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HOUSE BILL 346

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO TAXATION; IMPOSING AN EDUCATION SURTAX ON GROSS RECEIPTS AND COMPENSATING TAX FOR DISTRIBUTION TO THE PUBLIC SCHOOL FUND; REVERSING PART OF THE PERSONAL INCOME TAX CHANGES MADE IN LAWS 2005, CHAPTER 104; PROVIDING A CONTINGENCY; MAKING AN APPROPRIATION.

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--PUBLIC SCHOOL FUND-- EDUCATION SURTAX RECEIPTS.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net receipts attributable to the education surtax shall be made to the public school fund."

Section 2. A new section of the Tax Administration Act is enacted to read:

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1 "[NEW MATERIAL] INCOME TAX ALLOCATED TO THE PUBLIC SCHOOL
2 FUND--CALCULATION.--A distribution pursuant to Section 7-1-6.1
3 NMSA 1978 shall be made to the public school fund in the amount
4 of the net receipts attributable to the difference between
5 personal income tax received by the department under Section 3
6 of this act and the amount that would have been received by the
7 department pursuant to personal income tax rates in effect on
8 January 1, 2008. The department shall adopt rules for
9 calculating the amount to be distributed to the public school
10 fund."

11 Section 3. Section 7-2-7 NMSA 1978 (being Laws 2005,
12 Chapter 104, Section 4, as amended) is repealed and a new
13 Section 7-2-7 NMSA 1978 is enacted to read:

14 "7-2-7. [NEW MATERIAL] INDIVIDUAL INCOME TAX RATES.--The
15 tax imposed by Section 7-2-3 NMSA 1978 shall be at the
16 following rates for a taxable year beginning in 2010:

17 A. For married individuals filing separate returns:

18 If the taxable income is:	18 The tax shall be:
19 Not over \$4,000	19 1.7% of taxable income
20 Over \$4,000 but not over \$8,000	20 \$68.00 plus 3.2% of
21	21 excess over \$4,000
22 Over \$8,000 but not over \$12,000	22 \$196 plus 4.7% of excess
23	23 over \$8,000
24 Over \$12,000	24 \$384 plus 6.0% of excess
25	25 over \$12,000.

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1 Over \$14,000 but not over \$20,000 \$343 plus 4.7% of excess
2 over \$14,000
3 Over \$20,000 \$625 plus 6.0% of excess
4 over \$20,000.

5 E. The tax on the sum of any lump-sum amounts
6 included in net income is an amount equal to five multiplied by
7 the difference between:

8 (1) the amount of tax due on the taxpayer's
9 taxable income; and

10 (2) the amount of tax that would be due on an
11 amount equal to the taxpayer's taxable income and twenty
12 percent of the taxpayer's lump-sum amounts included in net
13 income."

14 Section 4. A new section of the Gross Receipts and
15 Compensating Tax Act is enacted to read:

16 "[NEW MATERIAL] GROSS RECEIPTS--EDUCATION SURTAX.--The
17 gross receipts tax shall be increased by a surtax, hereby
18 imposed, of one-half of one percent of gross receipts. The
19 surtax may be referred to as the "education surtax". The
20 department shall administer and enforce collection of the
21 education surtax pursuant to the provisions of the Tax
22 Administration Act and the Gross Receipts and Compensating Tax
23 Act in the same manner as the gross receipts tax."

24 Section 5. A new section of the Gross Receipts and
25 Compensating Tax Act is enacted to read:

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1 "[NEW MATERIAL] COMPENSATING TAX--EDUCATION SURTAX.--The
2 compensating tax shall be increased by a surtax, hereby
3 imposed, of one-half of one percent of the value of tangible
4 property as provided in Section 7-9-7 NMSA 1978. The surtax
5 may be referred to as the "education surtax". The department
6 shall administer and enforce collection of the education surtax
7 pursuant to the provisions of the Tax Administration Act and
8 the Gross Receipts and Compensating Tax Act in the same manner
9 as the gross receipts tax."

10 Section 6. APPLICABILITY.--The provisions of Section 3 of
11 this act apply to taxable years beginning on or after January
12 1, 2010.

13 Section 7. EFFECTIVE DATE--CONTINGENCY.--

14 A. Except as provided in Subsection B of this
15 section, the effective date of the provisions of this act is
16 July 1, 2009.

17 B. This act is contingent upon the enactment into
18 law of a bill of the first session of the forty-ninth
19 legislature that provides a new method for determining the
20 state equalization guarantee distribution to public schools.
21 If no such bill is enacted into law, the provisions of this act
22 shall not become effective.