for reimbursement for direct
7 services.

8 C. A health maintenance organization that fails
9 to comply with the reimbursement requirements pursuant to
10 this section shall issue a dividend or credit against future
11 premiums to all policy or contract holders in an amount
12 sufficient to assure that the benefits paid in the preceding
13 three calendar years plus the amount of the dividends or
14 credits are equal to the required direct services
15 reimbursement level pursuant to Subsection A of this section
16 for group health coverage and blanket health coverage or the
17 required direct services reimbursement level pursuant to
18 Subsection B of this section for individually underwritten
19 health policies, contracts or plans for the preceding three
20 calendar years. If the insurer fails to issue the dividend
21 or credit in accordance with the requirements of this
22 section, the superintendent shall enforce these requirements
23 and may pursue any other penalties as provided by law,
24 including general penalties pursuant to Section 59A-1-18 NMSA
25 1978.

.210528.6ms

1 D. After notice and hearing, the superintendent
2 may adopt and promulgate reasonable rules necessary and
3 proper to carry out the provisions of this section.

4 E. For the purposes of this section:

5 (1) "direct services" means services
6 rendered to an individual by a health maintenance
7 organization or a health care practitioner, facility or other
8 provider, including case management, disease management,
9 health education and promotion, preventive services, quality
10 incentive payments to providers and any portion of an
11 assessment that covers services rather than administration
12 and for which an insurer does not receive a tax credit
13 pursuant to the Medical Insurance Pool Act [~~or the Health~~
14 ~~Insurance Alliance Act~~]; provided, however, that "direct
15 services" does not include care coordination, utilization
16 review or management or any other activity designed to manage
17 utilization or services;

18 (2) "health maintenance organization" means
19 any person who undertakes to provide or arrange for the
20 delivery of basic health care services to enrollees on a
21 prepaid basis, except for enrollee responsibility for
22 copayments or deductibles, but does not include a person that
23 only issues a limited-benefit policy or contract intended to
24 supplement major medical coverage, including medicare
25 supplement, vision, dental, disease-specific, accident-only

.210528.6ms

1 or hospital indemnity-only insurance policies, or that only
2 issues policies for long-term care or disability income; and

3 (3) "premium" means all income received from
4 individuals and private and public payers or sources for the
5 procurement of health coverage, including capitated payments,
6 self-funded administrative fees, self-funded claim
7 reimbursements, recoveries from third parties or other
8 insurers and interests less any [~~premium~~] tax paid pursuant
9 to [~~Section 59A-6-2 NMSA 1978~~] the Insurance Premium Tax Act
10 and fees associated with participating in a health insurance
11 exchange that serves as a clearinghouse for insurance."

12 SECTION 25. Section 59A-47-3 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 879.1, as amended) is amended to
14 read:

15 "59A-47-3. DEFINITIONS.--As used in Chapter 59A,
16 Article 47 NMSA 1978:

17 A. "health care" means the treatment of persons
18 for the prevention, cure or correction of any illness or
19 physical or mental condition, including optometric services;

20 B. "item of health care" includes any services or
21 materials used in health care;

22 C. "health care expense payment" means a payment
23 for health care to a purveyor on behalf of a subscriber, or
24 such a payment to the subscriber;

25 D. "purveyor" means a person who furnishes any

1 item of health care and charges for that item;

2 E. "service benefit" means a payment that the
3 purveyor has agreed to accept as payment in full for health
4 care furnished the subscriber;

5 F. "indemnity benefit" means a payment that the
6 purveyor has not agreed to accept as payment in full for
7 health care furnished the subscriber;

8 G. "subscriber" means any individual who, because
9 of a contract with a health care plan entered into by or for
10 the individual, is entitled to have health care expense
11 payments made on the individual's behalf or to the individual
12 by the health care plan;

13 H. "underwriting manual" means the health care
14 plan's written criteria, approved by the superintendent, that
15 defines the terms and conditions under which subscribers may
16 be selected. The underwriting manual may be amended from
17 time to time, but the amendment will not be effective until
18 approved by the superintendent. The superintendent shall
19 notify the health care plan filing the underwriting manual or
20 the amendment thereto of the superintendent's approval or
21 disapproval thereof in writing within thirty days after
22 filing or within sixty days after filing if the
23 superintendent shall so extend the time. If the
24 superintendent fails to act within such period, the filing
25 shall be deemed to be approved;

.210528.6ms

1 I. "acquisition expenses" includes all expenses
2 incurred in connection with the solicitation and enrollment
3 of subscribers;

4 J. "administration expenses" means all expenses
5 of the health care plan other than the cost of health care
6 expense payments and acquisition expenses;

7 K. "health care plan" means [~~a nonprofit~~
8 ~~corporation~~] an organization that demonstrates to the
9 superintendent that it has been granted exemption from the
10 federal income tax by the United States commissioner of
11 internal revenue as an organization described in Section
12 501(c)(3) of the United States Internal Revenue Code of 1986,
13 as that section may be amended or renumbered, and is
14 authorized by the superintendent to enter into contracts with
15 subscribers and to make health care expense payments;

16 L. "agent" means a person appointed by a health
17 care plan authorized to transact business in this state to
18 act as its representative in any given locality for
19 soliciting health care policies and other related duties as
20 may be authorized;

21 M. "solicitor" means a person employed by the
22 licensed agent of a health care plan for the purpose of
23 soliciting health care policies and other related duties in
24 connection with the handling of the business of the agent as
25 may be authorized and paid for the person's services either

1 on a commission basis or salary basis or part by commission
2 and part by salary;

3 N. "chiropractor" means any person holding a
4 license provided for in the Chiropractic Physician Practice
5 Act;

6 O. "doctor of oriental medicine" means any person
7 licensed as a doctor of oriental medicine under the
8 Acupuncture and Oriental Medicine Practice Act;

9 P. "pharmacist" means a person licensed as a
10 pharmacist pursuant to the Pharmacy Act;

11 Q. "pharmacist clinician" means a pharmacist who
12 exercises prescriptive authority pursuant to the Pharmacist
13 Prescriptive Authority Act;

14 R. "credentialing" means the process of obtaining
15 and verifying information about a provider and evaluating
16 that provider when that provider seeks to become a
17 participating provider; and

18 S. "provider" means a physician or other
19 individual licensed or otherwise authorized to furnish health
20 care services in the state."

21 **SECTION 26.** Section 59A-47-46 NMSA 1978 (being Laws
22 2010, Chapter 94, Section 4, as amended) is amended to read:

23 "59A-47-46. HEALTH INSURERS--DIRECT SERVICES.--

24 A. A health care plan shall make reimbursement
25 for direct services at a level not less than eighty-five

.210528.6ms

1 percent of premiums across all health product lines, except
2 individually underwritten health care policies, contracts or
3 plans, that are governed by the provisions of Chapter 59A,
4 Article 22 NMSA 1978, the Health Maintenance Organization Law
5 and the Nonprofit Health Care Plan Law. Reimbursement shall
6 be made for direct services provided over the preceding three
7 calendar years, but not earlier than calendar year 2010, as
8 determined by reports filed with the office of superintendent
9 of insurance. Nothing in this subsection shall be construed
10 to preclude a purchaser from negotiating an agreement with a
11 health insurer that requires a higher amount of premiums paid
12 to be used for reimbursement for direct services for one or
13 more products or for one or more years.

14 B. For individually underwritten health care
15 policies, plans or contracts, the superintendent shall
16 establish, after notice and informal hearing, the level of
17 reimbursement for direct services as determined as a percent
18 of premiums. Additional hearings may be held at the
19 superintendent's discretion. In establishing the level of
20 reimbursement for direct services, the superintendent shall
21 consider the costs associated with the individual marketing
22 and medical underwriting of these policies, plans or
23 contracts at a level not less than seventy-five percent of
24 premiums. A health insurer writing these policies, plans or
25 contracts shall make reimbursement for direct services at a

1 level not less than that level established by the
2 superintendent pursuant to this subsection over the three
3 calendar years preceding the date upon which that rate is
4 established, but not earlier than calendar year 2010.
5 Nothing in this subsection shall be construed to preclude a
6 purchaser of one of these policies, plans or contracts from
7 negotiating an agreement with a health insurer that requires
8 a higher amount of premiums paid to be used for reimbursement
9 for direct services.

10 C. A health care plan that fails to comply with
11 the reimbursement requirements pursuant to this section shall
12 issue a dividend or credit against future premiums to all
13 policyholders in an amount sufficient to assure that the
14 benefits paid in the preceding three calendar years plus the
15 amount of the dividends or credits are equal to the required
16 direct services reimbursement level pursuant to Subsection A
17 of this section for group health coverage and blanket health
18 coverage or the required direct services reimbursement level
19 pursuant to Subsection B of this section for individually
20 underwritten health policies, contracts or plans for the
21 preceding three calendar years. If the insurer fails to
22 issue the dividend or credit in accordance with the
23 requirements of this section, the superintendent shall
24 enforce these requirements and may pursue any other penalties
25 as provided by law, including general penalties pursuant to

.210528.6ms

1 Section 59A-1-18 NMSA 1978.

2 D. After notice and hearing, the superintendent
3 may adopt and promulgate reasonable rules necessary and
4 proper to carry out the provisions of this section.

5 E. For the purposes of this section:

6 (1) "direct services" means services
7 rendered to an individual by a health care plan, health
8 insurer or a health care practitioner, facility or other
9 provider, including case management, disease management,
10 health education and promotion, preventive services, quality
11 incentive payments to providers and any portion of an
12 assessment that covers services rather than administration
13 and for which a health care plan or a health insurer does not
14 receive a tax credit pursuant to the Medical Insurance Pool
15 Act [~~or the Health Insurance Alliance Act~~]; provided,
16 however, that "direct services" does not include care
17 coordination, utilization review or management or any other
18 activity designed to manage utilization or services;

19 (2) "health care plan" means a nonprofit
20 corporation authorized by the superintendent to enter into
21 contracts with subscribers and to make health care expense
22 payments but does not include a person that only issues a
23 limited-benefit policy intended to supplement major medical
24 coverage, including medicare supplement, vision, dental,
25 disease-specific, accident-only or hospital indemnity-only

.210528.6ms

1 insurance policies, or that only issues policies for long-
 2 term care or disability income; and

3 (3) "premium" means all income received from
 4 individuals and private and public payers or sources for the
 5 procurement of health coverage, including capitated payments,
 6 self-funded administrative fees, self-funded claim
 7 reimbursements, recoveries from third parties or other
 8 insurers and interests less any [premium] tax paid pursuant
 9 to [~~Section 59A-6-2 NMSA 1978~~] the Insurance Premium Tax Act
 10 and fees associated with participating in a health insurance
 11 exchange that serves as a clearinghouse for insurance."

12 SECTION 27. Section 59A-49-6 NMSA 1978 (being Laws
 13 1984, Chapter 127, Section 904) is amended to read:

14 "59A-49-6. TRUST FUND--ACCOUNTING--DEPOSIT, RESERVES
 15 AND PREMIUM TAX.--

16 A. In all cases where funeral plans are sold, all
 17 money paid, directly or indirectly, under such agreement, or
 18 under any agreement collateral thereto, shall be held in
 19 trust for the purpose for which it was paid until the
 20 obligation is fulfilled according to its terms; provided,
 21 however, that any payment made pursuant to this section shall
 22 be released upon death of the person for whose benefit such
 23 payment was made, and no payments so made shall be subject to
 24 forfeiture. Accruals of interest upon this money shall be
 25 subject to the same trust.

.210528.6ms

1 B. All funds received as herein provided shall be
2 placed in trust with a trustee pursuant to an agreement
3 executed by the depositor and trustee [~~which~~] that shall
4 provide that the trustee shall hold the same in trust for the
5 purposes for which deposited; that the trustee shall pay the
6 same to the depositor upon the filing of a certified copy of
7 the death certificate or other satisfactory evidence of the
8 death of the beneficiary; and that the beneficiary or [~~his~~]
9 the beneficiary's duly appointed guardian may, in writing,
10 demand the return of the money, together with accrued
11 interest, if any, less cost incurred in the operation of such
12 trust, and the depositor shall be entitled to receive such
13 money from the trustee for payment to the beneficiary upon
14 delivery of such written demand to the trustee. The payment
15 of such funds and accumulated interest, pursuant to the terms
16 of [~~this article~~] the Prearranged Funeral Plan Regulatory Law
17 and the agreement herein referred to, shall relieve the
18 trustee of any further liabilities with regard to such funds
19 or interest thereon.

20 C. Each seller of funeral plans shall submit such
21 accounting or accountings of all [~~monies~~] money collected or
22 received on account of or in connection with the sale of
23 funeral plans and of all money deposited or withdrawn from a
24 trustee, as the superintendent may reasonably direct, by
25 regulation or order.

1 D. ~~[The premium tax as levied in Section 102 of~~
 2 ~~the Insurance Code shall not be applicable to money collected~~
 3 ~~and placed in trust pursuant to this section, nor shall]~~
 4 Funds collected and placed in ~~[such a]~~ trust pursuant to this
 5 section shall not be used as the basis for the calculation of
 6 the capital and surplus, general deposits and fees otherwise
 7 required under Section ~~[83 of the Insurance Code]~~ 59A-5-16
 8 NMSA 1978."

9 **SECTION 28.** Section 59A-54-10 NMSA 1978 (being Laws
 10 1987, Chapter 154, Section 10, as amended) is amended to
 11 read:

12 "59A-54-10. ASSESSMENTS.--

13 A. Following the close of each fiscal year, the
 14 pool administrator shall determine the net premium, being
 15 premiums less administrative expense allowances, the pool
 16 expenses and claim expense losses for the year, taking into
 17 account investment income and other appropriate gains and
 18 losses. The assessment for each insurer shall be determined
 19 by multiplying the total cost of pool operation by a
 20 fraction, the numerator of which equals that insurer's
 21 premium and subscriber contract charges or their equivalent
 22 for health insurance written in the state during the
 23 preceding calendar year and the denominator of which equals
 24 the total of all premiums and subscriber contract charges
 25 written in the state; provided that premium income shall

.210528.6ms

1 include receipts of medicaid managed care premiums but shall
2 not include any payments by the secretary of [~~health and~~]
3 human services pursuant to a contract issued under Section
4 1876 of the Social Security Act, as amended. The board may
5 adopt other or additional methods of adjusting the formula to
6 achieve equity of assessments among pool members, including
7 assessment of health insurers and reinsurers based upon the
8 number of persons they cover through primary, excess and
9 stop-loss insurance in the state.

10 B. If assessments exceed actual losses and
11 administrative expenses of the pool, the excess shall be held
12 at interest and used by the board to offset future losses or
13 to reduce pool premiums. As used in this subsection, "future
14 losses" includes reserves for incurred but not reported
15 claims.

16 C. The proportion of participation of each member
17 in the pool shall be determined annually by the board based
18 on annual statements and other reports deemed necessary by
19 the board and filed with it by the member. Any deficit
20 incurred by the pool shall be recouped by assessments
21 apportioned among the members of the pool pursuant to the
22 assessment formula provided by Subsection A of this section.
23 [~~provided that the assessment for any pool member shall be~~
24 ~~allowed as a fifty-percent credit on the premium tax return~~
25 ~~for that member and a seventy-five-percent credit on the~~

1 ~~premium tax return for that member for the assessments~~
 2 ~~attributable to pool policy holders that receive premiums, in~~
 3 ~~whole or in part, through the federal Ryan White CARE Act,~~
 4 ~~the Ted R. Montoya hemophilia program at the university of~~
 5 ~~New Mexico health sciences center, the children's medical~~
 6 ~~services bureau of the public health division of the~~
 7 ~~department of health or other program receiving state funding~~
 8 ~~or assistance.]~~

9 D. The board may abate or defer, in whole or in
 10 part, the assessment of a member of the pool if, in the
 11 opinion of the board, payment of the assessment would
 12 endanger the ability of the member to fulfill its contractual
 13 obligation. In the event an assessment against a member of
 14 the pool is abated or deferred in whole or in part, the
 15 amount by which such assessment is abated or deferred may be
 16 assessed against the other members in a manner consistent
 17 with the basis for assessments set forth in Subsection A of
 18 this section. The member receiving the abatement or
 19 deferment shall remain liable to the pool for the deficiency
 20 for four years."

21 SECTION 29. Section 59A-55-6 NMSA 1978 (being Laws
 22 1988, Chapter 125, Section 6, as amended) is amended to read:

23 "59A-55-6. [~~TAXATION OF~~] RISK RETENTION GROUPS--
 24 REPORTS.--

25 A. Each risk retention group shall [~~be liable for~~

1 ~~the payment of premium taxes and taxes on premiums of direct~~
2 ~~business for risks resident or located within New Mexico and~~
3 ~~shall] report to the superintendent the net premium written~~
4 ~~for risks resident or located within New Mexico. [The risk~~
5 ~~retention group shall be subject to taxation and any~~
6 ~~applicable fines and penalties related thereto, on the same~~
7 ~~basis as an admitted insurer.]~~

8 B. To the extent a licensed insurance [~~producers~~
9 ~~are] producer is utilized pursuant to Section 59A-55-24 NMSA
10 1978, [~~they~~] the licensed insurance producer shall report to
11 the superintendent the premiums for direct business for risks
12 resident or located within this state [~~which~~] that the
13 insurance producers have placed with or on behalf of a risk
14 retention group not licensed in this state.~~

15 C. To the extent that an insurance [~~producers~~
16 ~~are] producer is utilized pursuant to Section 59A-55-24 NMSA
17 1978, the insurance producer shall keep a complete and
18 separate record of all policies procured from each such risk
19 retention group, which record shall be open to examination by
20 the superintendent and shall contain the information required
21 by the superintendent by rule."~~

22 SECTION 30. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
23 FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY AND CONTRACTUAL
24 OBLIGATIONS.--

25 A. On the effective date of this act, all

1 personnel directly involved with the audit and collection of
2 the taxes imposed pursuant to the New Mexico Insurance Code
3 prior to the effective date of this act, functions,
4 appropriations, money, records, furniture, equipment and
5 other property of, or attributable to, the financial audit
6 bureau of the office of superintendent of insurance shall be
7 transferred to the taxation and revenue department.

8 B. On the effective date of this act, no
9 contractual obligations of the office of superintendent of
10 insurance shall be binding on the taxation and revenue
11 department.

12 SECTION 31. REPEAL.--Sections 59A-6-2, 59A-14-12,
13 59A-14-18, 59A-23B-9 and 59A-55-21 NMSA 1978 (being Laws
14 1984, Chapter 127, Sections 102, 250 and 256, Laws 1991,
15 Chapter 111, Section 9 and Laws 1988, Chapter 125, Section
16 21, as amended) are repealed.

17 SECTION 32. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is January 1, 2020.

19 - 61 -
20
21
22
23
24
25

