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HOUSE BILL 229

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Brian K. Moore

FOR THE FUNDING FORMULA STUDY TASK FORCE

AN ACT

RELATING TO TAXATION; REMOVING THE SCHOOL DISTRICT ONE-HALF-MILL LEVY FOR OPERATING PURPOSES FROM YIELD CONTROL LIMITATIONS ON PROPERTY TAX RATES.

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

Section 1. Section 7-37-7.1 NMSA 1978 (being Laws 1979, Chapter 268, Section 1, as amended) is amended to read:

"7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX RATES.--

A. Except as provided in Subsections D and E of this section, in setting the general property tax rates for residential and nonresidential property authorized in Paragraphs (1) and (3) of Subsection B of Section 7-37-7 NMSA 1978, the other rates and impositions authorized in Paragraphs (2) and (3) of Subsection C of Section 7-37-7 NMSA 1978, except .171205.1

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1 the portion of the rate authorized in Paragraph (1) of
2 Subsection A of Section 4-48B-12 NMSA 1978 used to meet the
3 requirements of Section 27-10-4 NMSA 1978, and benefit
4 assessments authorized by law to be levied upon net taxable
5 value of property, assessed value or a similar term, neither
6 the department of finance and administration nor any other
7 entity authorized to set or impose a rate or assessment shall
8 set a rate or impose a tax or assessment that will produce
9 revenue from either residential or nonresidential property in a
10 particular governmental unit in excess of the sum of a dollar
11 amount derived by multiplying the appropriate growth control
12 factor by the revenue due from the imposition on residential or
13 nonresidential property, as appropriate, for the prior property
14 tax year in the governmental unit of the rate, imposition or
15 assessment for the specified purpose plus, for the calculation
16 for the rate authorized for county operating purposes by
17 Subsection B of Section 7-37-7 NMSA 1978 with respect to
18 residential property, any applicable tax rebate adjustment.
19 The calculation described in this subsection shall be
20 separately made for residential and nonresidential property.
21 Except as provided in Subsections D and E of this section, no
22 tax rate or benefit assessment that will produce revenue from
23 either class of property in a particular governmental unit in
24 excess of the dollar amount allowed by the calculation shall be
25 set or imposed. The rates imposed pursuant to Sections 7-32-4
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1 and 7-34-4 NMSA 1978 shall be the rates for nonresidential
2 property that would have been imposed but for the limitations
3 in this section. As used in this section, "growth control
4 factor" is a percentage equal to the sum of "percent change I"
5 plus V where:

6 (1) $V = \frac{\text{base year value} + \text{net new value}}{\text{base year value}}$,
7

8 expressed as a percentage, but if the percentage calculated is
9 less than one hundred percent, then V shall be set and used as
10 one hundred percent;

11 (2) "base year value" means the value for
12 property taxation purposes of all residential or nonresidential
13 property, as appropriate, subject to valuation under the
14 Property Tax Code in the governmental unit for the specified
15 purpose in the prior property tax year;

16 (3) "net new value" means the additional value
17 of residential or nonresidential property, as appropriate, for
18 property taxation purposes placed on the property tax schedule
19 in the current year resulting from the elements in
20 Subparagraphs (a) through (d) of this paragraph reduced by the
21 value of residential or nonresidential property, as
22 appropriate, removed from the property tax schedule in the
23 current year and, if applicable, the reductions described in
24 Subparagraph (e) of this paragraph:

25 (a) residential or nonresidential

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1 property, as appropriate, valued in the current year that was
2 not valued at all in the prior year;

3 (b) improvements to existing residential
4 or nonresidential property, as appropriate;

5 (c) additions to residential or
6 nonresidential property, as appropriate, or values that were
7 omitted from previous years' property tax schedules even if
8 part or all of the property was included on the schedule, but
9 no additions of values attributable to valuation maintenance
10 programs or reappraisal programs shall be included;

11 (d) additions to nonresidential property
12 due to increases in annual net production values of mineral
13 property valued in accordance with Section 7-36-23 or 7-36-25
14 NMSA 1978 or due to increases in market value of mineral
15 property valued in accordance with Section 7-36-24 NMSA 1978;
16 and

17 (e) reductions to nonresidential
18 property due to decreases in annual net production values of
19 mineral property valued in accordance with Section 7-36-23 or
20 7-36-25 NMSA 1978 or due to decreases in market value of
21 mineral property valued in accordance with Section 7-36-24 NMSA
22 1978; and

23 (4) "percent change I" means a percent not in
24 excess of five percent that is derived by dividing the annual
25 implicit price deflator index for state and local government

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1 purchases of goods and services, as published in the United
2 States department of commerce monthly publication entitled
3 "survey of current business" or any successor publication, for
4 the calendar year next preceding the prior calendar year into
5 the difference between the prior year's comparable annual index
6 and that next preceding year's annual index if that difference
7 is an increase, and if the difference is a decrease, the
8 "percent change I" is zero. In the event that the annual
9 implicit price deflator index for state and local government
10 purchases of goods and services is no longer prepared or
11 published by the United States department of commerce, the
12 department shall adopt by regulation the use of any comparable
13 index prepared by any agency of the United States.

14 B. If, as a result of the application of the
15 limitation imposed under Subsection A of this section, a
16 property tax rate for residential or nonresidential property,
17 as appropriate, authorized in Subsection B of Section 7-37-7
18 NMSA 1978 is reduced below the maximum rate authorized in that
19 subsection, no governmental unit or entity authorized to impose
20 a tax rate under Paragraph (2) of Subsection C of Section
21 7-37-7 NMSA 1978 shall impose any portion of the rate
22 representing the difference between a maximum rate authorized
23 under Subsection B of Section 7-37-7 NMSA 1978 and the reduced
24 rate resulting from the application of the limitation imposed
25 under Subsection A of this section.

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1 C. If the net new values necessary to make the
2 computation required under Subsection A of this section are not
3 available for any governmental unit at the time the calculation
4 must be made, the department of finance and administration
5 shall use a zero amount for net new values when making the
6 computation for the governmental unit.

7 D. Any part of the maximum tax rate authorized for
8 each governmental unit for residential and nonresidential
9 property by Subsection B of Section 7-37-7 NMSA 1978 that is
10 not imposed for a governmental unit for any property tax year
11 for reasons other than the limitation required under Subsection
12 A of this section may be authorized by the department of
13 finance and administration to be imposed for that governmental
14 unit for residential and nonresidential property for the
15 following tax year subject to the restriction of Subsection D
16 of Section 7-38-33 NMSA 1978.

17 E. If the base year value necessary to make the
18 computation required under Subsection A of this section is not
19 available for any governmental unit at the time the calculation
20 must be made, the department of finance and administration
21 shall set a rate for residential and nonresidential property
22 that will produce in that governmental unit a dollar amount
23 that is not in excess of the property tax revenue due for all
24 property for the prior property tax year for the specified
25 purpose of that rate in that governmental unit.

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F. For the purposes of this section:

(1) "nonresidential property" does not include any property upon which taxes are imposed pursuant to the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act or the Copper Production Ad Valorem Tax Act; and

(2) "tax rebate adjustment" means, for those counties that have an ordinance in effect providing the property tax rebate pursuant to the Income Tax Act for the property tax year and that have not imposed for the property tax year either a property tax, the revenue from which is pledged for payment of the income tax revenue reduction resulting from the provision of the property tax rebate, or a property transfer tax, the estimated amount of the property tax rebate to be allowed with respect to the property tax year, and for any other governmental unit or purpose, zero; provided that any estimate of property tax rebate to be allowed is subject to review for appropriateness and approval by the department of finance and administration."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.