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HOUSE BILL 162

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO TAXATION; ELIMINATING THE DAILY BED SURCHARGE;
PROVIDING FOR A TAX REBATE WITH RESPECT TO THE DAILY BED
SURCHARGE IMPOSED DURING THE 2004, 2005 AND 2006 TAXABLE YEARS;
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-1-2 NMSA 1978 (being Laws 1965,
Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act
applies to and governs:

A. the administration and enforcement of the
following taxes or tax acts as they now exist or may hereafter
be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;

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- 1 (3) Venture Capital Investment Act;
- 2 (4) Gross Receipts and Compensating Tax Act
- 3 and any state gross receipts tax;
- 4 (5) Liquor Excise Tax Act;
- 5 (6) Local Liquor Excise Tax Act;
- 6 (7) any municipal local option gross receipts
- 7 tax;
- 8 (8) any county local option gross receipts
- 9 tax;
- 10 (9) Special Fuels Supplier Tax Act;
- 11 (10) Gasoline Tax Act;
- 12 (11) petroleum products loading fee, which fee
- 13 shall be considered a tax for the purpose of the Tax
- 14 Administration Act;
- 15 (12) Alternative Fuel Tax Act;
- 16 (13) Cigarette Tax Act;
- 17 (14) Estate Tax Act;
- 18 (15) Railroad Car Company Tax Act;
- 19 (16) Investment Credit Act, Capital Equipment
- 20 Tax Credit Act, rural job tax credit, Laboratory Partnership
- 21 with Small Business Tax Credit Act and Technology Jobs Tax
- 22 Credit Act;
- 23 (17) Corporate Income and Franchise Tax Act;
- 24 (18) Uniform Division of Income for Tax
- 25 Purposes Act;

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1 (19) Multistate Tax Compact;
2 (20) Tobacco Products Tax Act; and
3 (21) the telecommunications relay service
4 surcharge imposed by Section 63-9F-11 NMSA 1978, which
5 surcharge shall be considered a tax for the purposes of the Tax
6 Administration Act [~~and~~

7 ~~(22) the daily bed surcharge imposed on~~
8 ~~licensed nursing homes, intermediate care facilities for the~~
9 ~~mentally retarded and residential treatment centers, which~~
10 ~~surcharge shall be considered a tax for purposes of the Tax~~
11 ~~Administration Act until June 30, 2007];~~

12 B. the administration and enforcement of the
13 following taxes, surtaxes, advanced payments or tax acts as
14 they now exist or may hereafter be amended:

- 15 (1) Resources Excise Tax Act;
- 16 (2) Severance Tax Act;
- 17 (3) any severance surtax;
- 18 (4) Oil and Gas Severance Tax Act;
- 19 (5) Oil and Gas Conservation Tax Act;
- 20 (6) Oil and Gas Emergency School Tax Act;
- 21 (7) Oil and Gas Ad Valorem Production Tax Act;
- 22 (8) Natural Gas Processors Tax Act;
- 23 (9) Oil and Gas Production Equipment Ad
24 Valorem Tax Act;
- 25 (10) Copper Production Ad Valorem Tax Act;

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1 (11) any advance payment required to be made
2 by any act specified in this subsection, which advance payment
3 shall be considered a tax for the purposes of the Tax
4 Administration Act;

5 (12) Enhanced Oil Recovery Act;

6 (13) Natural Gas and Crude Oil Production
7 Incentive Act; and

8 (14) intergovernmental production tax credit
9 and intergovernmental production equipment tax credit;

10 C. the administration and enforcement of the
11 following taxes, surcharges, fees or acts as they now exist or
12 may hereafter be amended:

13 (1) Weight Distance Tax Act;

14 (2) the workers' compensation fee authorized
15 by Section 52-5-19 NMSA 1978, which fee shall be considered a
16 tax for purposes of the Tax Administration Act;

17 (3) Uniform Unclaimed Property Act (1995);

18 (4) 911 emergency surcharge and the network
19 and database surcharge, which surcharges shall be considered
20 taxes for purposes of the Tax Administration Act;

21 (5) the solid waste assessment fee authorized
22 by the Solid Waste Act, which fee shall be considered a tax for
23 purposes of the Tax Administration Act;

24 (6) the water conservation fee imposed by
25 Section 74-1-13 NMSA 1978, which fee shall be considered a tax

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1 for the purposes of the Tax Administration Act; and

2 (7) the gaming tax imposed pursuant to the
3 Gaming Control Act; and

4 D. the administration and enforcement of all other
5 laws, with respect to which the department is charged with
6 responsibilities pursuant to the Tax Administration Act, but
7 only to the extent that the other laws do not conflict with the
8 Tax Administration Act."

9 Section 2. A new section of the Income Tax Act is enacted
10 to read:

11 "[NEW MATERIAL] TAX REBATE--DAILY BED SURCHARGE.--

12 A. A resident who files an individual New Mexico
13 income tax return and who is not a dependent of another
14 individual is entitled to a tax rebate during the 2006 taxable
15 year for a portion of state and local taxes to which the person
16 has been subject if the resident paid for services provided by
17 a licensed nursing home, licensed intermediate care facility
18 for the mentally retarded or licensed residential treatment
19 center after June 30, 2004 but before July 1, 2006.

20 B. The tax rebate provided for in this section
21 shall be allowed for an amount not to exceed the amount of any
22 daily bed surcharge imposed during the 2004, 2005 and 2006
23 calendar years, which a licensed nursing home, licensed
24 intermediate care facility for the mentally retarded or
25 licensed residential treatment center paid per day for a bed

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1 occupied by a person for whom the resident claiming the tax
2 rebate paid for services provided by a licensed nursing home,
3 licensed intermediate care facility for the mentally retarded
4 or licensed residential treatment center.

5 C. A resident applying for a tax rebate pursuant to
6 this section shall make such application in a form prescribed
7 by the secretary. The secretary may adopt regulations
8 necessary to administer the provisions of this section.

9 D. For the purposes of this section, "dependent"
10 means "dependent" as defined by Section 152 of the Internal
11 Revenue Code, but also includes any minor child or stepchild of
12 the resident who would be a dependent for federal income tax
13 purposes if the public assistance contributing to the support
14 of the child or stepchild was considered to have been
15 contributed by the resident."

16 Section 3. REPEAL.--Sections 7-1-6.45 and 27-11-6 NMSA
17 1978 (being Laws 2004, Chapter 4, Sections 2 and 1) are
18 repealed.

19 Section 4. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2006.

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