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HOUSE BILL 432

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO COUNTIES; EXPANDING THE SCOPE OF COUNTIES THAT
QUALIFY FOR DISTRIBUTIONS PURSUANT TO THE SMALL COUNTIES
ASSISTANCE ACT; INCREASING DISTRIBUTIONS TO COUNTIES PURSUANT
TO THAT ACT WHEN THE SMALL COUNTIES ASSISTANCE FUND BALANCE
EXCEEDS CERTAIN PLANNED DISTRIBUTIONS.

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

Section 1. Section 4-61-2 NMSA 1978 (being Laws 1982,
Chapter 44, Section 2, as amended) is amended to read:

"4-61-2. DEFINITIONS.--As used in the Small Counties
Assistance Act:

A. "adjustment factor" means a fraction, the
numerator of which is the net taxable value of the state for
the property tax year prior to the year in which the amount of
small counties assistance is being determined and the

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1 denominator of which is the net taxable value for property tax
2 year 2002; the adjustment factor shall be calculated without
3 reference to assessed value determined pursuant to the Oil and
4 Gas Ad Valorem Production Tax Act, assessed value determined
5 pursuant to the Oil and Gas Production Equipment Ad Valorem Tax
6 Act or taxable value determined pursuant to the Copper
7 Production Ad Valorem Tax Act;

8 B. "ceiling valuation" means:

9 (1) for the 2002 property tax year, one
10 billion four hundred million dollars (\$1,400,000,000); and

11 (2) for each subsequent property tax year, an
12 amount equal to the product obtained by multiplying one billion
13 four hundred million dollars (\$1,400,000,000) by the adjustment
14 factor for the year;

15 C. "demographer" means the bureau of business and
16 economic research at the university of New Mexico;

17 D. "inflation factor" means a fraction whose
18 numerator is the annual implicit price deflator index for state
19 and local government purchases of goods and services, as
20 published in the United States department of commerce monthly
21 publication entitled "Survey of Current Business" or any
22 successor publication prepared by an agency of the United
23 States and adopted by the department of finance and
24 administration, for the calendar year one year prior to the
25 year in which the distribution is to be made and whose

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1 denominator is the annual index for the year two years prior to
2 the year in which the distribution is to be made; provided
3 that, if the inflation factor is calculated to have a value
4 less than one, it shall be deemed to have a value of one;

5 ~~[D-]~~ E. "population" means the official population
6 shown by the most recent federal decennial census or, if there
7 is a change in boundaries after the date of the census,
8 "population" for each affected unit shall be the most current
9 estimated population for that unit provided in writing by the
10 demographer; provided that after five years from the first day
11 of the calendar year of the most recent federal decennial
12 census, that census shall not be used, and "population" for the
13 period from that date until the date when the next following
14 official final decennial census population data are available
15 shall be the most current estimated population provided in
16 writing by the demographer;

17 ~~[E-]~~ F. "qualifying county" means a ~~[class B, class~~
18 ~~C or first class]~~ county that has:

19 (1) for the property tax year in which any
20 distribution under the Small Counties Assistance Act is made to
21 the county, imposed a property tax rate for general county
22 purposes pursuant to Paragraph (1) of Subsection B of Section
23 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at
24 least eight dollars eighty-five cents (\$8.85) per one thousand
25 dollars (\$1,000) of net taxable value;

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1 (2) by July 1 of the property tax year in
2 which any distribution under the Small Counties Assistance Act
3 is made to the county, received a written certification from
4 the director of the property tax division of the taxation and
5 revenue department that the county assessor of that county has
6 implemented an acceptable program of maintaining current and
7 correct property values for property taxation purposes as
8 required by Section 7-36-16 NMSA 1978 or has submitted to the
9 director an acceptable plan for the implementation of such a
10 program;

11 (3) on July 1 of the year in which any
12 distribution under the Small Counties Assistance Act is made to
13 the county, a population of not more than forty-eight thousand;

14 (4) imposed ~~[all]~~ county gross receipts tax
15 increments authorized pursuant to Section 7-20E-9 NMSA 1978
16 totaling at least three-eighths percent and has those increments
17 in effect on July 1 of the year in which a distribution is
18 made, provided that this paragraph does not apply to a county
19 if the county's valuation for property taxation purposes
20 ~~[exceeds]~~ does not exceed the product of two hundred thirty
21 million dollars (\$230,000,000) multiplied by the adjustment
22 factor for the year; and

23 (5) a total valuation for the property tax
24 year preceding the year in which a distribution pursuant to the
25 Small Counties Assistance Act for that county is to be made

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1 that is no greater than the ceiling valuation for that property
2 tax year; and

3 ~~[F-]~~ G. "total valuation" means the sum for a
4 jurisdiction for a property tax year of the net taxable value
5 determined pursuant to the Property Tax Code, the assessed
6 value determined pursuant to the Oil and Gas Ad Valorem
7 Production Tax Act, the assessed value determined pursuant to
8 the Oil and Gas Production Equipment Ad Valorem Tax Act and the
9 taxable value determined pursuant to the Copper Production Ad
10 Valorem Tax Act."

11 Section 2. Section 4-61-3 NMSA 1978 (being Laws 1982,
12 Chapter 44, Section 3, as amended) is amended to read:

13 "4-61-3. SMALL COUNTIES ASSISTANCE FUND--DISTRIBUTION.--

14 A. The "small counties assistance fund" is created
15 within the state treasury.

16 B. On or before September 1, 2003 and on or before
17 September 1 of each subsequent year, the demographer shall
18 certify in writing to the department of finance and
19 administration the population of the state and of each county
20 as of June 30 of the year.

21 C. On or before September 15, 2003 and on or before
22 September 15 of each subsequent year, the secretary of finance
23 and administration shall certify to the state treasurer with
24 respect to each qualifying county:

25 (1) its population as certified by the

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1 demographer;

2 (2) its total valuation for the preceding
3 property tax year; and

4 (3) the distribution amount calculated for it.

5 D. The distribution amount for each qualifying
6 county shall be determined for 2003 and each subsequent year in
7 accordance with the following table; provided that the bracket
8 amounts in the first two columns of the table shall be adjusted
9 annually after 2003 by the adjustment factor. The bracket
10 amounts in the last column shall be adjusted annually after
11 2005 by the inflation factor. The department of finance and
12 administration may round the results of the adjustments made
13 pursuant to this subsection to the nearest one thousand dollars
14 (\$1,000).

15 If the county's total valuation for the preceding property
16 tax year is:

17 at least:	but less	and the county	then the distribution
18	than:	population is:	amount is:
19 \$ 0	\$100,000,000	under 4,000	[\$250,000] <u>\$325,000</u>
20 \$ 0	\$100,000,000	at least 4,000	[\$225,000] <u>\$250,000</u>
21 \$100,000,000	\$230,000,000	under 12,000	[\$150,000] <u>\$175,000</u>
22 \$100,000,000	\$230,000,000	at least 12,000	[\$100,000] <u>\$125,000</u>
23 \$230,000,000	\$1,400,000,000	under 48,000	[\$ 50,000] <u>\$ 75,000.</u>

24 E. If the balance in the small counties assistance
25 fund as of the preceding August 31 exceeds the sum of the

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1 distributions to be made to qualifying counties pursuant to the
2 provisions of Subsection D of this section, the department of
3 finance and administration shall increase the distribution
4 amount for each county receiving a distribution amount pursuant
5 to the provisions of Subsection D of this section by:

6 (1) thirty-five thousand dollars (\$35,000) if
7 the county has imposed and has in effect on July 1 of the year
8 in which the distribution is to be made a county correctional
9 facility gross receipts tax at a rate of at least one-eighth
10 percent;

11 (2) fifteen thousand dollars (\$15,000) if the
12 county has imposed and has in effect on July 1 of the year in
13 which the distribution is to be made a county gross receipts
14 tax increment of one-sixteenth percent; or

15 (3) fifty thousand dollars (\$50,000) if the
16 county has met the requirements of Paragraphs (1) and (2) of
17 this subsection.

18 F. If the balance in the small counties assistance
19 fund as of the preceding August 31 is less than the sum of the
20 distributions determined pursuant to Subsection D of this
21 section plus the distribution increases authorized pursuant to
22 Subsection E of this section, the distribution increases
23 pursuant to Subsection E of this section shall be
24 proportionately reduced.

25 ~~[E.]~~ G. If the balance in the small counties

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1 assistance fund as of the preceding August 31 is less than the
2 sum of the distributions to be made to qualifying counties, the
3 department of finance and administration shall reduce each
4 qualifying county's calculated distribution by a percentage
5 computed by dividing the amount by which the fund is
6 insufficient by the sum of all the calculated distributions and
7 shall certify the reduced amounts as the qualifying counties'
8 distributions.

9 [F-] H. Any interest accruing from the temporary
10 investment of the small counties assistance fund shall be
11 credited to the general fund.

12 [G-] I. On or before September 30, 2003 and on or
13 before September 30 of each subsequent year, the state
14 treasurer shall distribute to each county for whom a
15 distribution has been certified for that year the amount
16 certified for that county for that year. If the balance in the
17 fund as of the preceding August 31 exceeds the ~~[amount to be]~~
18 sum of certified amounts distributed, the difference shall
19 revert to the general fund.

20 [H-] J. If any date specified in Subsections B, C
21 or [G] I of this section falls on a Saturday, ~~[or]~~ Sunday or
22 legal holiday, any action required to be performed as provided
23 in those subsections is timely if performed on the next day
24 that is not a Saturday ~~[or]~~, Sunday or legal holiday."

25