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**HOUSE BILL 416**

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

**INTRODUCED BY**

**LUCIANO "LUCKY" VARELA**

**AN ACT**

**RELATING TO SCHOOL DISTRICT PROPERTY TAXATION; AUTHORIZING  
IMPOSITION OF A PROPERTY TAX TO PROVIDE COST-OF-LIVING  
SUBSISTENCE ALLOWANCES FOR PUBLIC SCHOOL PERSONNEL IN  
QUALIFIED SCHOOL DISTRICTS; PROVIDING FOR AN ELECTION.**

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

**Section 1. SHORT TITLE.--This act may be cited as the  
"School District Personnel Subsistence Allowance Tax Act".**

**Section 2. DEFINITIONS.--As used in the School District  
Personnel Subsistence Allowance Tax Act:**

**A. "cost-of-living index" means the American  
chamber of commerce researchers association national median  
composite cost-of-living index;**

**B. "local school board" means the governing body  
of a school district;**

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1 C. "personnel subsistence allowance" means an  
2 amount that is provided annually to each employee of the  
3 school district to defray the cost of living in a high-cost  
4 area and that in the aggregate does not exceed ten percent of  
5 the school district's state equalization guarantee  
6 distribution for the fiscal year prior to the first fiscal  
7 year of the subsidy;

8 D. "qualified school district" means a school  
9 district that is located in whole or in part in a municipality  
10 that has a cost of living that equals or exceeds one hundred  
11 ten percent of the cost-of-living index for at least four  
12 consecutive quarters; and

13 E. "taxable value of property" means the sum of  
14 the following:

15 (1) the "net taxable value", as that term is  
16 defined in the Property Tax Code, of property subject to  
17 taxation pursuant to the Property Tax Code;

18 (2) the "assessed value" of "products" as  
19 those terms are defined in the Oil and Gas Ad Valorem  
20 Production Tax Act;

21 (3) the "assessed value" of "equipment" as  
22 those terms are defined in the Oil and Gas Production  
23 Equipment Ad Valorem Tax Act; and

24 (4) the "taxable value" of "copper mineral  
25 property" as those terms are defined in the Copper Production

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1 Ad Valorem Tax Act.

2 Section 3. LOCAL SCHOOL BOARD--AUTHORIZATION TO IMPOSE A  
3 TAX FOR PERSONNEL SUBSISTENCE ALLOWANCE PURPOSES--RESOLUTION--  
4 ELECTION REQUIRED.--

5 A. The local school board of a qualified school  
6 district may adopt a resolution authorizing, for personnel  
7 subsistence allowances, the imposition of a property tax upon  
8 the taxable value of property in the school district. The tax  
9 shall be imposed at a rate necessary to provide the personnel  
10 subsistence allowance or at a rate of two dollars (\$2.00) on  
11 each one thousand dollars (\$1,000) of taxable value of  
12 property in the school district, whichever is lower. The tax  
13 may be imposed for any number of years not to exceed ten  
14 years.

15 B. The tax authorized pursuant to Subsection A of  
16 this section shall not be imposed unless the question of  
17 authorizing the imposition of the tax is submitted to the  
18 voters of the district at a regular school district election  
19 or at any special school district election held for that  
20 purpose. The tax shall be imposed for the number of years  
21 authorized in the resolution, not to exceed ten years, for  
22 each year that the school district continues to be a qualified  
23 school district.

24 C. Any resolution adopted pursuant to Subsection A  
25 of this section shall specify:

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- 1 (1) the rate of the proposed tax;
- 2 (2) the date an election will be held to
- 3 submit the question of imposition of the tax to the voters of
- 4 the school district;
- 5 (3) the period of time the tax is authorized
- 6 to be imposed; and
- 7 (4) the proposed use of the revenues from the
- 8 proposed tax.

9 D. Any amounts received by the school district  
10 pursuant to the provisions of the School District Personnel  
11 Subsistence Allowance Tax Act shall be expended only for the  
12 purpose of providing a personnel subsistence allowance to  
13 school district personnel. The personnel subsistence  
14 allowance shall be an equal amount for each employee of the  
15 district and shall be supplemental to and not a part of the  
16 employee's salary.

17 Section 4. CONDUCT OF ELECTION--BALLOT.--

18 A. The question of authorizing the imposition of a  
19 tax pursuant to the School District Personnel Subsistence  
20 Allowance Tax Act shall be submitted to the voters at the  
21 first regular school district election following adoption of a  
22 resolution pursuant to Section 3 of the School District  
23 Personnel Subsistence Allowance Tax Act or at a special school  
24 district election called by the local school board for that  
25 purpose.

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1           B. The proclamation calling the election shall be  
2 filed and published as required pursuant to the School  
3 Election Law and shall specify:

4                   (1) the date on which the election will be  
5 held;

6                   (2) the question of whether the imposition of  
7 a property tax to provide personnel subsistence allowances  
8 shall be authorized pursuant to the School District Personnel  
9 Subsistence Allowance Tax Act at a rate not to exceed the rate  
10 specified in the authorizing resolution and for the period  
11 specified in that resolution;

12                   (3) the precincts in each county in which the  
13 election is to be held and the location of each polling place;

14                   (4) the hours each polling place will be  
15 open; and

16                   (5) the date and time of the closing of the  
17 registration books by the county clerk as required by law.

18           C. The ballot shall include the information  
19 specified in Paragraph (2) of Subsection B of this section and  
20 shall present the voter the choice of voting "for the school  
21 district personnel subsistence allowance tax" or "against the  
22 school district personnel subsistence allowance tax".

23           D. The election shall be held, conducted and  
24 canvassed pursuant to the School Election Law.

25           E. Any resolution authorizing a tax pursuant to

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1 the School District Personnel Subsistence Allowance Tax Act  
2 shall be adopted by a date necessary to ensure that the  
3 results of the election on the question of imposing the tax  
4 shall be certified no later than June 15 of the property tax  
5 year for which the tax rate will first be certified.

6 Section 5. IMPOSITION OF TAX--CERTIFICATION BY  
7 DEPARTMENT OF FINANCE AND ADMINISTRATION. --

8 A. If a majority of the voters voting on the  
9 question votes for a school district personnel subsistence  
10 allowance tax pursuant to a resolution adopted under the  
11 School District Personnel Subsistence Allowance Tax Act, the  
12 tax shall be imposed for the earliest period for which the tax  
13 rate may be certified. The tax rate shall be certified by the  
14 department of finance and administration and imposed,  
15 administered and collected in accordance with the provisions  
16 of the Oil and Gas Ad Valorem Production Tax Act, the Oil and  
17 Gas Production Equipment Ad Valorem Tax Act, the Copper  
18 Production Ad Valorem Tax Act and the Property Tax Code.

19 B. If a majority of the voters voting on the  
20 question votes against a school district personnel subsistence  
21 allowance tax, the tax shall not be imposed. The local school  
22 board shall not again adopt a resolution authorizing the  
23 imposition of a tax pursuant to the School District Personnel  
24 Subsistence Allowance Tax Act for at least two years after the  
25 date of the resolution that the voters rejected.

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C. The local school board shall discontinue by resolution the imposition of a tax authorized pursuant to the School District Personnel Subsistence Allowance Tax Act if, during the period the tax is authorized to be imposed, the school district ceases to be a qualified school district. The discontinuance resolution shall be mailed to the department of finance and administration no later than June 15 of the year in which a tax rate pursuant to that act is not to be certified.

Section 6. APPLICABILITY. --The provisions of this act apply to the 1999 and subsequent property tax years.

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 7, 1998  
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8 Mr. Speaker:  
9

10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has  
11 been referred  
12

13 HOUSE BILL 416  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 TAXATION AND REVENUE COMMITTEE.

18 Respectfully submitted,  
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22 \_\_\_\_\_  
23 Edward C. Sandoval, Chairman  
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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

3 HVEC/HB 416

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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6 (Chief Clerk)

(Chief Clerk)

7  
8 Date \_\_\_\_\_

9  
10 The roll call vote was 6 For 1 Against

11 Yes: 6

12 No: Nicely

13 Excused: Bird, Buffett, Lujan, Lutz, Sanchez

14 Absent: None

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