

1 AN ACT
2 RELATING TO HEALTH INSURANCE; IMPOSING A HEALTH INSURANCE
3 PREMIUM SURTAX ON CERTAIN INSURANCE PREMIUMS; REQUIRING
4 HEALTH INSURANCE COVERAGE OF AN ALPHA-FETOPROTEIN IV
5 SCREENING TEST DURING A WOMAN'S PREGNANCY; REQUIRING HEALTH
6 INSURANCE COVERAGE OF CIRCUMCISIONS OF NEWBORN MALES;
7 RECONCILING CONFLICTING AMENDMENTS TO A CERTAIN SECTION OF
8 THE NMSA 1978; CHANGING THE APPLICABILITY DATE OF CERTAIN
9 PROVISIONS OF THE PREMIUM TAX.

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

Section 1. Section 29-13-3 NMSA 1978 (being Laws 1983, Chapter 289, Section 3, as amended) is amended to read:

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

Section 2. Section 59A-6-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 102, as amended by Laws 2003, Chapter 14, Section 18 and by Laws

1 2003, Chapter 58, Section 1) is amended to read:

2 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX.--

3 A. The premium tax provided for in this section shall apply as to the
4 following taxpayers:

5 (1) each insurer authorized to transact insurance in New
6 Mexico;

7 (2) each insurer formerly authorized to transact insurance in
8 New Mexico and receiving premiums on policies remaining in force in New Mexico,
9 except that this provision shall not apply as to an insurer that withdrew from New
10 Mexico prior to March 26, 1955;

11 (3) each plan operating under provisions of Chapter 59A,
12 Articles 46 through 49 NMSA 1978;

13 (4) each property bondsman, as that person is defined in
14 Section 59A-51-2 NMSA 1978, as to any consideration received as security or
15 surety for a bail bond in connection with a judicial proceeding, which consideration
16 shall be considered "gross premiums" for the purposes of this section; and

17 (5) each unauthorized insurer that has assumed a contract
18 or policy of insurance directly or indirectly from an authorized or formerly authorized
19 insurer and is receiving premiums on such policies remaining in force in New
20 Mexico, except that this provision shall not apply if a ceding insurer continues to pay
21 the tax provided in this section as to such policy or contract.

22 B. Each such taxpayer shall pay in accordance with this subsection
23 a premium tax of three and three-thousandths percent of the gross premiums and
24 membership and policy fees received by it on insurance or contracts covering risks
25 within this state during the preceding calendar year, less all return premiums,
including dividends paid or credited to policyholders or contract holders and
premiums received for reinsurance on New Mexico risks.

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1 C. In addition to the premium tax imposed pursuant to Subsection B S
2 of this section, each taxpayer described in Subsection A of this section that B
3 transacts health insurance in New Mexico or is a plan described in Chapter 59A, 5
4 Article 46 or 47 NMSA 1978 shall pay a health insurance premium surtax of one 0
5 percent of the gross health insurance premiums and membership and policy fees 2
6 received by it on health insurance or contracts, excluding disability income P
7 insurance or contracts, covering health risks within this state during the preceding a
8 calendar year, less all return health insurance premiums, including dividends paid g
9 or credited to policyholders or contract holders and health insurance premiums e
10 received for reinsurance on New Mexico risks. Except as provided in this section, 3
11 all references in the Insurance Code to the premium tax shall include both the
12 premium tax and the health insurance premium surtax.

13 D. For each calendar quarter, an estimated payment of the premium
14 tax and the health insurance premium surtax shall be made on April 15, July 15,
15 October 15 and the following January 15. The estimated payments shall be equal
16 to at least one-fourth of either the payment made during the previous calendar year
17 or eighty percent of the actual payment due for the current calendar year, whichever
18 is greater. The final adjustment for payments due for the prior year shall be made
19 with the return, which shall be filed on April 15 of each year, at which time all taxes
20 for that year are due. Dividends paid or credited to policyholders or contract
21 holders and refunds, savings, savings coupons and similar returns or credits
22 applied or credited to payment of premiums for existing, new or additional insurance
23 shall, in the amount so used, constitute premiums subject to tax under this section
24 for the year in which so applied or credited.

25 E. Exempted from the taxes imposed by this section are:
(1) premiums attributable to insurance or contracts
purchased by the state or a political subdivision for the state's or political

1 subdivision's active or retired employees; and
2 (2) payments received by a health maintenance organization
3 from the federal secretary of health and human services pursuant to a contract
4 issued under the provisions of 42 U.S.C. Section 1395 mm(g)."

5 Section 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted
6 to read:

7 "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--An
8 individual or group health insurance policy, health care plan or certificate of health
9 insurance that is delivered, issued for delivery or renewed in the state shall provide
10 coverage for an alpha-fetoprotein IV screening test for pregnant women, generally
11 between sixteen and twenty weeks of pregnancy, to screen for certain genetic
12 abnormalities in the fetus."

13 Section 4. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted
14 to read:

15 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--An individual
16 or group health insurance policy, health care plan or certificate of health insurance
17 that is delivered, issued for delivery or renewed in the state shall provide coverage
18 for circumcision for newborn males."

19 Section 5. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted
20 to read:

21 "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--A
22 blanket or group health policy, health care plan or certificate of health insurance that
23 is delivered, issued for delivery or renewed in the state shall provide coverage for
24 an alpha-fetoprotein IV screening test for pregnant women, generally between
25 sixteen and twenty weeks of pregnancy, to screen for certain genetic abnormalities
in the fetus."

Section 6. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted

1 to read:

2 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--A blanket or
3 group health insurance policy, health care plan or certificate of health insurance that
4 is delivered, issued for delivery or renewed in the state shall provide coverage for
5 circumcision for newborn males."

6 Section 7. A new section of the Health Maintenance Organization Law is
7 enacted to read:

8 "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--An
9 individual or group health maintenance organization policy, health care plan or
10 certificate of health insurance that is delivered, issued for delivery or renewed in the
11 state shall provide coverage for an alpha-fetoprotein IV screening test for pregnant
12 women, generally between sixteen and twenty weeks of pregnancy, to screen for
13 certain genetic abnormalities in the fetus."

14 Section 8. A new section of the Health Maintenance Organization Law is
15 enacted to read:

16 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--An individual
17 or group health maintenance organization policy, health care plan or certificate of
18 health insurance that is delivered, issued for delivery or renewed in the state shall
19 provide coverage for circumcision for newborn males."

20 Section 9. A new section of the Nonprofit Health Care Plan Law is enacted
21 to read:

22 "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--An
23 individual or group health insurance policy, health care plan or certificate of health
24 insurance that is delivered, issued for delivery or renewed in the state shall provide
25 coverage for an alpha-fetoprotein IV screening test for pregnant women, generally
between sixteen and twenty weeks of pregnancy, to screen for certain genetic
abnormalities in the fetus."

1 Section 10. A new section of the Nonprofit Health Care Plan Law is enacted S
2 to read: B

3 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--An individual 5
4 or group health insurance policy, health care plan or certificate of health insurance 0
5 that is delivered, issued for delivery or renewed in the state shall provide coverage 2
6 for circumcision for newborn males." P
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7 Section 11. Laws 2003, Chapter 58, Section 3 is amended to read: 6

8 "Section 3. APPLICABILITY.--The provisions of Laws 2003, Chapter 58,
9 Section 1 apply to premiums received in the 2003 and subsequent calendar years;
10 provided, however, that:

11 A. with respect to premiums received prior to March 20, 2003, the
12 provisions of Subsection E of Section 59A-6-2 NMSA 1978 in effect prior to the
13 effective date of Laws 2003, Chapter 58, Section 1 shall be applicable; and

14 B. on or after July 1, 2004, any premium tax overpaid between
15 January 1, 2003 and March 20, 2003 because of the application of Subsection E of
16 Section 59A-6-2 NMSA 1978, as amended by Laws 2003, Chapter 58, Section 1,
17 may be credited against future premium tax payments."

18 Section 12. APPLICABILITY.--

19 A. Unless an earlier surtax payment is required by the operation of
20 Subsection B of this section, the health insurance premium surtax imposed by
21 Section 2 of this act is applicable to all health insurance premiums and membership
22 and policy fees received on or after October 1, 2004.

23 B. The health insurance premium surtax imposed by Section 2 of
24 this act is also applicable to all health insurance premiums and membership and
25 policy fees received for contracts issued or renewed on or after July 1, 2004.

Section 13. EFFECTIVE DATE.--The effective date of the provisions of this
act is July 1, 2004.