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HOUSE BILL 195

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

BEN LUJAN

AN ACT

RELATING TO TAXATION; AUTHORIZING IMPOSITION OF A COUNTY
PUBLIC SCHOOL GROSS RECEIPTS TAX TO PROVIDE COST-OF-LIVING
SUPPLEMENTS FOR PUBLIC SCHOOL EMPLOYEES IN SCHOOL DISTRICTS IN
AN AREA IMPACTED BY A HIGH COST OF LIVING; PROVIDING FOR
DISTRIBUTION OF REVENUES; PROVIDING FOR A REFERENDUM

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

Section 1. A new section of the County Local Option
Gross Receipts Taxes Act is enacted to read:

"NEW MATERIAL COUNTY PUBLIC SCHOOL GROSS RECEIPTS
TAX--AUTHORITY TO IMPOSE RATE--DISTRIBUTION AND USE OF FUNDS--
REFERENDUM --

A. Upon the request of a majority of the members
of the school board of an impacted school district in which a
majority of the students reside in the county, the majority of

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1 the members of the governing body of the county shall enact an
2 ordinance imposing an excise tax at a rate not to exceed one-
3 eighth of one percent of the gross receipts of any person
4 engaging in business in the county for the privilege of
5 engaging in business in the county.

6 B. This tax may be referred to as the "county
7 public school gross receipts tax".

8 C. The tax authorized in Subsection A of this
9 section shall be imposed at a rate of:

10 (1) one-eighth of one percent of the gross
11 receipts of any person engaging in business in the county if
12 the impacted school district requesting imposition of the tax
13 is located in a municipality that exceeds the cost-of-living
14 index by twenty percent or more; provided, upon notification
15 by the district that the rate must be reduced to one-sixteenth
16 of one percent to comply with the requirements in Subsections
17 E through G of this section, the county shall enact an
18 ordinance imposing the tax at a rate of one-sixteenth of one
19 percent of the gross receipts of any person engaging in
20 business in the county; or

21 (2) one-sixteenth of one percent of the gross
22 receipts of any person engaging in business in the county if
23 the impacted school district requesting imposition of the tax
24 is located in a municipality that exceeds the cost-of-living
25 index by less than twenty percent.

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1 D. A county, at the time of enacting an ordinance
2 imposing a county public school gross receipts tax, shall
3 dedicate the entire amount of revenue produced by the tax for
4 distribution to a specific impacted school district in the
5 county to be used solely to provide cost-of-living supplements
6 to all employees of the district. The county shall distribute
7 the net receipts from the tax monthly to the impacted school
8 district for whom the revenue is dedicated.

9 E. No impacted school district may receive from
10 the county public school gross receipts tax net receipts that
11 for any fiscal year exceed ten percent of the amount
12 distributed to the district through the state equalization
13 guarantee distribution for that fiscal year. The district,
14 upon a finding that it anticipates such an excess amount and
15 subject to the approval of the local school board and the
16 state department of public education, shall notify the board
17 of county commissioners to reduce the rate, if the rate of the
18 county public school gross receipts tax can be reduced. If
19 not, the district shall reduce the amount budgeted for cost-
20 of-living supplements to an amount that does not exceed ten
21 percent of the amount distributed to the district through the
22 state equalization guarantee distribution for that fiscal year
23 and shall provide for distribution of the excess amount to a
24 special school district capital fund established by the
25 district to fund capital and technology needs of the district.

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1 F. If an impacted school district receiving county
2 public school gross receipts tax revenues ceases to meet the
3 qualifications for an impacted school district, the district
4 shall phase out the employee cost-of-living supplements over a
5 three-year period. To phase out funding, the district shall
6 continue for one fiscal year to budget one hundred percent of
7 the receipts for cost-of-living supplements and then shall
8 reduce the budget for those supplements to two-thirds of the
9 full amount for the second fiscal year and one-third of the
10 full amount for the third year. Any revenues distributed from
11 the county public school gross receipts tax in excess of the
12 budgeted amounts shall be deposited in the special school
13 district capital fund for expenditure for district capital and
14 technology needs.

15 G. Upon a finding that the school district ceases
16 to qualify as an impacted school district, the district shall
17 notify the board of county commissioners of that fact ninety
18 days prior to the next succeeding July 1. The board of county
19 commissioners shall enact an ordinance reducing the tax for
20 any succeeding fiscal year, if necessary and possible pursuant
21 to this section, and shall repeal the tax on the July 1 four
22 years following the notification.

23 H. A school district receiving county public
24 school gross receipts tax revenues shall determine prior to
25 the beginning of the school year, based on estimated revenues,

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1 the amount of the periodic cost-of-living supplement that can
2 be paid to each employee for the school year. The supplement
3 shall be distributed to employees in nine or twelve equal
4 payments a year, as determined by each school district;
5 provided that the final installment each year may be adjusted
6 as necessary to meet available revenue. Amounts distributed
7 shall be supplemental to and not a part of the employees'
8 salaries.

9 I. An ordinance enacting the county public school
10 gross receipts tax pursuant to Subsection A of this section
11 shall go into effect on July 1 or January 1 in accordance with
12 the provisions of the County Local Option Gross Receipts Taxes
13 Act, but an election may be called in the county on the
14 question of approving or disapproving that ordinance as
15 follows:

16 (1) an election shall be called when:
17 (a) in a county having a referendum
18 provision in its charter, a petition requesting such an
19 election is filed pursuant to the requirements of that
20 provision in the charter and signed by the number of
21 registered voters in the county equal to the number of
22 registered voters required in its charter to seek a
23 referendum; and

24 (b) in all other counties, a petition
25 requesting such an election is filed with the county clerk

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1 within thirty days of enactment of the ordinance by the
2 governing body and the petition has been signed by a number of
3 registered voters in the county equal to at least five percent
4 of the number of voters in the county who were registered to
5 vote in the most recent general election;

6 (2) the signatures on the petition requesting
7 an election shall be verified by the county clerk. If the
8 petition is verified by the county clerk as containing the
9 required number of signatures of registered voters, the
10 governing body shall adopt a resolution calling an election on
11 the question of approving or disapproving the ordinance. The
12 election shall be held within sixty days after the date the
13 petition is verified by the county clerk, or it may be held in
14 conjunction with a general election if that election occurs
15 within sixty days after the date of the verification. The
16 election shall be called, held, conducted and canvassed in
17 substantially the same manner as provided by law for general
18 elections; and

19 (3) if a majority of the registered voters
20 voting on the question approves the ordinance imposing the
21 county public school gross receipts tax, the ordinance shall
22 go into effect on July 1 or January 1 in accordance with the
23 provisions of the County Local Option Gross Receipts Taxes
24 Act. If at such an election a majority of the registered
25 voters voting on the question disapproves the ordinance, the

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1 ordinance imposing the county public school gross receipts tax
2 shall be deemed repealed and the question of imposing the tax
3 shall not be considered again by the governing body for a
4 period of one year from the date of the election.

5 J. As used in this section:

6 (1) "cost-of-living index" means the American
7 chamber of commerce researchers association national median
8 composite cost-of-living index; and

9 (2) "impacted school district" means a school
10 district that is located in a municipality that is deemed to
11 be a high cost-of-living area if:

12 (a) the municipality's cost of living
13 equals or exceeds the cost-of-living index by ten percent or
14 more; or

15 (b) the municipality is designated by
16 the federal internal revenue service as a high-cost area that
17 qualifies for a per diem travel allowance greater than the
18 standard allowance pursuant to the Internal Revenue Code of
19 1986, as amended. "