

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 122

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Deborah A. Armstrong and Javier Martínez

AN ACT

RELATING TO HEALTH INSURANCE; INCREASING THE HEALTH INSURANCE PREMIUM SURTAX; DISTRIBUTING A PORTION OF THE REVENUE OF THE SURTAX TO A NEW HEALTH CARE AFFORDABILITY FUND; CREATING THE HEALTH CARE AFFORDABILITY FUND TO BE USED TO REDUCE THE COST OF HEALTH CARE COVERAGE FOR NEW MEXICO RESIDENTS; REQUIRING THE SUPERINTENDENT OF INSURANCE TO REPORT ON EXPENDITURES FROM THE HEALTH CARE AFFORDABILITY FUND; REQUIRING THE SUPERINTENDENT OF INSURANCE TO ESTABLISH AND ANNUALLY UPDATE HEALTH INSURANCE AFFORDABILITY CRITERIA THAT DEFINE AFFORDABILITY STANDARDS.

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

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

"[NEW MATERIAL] DISTRIBUTION--HEALTH INSURANCE PREMIUM SURTAX--HEALTH CARE AFFORDABILITY FUND.--A distribution

.218829.5GLG

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

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

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

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

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

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

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

.218829.5GLG

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

1 principally domiciled or located in New Mexico.

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

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

22 E. In addition to the premium tax, a health
23 insurance premium surtax is imposed at a rate of ~~[one]~~ three
24 and seventy-five hundredths percent of the gross health
25 insurance premiums and membership and policy fees received by

.218829.5GLG

underscoring material = new
[bracketed material] = delete

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

11 SECTION 3. A new section of the New Mexico Insurance Code
12 is enacted to read:

13 "[NEW MATERIAL] HEALTH CARE AFFORDABILITY FUND.--

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

25 B. The purpose of the fund is to:

.218829.5GLG

underscoring material = new
[bracketed material] = delete

1 (1) reduce health care premiums and cost
2 sharing for New Mexico residents who purchase health care
3 coverage on the New Mexico health insurance exchange;

4 (2) provide resources for planning, design and
5 implementation of health care coverage initiatives for
6 uninsured New Mexico residents; and

7 (3) provide resources for administration of
8 state health care coverage initiatives for uninsured New Mexico
9 residents.

10 C. If the federal Patient Protection and Affordable
11 Care Act is repealed in full or in part by an act of congress
12 or invalidated by the United States supreme court and
13 eliminates or reduces comprehensive health care coverage for
14 New Mexico residents through medicaid or the New Mexico health
15 insurance exchange, the fund may be used to maintain coverage
16 through the New Mexico health insurance exchange or through
17 medical assistance programs administered by the human services
18 department, provided that coverage is prioritized for New
19 Mexico residents with incomes below two hundred percent of the
20 federal poverty level."

21 SECTION 4. A new section of the New Mexico Insurance Code
22 is enacted to read:

23 "[NEW MATERIAL] HEALTH CARE AFFORDABILITY PLAN--
24 RULEMAKING--REPORTING REQUIREMENTS.--

25 A. The superintendent, in consultation with the

.218829.5GLG

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

1 secretary of human services, secretary of taxation and revenue
2 and chief executive officer of the New Mexico health insurance
3 exchange, shall promulgate rules to:

4 (1) provide enhanced premium and cost-sharing
5 assistance to individuals and families for the purchase of
6 qualified health plans on the New Mexico health insurance
7 exchange. In providing this assistance, the superintendent
8 shall develop health care affordability criteria designed to
9 reduce the amount that individuals pay in premiums and
10 out-of-pocket medical expenses for qualified health plans
11 offered on the New Mexico health insurance exchange; and

12 (2) establish income eligibility parameters
13 for the health care affordability criteria for plan year 2023
14 and each subsequent calendar year based on available funds.
15 New Mexico residents who qualify shall have an income that is
16 eligible for advanced premium tax credits under the federal
17 Patient Protection and Affordable Care Act.

18 B. The superintendent, in consultation with the
19 human services department, the New Mexico medical insurance
20 pool, the department of health and stakeholder groups,
21 including health care providers that serve uninsured residents,
22 health insurance carriers and consumer advocacy groups, shall
23 develop a plan for extending health care coverage access to
24 uninsured New Mexico residents who do not qualify for federal
25 premium assistance or, except by reason of incarceration,

.218829.5GLG

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

1 qualified health plans, through the New Mexico health insurance
2 exchange. No later than June 30, 2022, the superintendent
3 shall submit the plan to the legislative finance committee and
4 legislative health and human services committee that could
5 offer health care coverage for eligible New Mexico residents
6 beginning July 1, 2023. The plan shall include:

7 (1) details about health care benefits;

8 (2) health care affordability criteria
9 designed to reduce the amount that individuals pay in premiums
10 and out-of-pocket medical expenses under the plan and that
11 result in, to the greatest extent possible, health care costs
12 comparable to costs for New Mexico residents for whom
13 assistance is provided under Subsection A of this section; and

14 (3) income eligibility parameters that
15 prioritize eligibility for New Mexico residents with incomes
16 under two hundred percent of federal poverty level.

17 C. On or before October 31, 2023 and each October
18 31 thereafter, the superintendent shall submit a report to the
19 legislative finance committee and legislative health and human
20 services committee, which shall include:

21 (1) a summary of the affordability criteria
22 implemented pursuant to Subsections A and B of this section;

23 (2) the estimated number of uninsured New
24 Mexico residents who enrolled in coverage following
25 implementation of the affordability criteria pursuant to

.218829.5GLG

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Subsections A and B of this section; and

(3) the amount in reduced costs and coverage assistance the initiatives provided in the current and previous calendar years by income level, county and coverage source."

SECTION 5. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 1 of this act is July 1, 2022.

B. The effective date of the provisions of Section 2 of this act is January 1, 2022.