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HOUSE BILL 218

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

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO COUNTIES; AMENDING THE SMALL COUNTIES ASSISTANCE ACT; ADJUSTING A DEFINITION USED IN CALCULATING THE AMOUNTS DISTRIBUTED TO QUALIFYING COUNTIES; DIRECTING THAT THE FIRST USE OF DISTRIBUTIONS SHALL BE FOR COMPLIANCE WITH THE AUDIT ACT.

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~~  
2 ~~to the year in which the distribution is to be made~~] calendar  
3 year 2004; provided that, if the inflation factor is calculated  
4 to have a value less than one, it shall be deemed to have a  
5 value of one;

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

18 F. "qualifying county" means a 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 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  
17 increments in effect on July 1 of the year in which a  
18 distribution is made, provided that this paragraph does not  
19 apply to a county if the county's valuation for property  
20 taxation purposes does not exceed the product of two hundred  
21 thirty million dollars (\$230,000,000) multiplied by the  
22 adjustment 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 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--  
14 DISTRIBUTION.--

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

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

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

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- 1 (1) its population as certified by the
- 2 demographer;
- 3 (2) its total valuation for the preceding
- 4 property tax year; and
- 5 (3) the distribution amount calculated for it.

6 D. The distribution amount for each qualifying  
 7 county shall be determined for 2003 and each subsequent year in  
 8 accordance with the following table; provided that the bracket  
 9 amounts in the first two columns of the table shall be adjusted  
 10 annually after 2003 by the adjustment factor. The bracket  
 11 amounts in the last column shall be adjusted annually after  
 12 2005 by the inflation factor. The department of finance and  
 13 administration may round the results of the adjustments made  
 14 pursuant to this subsection to the nearest one thousand dollars  
 15 (\$1,000).

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

18	at least:	but less	and the county	then the distribution
19		than:	population is:	amount is:
20	\$ 0	\$100,000,000	under 1,000	\$450,000
21	\$ 0	\$100,000,000	at least 1,000	
22			but under 4,000	
23				\$325,000
24	\$ 0	\$100,000,000	at least 4,000	\$250,000
25	\$100,000,000	\$230,000,000	under 12,000	\$175,000

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1     \$100,000,000     \$230,000,000     at least     12,000     \$125,000  
2     \$230,000,000     \$1,400,000,000     under     48,000     \$ 75,000.

3             E. If the balance in the small counties assistance  
4 fund as of the preceding August 31 exceeds the sum of the  
5 distributions to be made to qualifying counties pursuant to the  
6 provisions of Subsection D of this section, the department of  
7 finance and administration shall increase the distribution  
8 amount for each county receiving a distribution amount pursuant  
9 to the provisions of Subsection D of this section by:

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

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

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

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

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

12 H. Any interest accruing from the temporary  
13 investment of the small counties assistance fund shall be  
14 credited to the general fund.

15 I. On or before September 30, 2003 and on or before  
16 September 30 of each subsequent year, the state treasurer shall  
17 distribute to each county for whom a distribution has been  
18 certified for that year the amount certified for that county  
19 for that year; provided that the first use of the distribution  
20 by the county shall be to comply with all requirements of the  
21 Audit Act in a timely manner. If the balance in the fund as of  
22 the preceding August 31 exceeds the sum of certified amounts  
23 distributed, the difference shall revert to the general fund.

24 J. If any date specified in Subsection B, C or I of  
25 this section falls on a Saturday, Sunday or legal holiday, any

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1 action required to be performed as provided in those  
2 subsections is timely if performed on the next day that is not  
3 a Saturday, Sunday or legal holiday."

4 Section 3. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2008.

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