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HOUSE BILL 1012

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

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

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

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

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

11 (1) one-eighth of one percent of the gross
12 receipts of any person engaging in business in the county if the
13 impacted school district requesting imposition of the tax is
14 located in a municipality that exceeds the cost-of-living index
15 by twenty percent or more; provided, upon notification by the
16 district that the rate must be reduced to one-sixteenth of one
17 percent to comply with the requirements in Subsections E through
18 G of this section, the county shall enact an ordinance imposing
19 the tax at a rate of one-sixteenth of one percent of the gross
20 receipts of any person engaging in 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 the
23 impacted school district requesting imposition of the tax is
24 located in a municipality that exceeds the cost-of-living index
25 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 the
10 county public school gross receipts tax net receipts that for
11 any fiscal year exceed ten percent of the amount distributed to
12 the district through the state equalization guarantee
13 distribution for that fiscal year. The district, upon a finding
14 that it anticipates such an excess amount and subject to the
15 approval of the local school board and the state department of
16 public education, shall notify the board of county commissioners
17 to reduce the rate, if the rate of the county public school
18 gross receipts tax can be reduced. If not, the district shall
19 reduce the amount budgeted for cost-of-living supplements to an
20 amount that does not exceed ten percent of the amount
21 distributed to the district through the state equalization
22 guarantee distribution for that fiscal year and shall provide
23 for distribution of the excess amount to a special school
24 district capital fund established by the district to fund
25 capital and technology needs of the district.

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Underscored material = new
[bracketed material] = delete

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 full
10 amount for the third year. Any revenues distributed from the
11 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 to
16 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 any
20 succeeding fiscal year, if necessary and possible pursuant to
21 this section, and shall repeal the tax on the July 1 four years
22 following the notification.

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

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

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

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

21 (b) in all other counties, a petition
22 requesting such an election is filed with the county clerk
23 within thirty days of enactment of the ordinance by the
24 governing body and the petition has been signed by a number of
25 registered voters in the county equal to at least five percent

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1 of the number of voters in the county who were registered to
2 vote in the most recent general election;

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

16 (3) if a majority of the registered voters
17 voting on the question approves the ordinance imposing the
18 county public school gross receipts tax, the ordinance shall go
19 into effect on July 1 or January 1 in accordance with the
20 provisions of the County Local Option Gross Receipts Taxes Act.
21 If at such an election a majority of the registered voting on
22 the question disapproves the ordinance, the ordinance imposing
23 the county public school gross receipts tax shall be deemed
24 repealed and the question of imposing the tax shall not be
25 considered again by the governing body for a period of one year

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1 from the date of the election.

2 J. As used in this section:

3 (1) "cost-of-living index" means the American
4 chamber of commerce researchers association national median
5 composite cost-of-living index; and

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

9 (a) the municipality's cost of living
10 equals or exceeds the cost-of-living index by ten percent or
11 more; or

12 (b) the municipality is designated by the
13 federal internal revenue service as a high-cost area that
14 qualifies for a per diem travel allowance greater than the
15 standard allowance pursuant to the Internal Revenue Code. "