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HOUSE BILL 308

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TRANSPORTATION; AUTHORIZING THE DEPARTMENT OF  
TRANSPORTATION TO UTILIZE MONEY IN THE LOCAL GOVERNMENTS ROAD  
FUND FOR A FINANCIAL HARDSHIP MATCH REQUIREMENT IN CERTAIN  
CIRCUMSTANCES.

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

Section 1. Section 67-3-28.2 NMSA 1978 (being Laws 1986,  
Chapter 20, Section 125, as amended) is amended to read:

"67-3-28.2. LOCAL GOVERNMENTS ROAD FUND CREATED--USES.--

A. There is created in the state treasury the  
"local governments road fund" to be administered by the  
department. All income received from investment of the fund  
shall be credited to the fund. No money in the fund shall be  
used by the department to administer any program, and except as  
provided in Subsection E of this section, no entity receiving a

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1 distribution pursuant to a program requiring matching funds  
2 shall use another distribution made pursuant to this section to  
3 meet the match required.

4 B. No more than five hundred thousand dollars  
5 (\$500,000) annually from the local governments road fund shall  
6 be used by the department to purchase at fair market value, for  
7 municipalities and counties that can demonstrate financial  
8 hardship as determined by the department, automotive, major  
9 road and miscellaneous equipment that would otherwise be sold  
10 at auction by the department as unusable for department  
11 purposes. The department shall adopt rules setting the  
12 procedure to carry out the purposes of this subsection.

13 C. Except for the amount in Subsection B of this  
14 section, money in the local governments road fund shall be  
15 distributed in the following amounts for the specified  
16 purposes:

17 (1) forty-two percent for the cooperative  
18 agreements program, to be used solely for the cooperative  
19 agreements entered into pursuant to Section 67-3-28 NMSA 1978  
20 and in accordance with the match authorized pursuant to Section  
21 67-3-32 NMSA 1978; provided, however, that distribution amounts  
22 made pursuant to this paragraph in each year shall be based on  
23 the following allocations:

24 (a) thirty-three percent for agreements  
25 entered into with counties;

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1 (b) forty-nine percent for agreements  
2 entered into with municipalities;

3 (c) fourteen percent for agreements  
4 entered into with school districts; and

5 (d) four percent for agreements entered  
6 into with other entities;

7 (2) sixteen percent for the municipal arterial  
8 program, to be used solely for the necessary project  
9 development, construction, reconstruction, improvement,  
10 maintenance, repair and right-of-way and material acquisition  
11 of and for those streets that are principal extensions of rural  
12 state highways and of other streets not on the state highway  
13 system but that qualify under the designated criteria  
14 established by the department. In entering into agreements  
15 with municipalities to provide funds for any project qualifying  
16 for the municipal arterial program, the department shall give  
17 preference to municipalities that contribute an amount equal to  
18 at least twenty-five percent of the project cost, including a  
19 contribution made through funding received pursuant to  
20 Subsection E of this section;

21 (3) sixteen percent for school bus routes, to  
22 be used solely for cooperative agreements entered into pursuant  
23 to Section 67-3-28 NMSA 1978 and in accordance with the match  
24 authorized pursuant to Section 67-3-32 NMSA 1978 for acquiring  
25 rights of way and constructing, maintaining, repairing,

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1 improving and paving school bus routes and public school  
2 parking lots; and

3 (4) twenty-six percent for the county arterial  
4 program, to be used for project development, construction,  
5 reconstruction, improvement, maintenance, repair and right-of-  
6 way and material acquisition of and for county roads for which  
7 individual counties have prioritized road projects. Prior to  
8 entering into any agreements for projects with the counties for  
9 the following fiscal year, in June of each year the department  
10 shall determine and certify the amount to which each county is  
11 entitled pursuant to the following schedule:

12 Road Mileage Category Based on  
13 Number of Miles Maintained

14 By a County:	Entitlement to County:
15 400 miles or under	\$250 for each mile
16 401 to 800 miles	\$100,000 plus \$200 for each 17 mile over 400 miles
18 801 to 1,200 miles	\$180,000 plus \$150 for each 19 mile over 800 miles
20 1,201 to 1,600 miles	\$240,000 plus \$100 for each 21 mile over 1,200 miles
22 Over 1,600 miles	\$300,000 plus \$50 for each 23 mile over 1,600 miles.

24 If in any year there is an insufficient amount in the fund  
25 of the county arterial program to certify the total amount to

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1 which all counties are entitled, the department shall decrease  
2 the entitlement amount due to each county in the same  
3 proportion as the insufficiency is to the total entitlements to  
4 all counties. Distribution of an entitlement amount and an  
5 agreement entered into with a county for any of the purposes  
6 for which the money may be spent requires an amount from the  
7 county equal to at least twenty-five percent of the  
8 entitlement. The county contribution may be made through funds  
9 received pursuant to Subsection E of this section. Any  
10 uncommitted or unencumbered balance remaining in the county  
11 arterial program fund at the end of a fiscal year shall be  
12 transferred to the cooperative [~~agreement~~] agreements program  
13 specified in Paragraph (1) of this subsection for additional  
14 funding of that program in the next fiscal year.

15 D. The department may transfer funds from the state  
16 road fund to the local governments road fund to facilitate cash  
17 flow for the funding of these local governments road projects.  
18 The administrator of the local governments road fund shall  
19 reimburse the state road fund in a timely manner for any such  
20 transfers.

21 E. The department may distribute money in the local  
22 governments road fund to municipalities and counties that can  
23 demonstrate financial hardship, for use as all or a portion of  
24 the municipality's or county's matching fund requirements  
25 pursuant to this section. In order to qualify for matching

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1 funds under this subsection, a county or municipality shall  
2 provide the department with a financial hardship qualification  
3 certificate issued by the department of finance and  
4 administration."

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