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HOUSE BILL 122

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO TAXATION; REDUCING AUTHORIZED PROPERTY TAX RATES FOR CLASS A COUNTY HOSPITAL FUNDING AND FOR TRANSFERS TO THE COUNTY-SUPPORTED MEDICAID FUND.

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

**SECTION 1.** Section 4-48B-12 NMSA 1978 (being Laws 1981, Chapter 83, Section 12, as amended) is amended to read:

"4-48B-12. TAX LEVIES AUTHORIZED.--

A. The county commissioners are authorized to impose a mill levy and collect annual assessments against the net taxable value of the property in a county to pay the cost of operating and maintaining county hospitals or to pay to contracting hospitals in accordance with a health care facilities contract and in class A counties to pay for the county's transfer to the county-supported medicaid fund

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1 pursuant to Section 27-10-4 NMSA 1978 as ~~[follows:—(1) in]~~  
2 provided in this section.

3 B. The county commissioners of a class A [counties  
4 ~~as defined in Section 4-44-1 NMSA 1978, the]~~ county may impose,  
5 and after January 1, 2017 may collect, a mill levy [shall] not  
6 to exceed a rate of [six dollars fifty cents (\$6.50)] two  
7 dollars (\$2.00), or any lower maximum amount required by  
8 operation of the rate limitation provisions of Section 7-37-7.1  
9 NMSA 1978 upon a mill levy imposed pursuant to this paragraph,  
10 on each one thousand dollars (\$1,000) of net taxable value of  
11 property allocated to the county; however, if the county uses  
12 any portion, not to exceed [one dollar fifty cents (\$1.50)]  
13 forty-six cents (\$.46), of the rate authorized by this  
14 ~~[paragraph]~~ subsection to meet the requirement of Section  
15 27-10-4 NMSA 1978, the provisions of Section 7-37-7.1 NMSA 1978  
16 do not apply to the portion of the rate necessary to produce  
17 the revenues required; provided that the portion of the rate  
18 does not exceed ~~[one dollar fifty cents (\$1.50); and~~

19 ~~(2) in other counties, the]~~ forty-six cents  
20 (\$.46).

21 C. The county commissioners of a county other than  
22 a class A county may impose a mill levy [shall] not to exceed  
23 four dollars twenty-five cents (\$4.25), or any lower maximum  
24 amount required by operation of the rate limitation provisions  
25 of Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant

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1 to this [~~paragraph~~] subsection, on each one thousand dollars  
2 (\$1,000) of net taxable value of property allocated to the  
3 county.

4 [~~B.~~] D. The mill levies provided in [~~Paragraphs (1)~~  
5 ~~and (2) of Subsection A of~~] this section shall be made at the  
6 direction of the county commissioners, but only to the extent  
7 that the county commissioners deem it necessary to operate and  
8 maintain county hospitals, to pay the amounts required in the  
9 performance of any health care facilities contracts made  
10 pursuant to the Hospital Funding Act and to provide for a class  
11 A county's transfer to the county-supported medicaid fund  
12 pursuant to Section 27-10-4 NMSA 1978.

13 [~~G.~~] E. In the event that the mill levy provided  
14 for in [~~Paragraph (1) of~~] Subsection [~~A~~] B of this section is  
15 not authorized by the electorate or the resulting mill levy  
16 proceeds are not remitted to the entity operating the hospital  
17 within a reasonable time period, any lease for operation of the  
18 hospital between a county and a state educational institution  
19 named in Article 12, Section 11 of the constitution of New  
20 Mexico may, at the option of the state educational institution,  
21 be terminated immediately. Except as provided in Subsection  
22 [~~D~~] F of this section, in the event that the mill levy provided  
23 for in [~~Paragraph (1) of~~] Subsection [~~A~~] B of this section is  
24 authorized, an amount not less than the amount that would be  
25 produced by a mill levy at the rate of [~~four dollars (\$4.00)~~]

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1 one dollar twenty-three cents (\$1.23), or any lower amount that  
2 would be required by operation of the rate limitation  
3 provisions of Section 7-37-7.1 NMSA 1978 upon this rate, on  
4 each one thousand dollars (\$1,000) of net taxable value of  
5 property allocated to the county shall be provided from the  
6 proceeds of the mill levy to the state educational institution  
7 operating the hospital for hospital purposes unless the  
8 institution determines that the amount is not necessary.

9 ~~[D-]~~ F. A class A county imposing the mill levy  
10 provided for in ~~[Paragraph (1) of]~~ Subsection ~~[A]~~ B of this  
11 section may enter into a mutual agreement with a state  
12 educational institution named in Article 12, Section 11 of the  
13 constitution of New Mexico operating the hospital permitting  
14 the transfer to the county-supported medicaid fund by the  
15 county pursuant to Section 27-10-4 NMSA 1978 of an amount not  
16 to exceed the amount that would be produced by a mill levy at a  
17 rate of ~~[one dollar fifty cents (\$1.50)]~~ forty-six cents (\$.46)  
18 applied to the net taxable value of property allocated to the  
19 county for the prior property tax year and also not to exceed  
20 the amount that would be produced by imposition of the county  
21 health care gross receipts tax.

22 ~~[E-]~~ G. The distribution of the mill levy  
23 authorized at the rates specified in Subsection ~~[A]~~ B or C of  
24 this section shall be made to county and contracting hospitals  
25 as authorized in the Hospital Funding Act."

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1           SECTION 2. Section 4-48B-15 NMSA 1978 (being Laws 1953,  
2 Chapter 174, Section 2, as amended) is amended to read:

3           "4-48B-15. ELECTION ON SPECIAL LEVY.--

4           A. In the event the county commissioners of a  
5 county, other than a class A county, desire to provide the mill  
6 levy authorized in [~~Paragraph (2) of~~] Subsection [A] C of  
7 Section 4-48B-12 NMSA 1978, the county commissioners shall  
8 submit to the qualified electors of the county the question of  
9 levying those taxes not to exceed four dollars twenty-five  
10 cents (\$4.25) on each one thousand dollars (\$1,000) of net  
11 taxable value of property allocated to the county for a period  
12 of time not less than four years nor more than eight years.

13           B. In the event the county commissioners of a class  
14 A county desire to provide the mill levy authorized in  
15 [~~Paragraph (1) of~~] Subsection [A] B of Section 4-48B-12 NMSA  
16 1978, the county commissioners shall submit to the qualified  
17 electors of the county the question of levying those taxes not  
18 to exceed [~~six dollars fifty cents (\$6.50)~~] two dollars (\$2.00)  
19 on each one thousand dollars (\$1,000) of net taxable value of  
20 property allocated to the county for a period of time of not  
21 less than four years nor more than eight years.

22           C. The question may be submitted to the electors  
23 and voted upon as a separate question at any general election  
24 or at any special election called for that purpose by the  
25 county commissioners. The election upon the question of a mill

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1 levy shall be called, held, conducted and canvassed in  
2 substantially the same manner as now or hereafter may be  
3 provided by law for general elections.

4 D. In the event the mill levy submitted under  
5 Subsection A or B of this section is voted upon favorably by  
6 the electors of the county, the mill levy shall become  
7 effective and be made for the ensuing fiscal year and those  
8 future years, not less than three nor more than seven, as  
9 stated in the question voted upon; provided that the question  
10 of continuing the mill levy shall thereafter be submitted to  
11 the electors at the general election immediately prior to the  
12 expiration of the period of assessment previously approved.  
13 The county commissioners shall decrease the rate of any mill  
14 levy imposed under the Hospital Funding Act if required by  
15 operation of the rate limitation provisions of Section 7-37-7.1  
16 NMSA 1978. Subject to the provisions of Subsection ~~[D]~~ F of  
17 Section 4-48B-12 NMSA 1978, the county commissioners may direct  
18 that the mill levy be decreased or not be made for any year if,  
19 in their judgment, sufficient funds for operation and  
20 maintenance of the hospital and transfer to the county-  
21 supported medicaid fund, if applicable, are available or will  
22 be obtained from other sources and if, relative to a county  
23 hospital operated by a state educational institution named in  
24 Article 12, Section 11 of the constitution of New Mexico, a  
25 decision to decrease the mill levy is agreed to by the state

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1 educational institution.

2 E. In the event that the mill levy approved by the  
3 electors is less than the maximum mill levy authorized for the  
4 county by Subsection [A] B or C of Section 4-48B-12 NMSA 1978  
5 and the county commissioners desire to increase the amount of  
6 the approved mill levy, the county commissioners shall submit,  
7 in accordance with Subsection C of this section, to the  
8 qualified electors of the county the questions of levying those  
9 additional taxes for a period of time consistent with the  
10 expiration of the mill levy previously approved; provided that  
11 the additional taxes, when added to the mill levy previously  
12 approved, may not exceed the mill levy maximum for the county  
13 provided in Subsection [A] B or C of Section 4-48B-12 NMSA  
14 1978. In the event that the mill levy increase is voted upon  
15 favorably by the electors of the county, the increase shall  
16 become effective for the years stated in the question voted  
17 upon. Nothing in this subsection shall be construed as  
18 requiring an election to restore the mill levy to an amount no  
19 higher than the mill levy approved by the electors after a  
20 reduction in the mill levy made pursuant to Subsection D of  
21 this section."

22 SECTION 3. Section 7-37-7.1 NMSA 1978 (being Laws 1979,  
23 Chapter 268, Section 1, as amended) is amended to read:

24 "7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX  
25 RATES.--

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1           A. Except as provided in Subsections D and E of  
2 this section, in setting the general property tax rates for  
3 residential and nonresidential property authorized in  
4 Subsection B of Section 7-37-7 NMSA 1978, the other rates and  
5 impositions authorized in Paragraphs (2) and (3) of Subsection  
6 C of Section 7-37-7 NMSA 1978, except the portion of the rate  
7 authorized in [~~Paragraph (1) of Subsection A of~~] Section  
8 4-48B-12 NMSA 1978 used to meet the requirements of Section  
9 27-10-4 NMSA 1978, and benefit assessments authorized by law to  
10 be levied upon net taxable value of property, assessed value or  
11 a similar term, neither the department of finance and  
12 administration nor any other entity authorized to set or impose  
13 a rate or assessment shall set a rate or impose a tax or  
14 assessment that will produce revenue from either residential or  
15 nonresidential property in a particular governmental unit in  
16 excess of the sum of a dollar amount derived by multiplying the  
17 appropriate growth control factor by the revenue due from the  
18 imposition on residential or nonresidential property, as  
19 appropriate, for the prior property tax year in the  
20 governmental unit of the rate, imposition or assessment for the  
21 specified purpose plus, for the calculation for the rate  
22 authorized for county operating purposes by Subsection B of  
23 Section 7-37-7 NMSA 1978 with respect to residential property,  
24 any applicable tax rebate adjustment. The calculation  
25 described in this subsection shall be separately made for

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1 residential and nonresidential property. Except as provided in  
2 Subsections D and E of this section, no tax rate or benefit  
3 assessment that will produce revenue from either class of  
4 property in a particular governmental unit in excess of the  
5 dollar amount allowed by the calculation shall be set or  
6 imposed. The rates imposed pursuant to Sections 7-32-4 and  
7 7-34-4 NMSA 1978 shall be the rates for nonresidential property  
8 that would have been imposed but for the limitations in this  
9 section. As used in this section, "growth control factor" is a  
10 percentage equal to the sum of "percent change I" plus V where:

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

12 
$$\frac{\quad}{\text{base year value}}$$
  
13

14 expressed as a percentage, but if the percentage calculated is  
15 less than one hundred percent, then V shall be set and used as  
16 one hundred percent;

17 (2) "base year value" means the value for  
18 property taxation purposes of all residential or nonresidential  
19 property, as appropriate, subject to valuation under the  
20 Property Tax Code in the governmental unit for the specified  
21 purpose in the prior property tax year;

22 (3) "net new value" means the additional value  
23 of residential or nonresidential property, as appropriate, for  
24 property taxation purposes placed on the property tax schedule  
25 in the current year resulting from the elements in

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1 Subparagraphs (a) through (d) of this paragraph reduced by the  
2 value of residential or nonresidential property, as  
3 appropriate, removed from the property tax schedule in the  
4 current year and, if applicable, the reductions described in  
5 Subparagraph (e) of this paragraph:

6 (a) residential or nonresidential  
7 property, as appropriate, valued in the current year that was  
8 not valued at all in the prior year;

9 (b) improvements to existing residential  
10 or nonresidential property, as appropriate;

11 (c) additions to residential or  
12 nonresidential property, as appropriate, or values that were  
13 omitted from previous years' property tax schedules even if  
14 part or all of the property was included on the schedule, but  
15 no additions of values attributable to valuation maintenance  
16 programs or reappraisal programs shall be included;

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

23 (e) reductions to nonresidential  
24 property due to decreases in annual net production values of  
25 mineral property valued in accordance with Section 7-36-23 or

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1 7-36-25 NMSA 1978 or due to decreases in market value of  
2 mineral property valued in accordance with Section 7-36-24 NMSA  
3 1978; and

4 (4) "percent change I" means a percent not in  
5 excess of five percent that is derived by dividing the annual  
6 implicit price deflator index for state and local government  
7 purchases of goods and services, as published in the United  
8 States department of commerce monthly publication entitled  
9 "survey of current business" or any successor publication, for  
10 the calendar year next preceding the prior calendar year into  
11 the difference between the prior year's comparable annual index  
12 and that next preceding year's annual index if that difference  
13 is an increase, and if the difference is a decrease, the  
14 "percent change I" is zero. In the event that the annual  
15 implicit price deflator index for state and local government  
16 purchases of goods and services is no longer prepared or  
17 published by the United States department of commerce, the  
18 department shall adopt by regulation the use of any comparable  
19 index prepared by any agency of the United States.

20 B. If, as a result of the application of the  
21 limitation imposed under Subsection A of this section, a  
22 property tax rate for residential or nonresidential property,  
23 as appropriate, authorized in Subsection B of Section 7-37-7  
24 NMSA 1978 is reduced below the maximum rate authorized in that  
25 subsection, no governmental unit or entity authorized to impose

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1 a tax rate under Paragraph (2) of Subsection C of Section  
2 7-37-7 NMSA 1978 shall impose any portion of the rate  
3 representing the difference between a maximum rate authorized  
4 under Subsection B of Section 7-37-7 NMSA 1978 and the reduced  
5 rate resulting from the application of the limitation imposed  
6 under Subsection A of this section.

7 C. If the net new values necessary to make the  
8 computation required under Subsection A of this section are not  
9 available for any governmental unit at the time the calculation  
10 must be made, the department of finance and administration  
11 shall use a zero amount for net new values when making the  
12 computation for the governmental unit.

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

23 E. If the base year value necessary to make the  
24 computation required under Subsection A of this section is not  
25 available for any governmental unit at the time the calculation

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1 must be made, the department of finance and administration  
2 shall set a rate for residential and nonresidential property  
3 that will produce in that governmental unit a dollar amount  
4 that is not in excess of the property tax revenue due for all  
5 property for the prior property tax year for the specified  
6 purpose of that rate in that governmental unit.

7 F. For the purposes of this section:

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

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

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