

AN ACT

RELATING TO TAXATION; ADJUSTING DISTRIBUTIONS AND AMOUNTS IN REGARD TO THE SMALL CITIES ASSISTANCE FUND AND THE SMALL COUNTIES ASSISTANCE FUND; CLARIFYING A GROSS RECEIPTS DEDUCTION FOR CONSTRUCTION-RELATED EXPENDITURES; ENACTING A DEDUCTION FROM GROSS RECEIPTS FOR THE LEASE OF CONSTRUCTION EQUIPMENT; EXPANDING A GROSS RECEIPTS DEDUCTION FOR MANUFACTURING CONSUMABLES.

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

SECTION 1. Section 3-37A-2 NMSA 1978 (being Laws 1979, Chapter 284, Section 2, as amended) is amended to read:

"3-37A-2. DEFINITIONS.--As used in the Small Cities Assistance Act:

A. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, and incorporated counties and H-class counties;

B. "municipal share" means one and thirty-five one-hundredths percent of the taxable gross receipts as defined in the Gross Receipts and Compensating Tax Act reported annually for each municipality to the taxation and revenue department during a twelve-month period ending June 30;

C. "total municipal share" means the sum of all

municipal shares;

D. "statewide per capita average" means the quotient of the total municipal share divided by the total population in all municipalities;

E. "municipal per capita average" means the quotient of the municipal share divided by the municipality's population;

F. "population" means the most recent official census or estimate determined by the bureau of the census, or, if neither is available, "population" means an estimate as determined by the local government division of the department of finance and administration;

G. "local tax effort" means the amount produced by a one-fourth of one percent municipal gross receipts tax in the previous fiscal year;

H. "qualifying municipality" means a municipality with a population of less than ten thousand that has enacted on or before the last day of the preceding fiscal year an ordinance or ordinances imposing a municipal gross receipts tax pursuant to Section 7-19D-9 NMSA 1978 at a rate of one-fourth of one percent or more;

I. "enacted" means adopted by a majority of the members of the governing body of the municipality pursuant to Section 7-19D-9 NMSA 1978 and:

(1) for which no election has been called in

the manner and within the time provided by Section 7-19D-9 NMSA 1978; or

(2) that has been approved by a majority of the registered voters voting on the question pursuant to Section 7-19D-9 NMSA 1978; and

J. "minimum amount" means an amount equal to ninety thousand dollars (\$90,000)."

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

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

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

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

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

(1) its population as certified by the demographer;

(2) its total valuation for the preceding

property tax year; and

(3) the distribution amount calculated for it.

D. The distribution amount for each qualifying county shall be determined for 2003 and each subsequent year in accordance with the following table; provided that the bracket amounts in the first two columns of the table shall be adjusted annually after 2003 by the adjustment factor. The bracket amounts in the last column shall be adjusted annually after 2005 by the inflation factor and, in 2011 and subsequent years, shall be adjusted by the tax rate factor. The department of finance and administration may round the results of the adjustments made pursuant to this subsection to the nearest one thousand dollars (\$1,000).

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

at least:	but less than:	and the county population is:	then the distribution amount is:
\$ 0	\$100,000,000	under 1,000	\$515,000
\$ 0	\$100,000,000	at least 1,000	
		but under 4,000	\$370,000
\$ 0	\$100,000,000	at least 4,000	\$285,000
\$100,000,000	\$230,000,000	under 12,000	\$200,000

\$100,000,000 \$230,000,000 at least 12,000 \$145,000

\$230,000,000 \$1,400,000,000 under 48,000 \$85,000.

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

(1) fifty thousand dollars (\$50,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county correctional facility gross receipts tax at a rate of at least one-eighth percent;

(2) twenty thousand dollars (\$20,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county gross receipts tax increment of one-sixteenth percent; or

(3) seventy thousand dollars (\$70,000) if the county has met the requirements of Paragraphs (1) and (2) of this subsection.

F. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions determined pursuant to Subsection D of this

section plus the distribution increases authorized pursuant to Subsection E of this section, the distribution increases pursuant to Subsection E of this section shall be proportionately reduced.

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

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

I. On or before September 30, 2003 and on or before September 30 of each subsequent year, the state treasurer shall distribute to each county for whom a distribution has been certified for that year the amount certified for that county for that year. If the balance in the fund as of the preceding August 31 exceeds the sum of certified amounts distributed, the difference shall revert to the general fund.

J. If any date specified in Subsection B, C or I

of this section falls on a Saturday, Sunday or legal holiday, any action required to be performed as provided in those subsections is timely if performed on the next day that is not a Saturday, Sunday or legal holiday."

**SECTION 3.** Section 7-1-6.2 NMSA 1978 (being Laws 1983, Chapter 211, Section 7, as amended) is amended to read:

"7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the small cities assistance fund in an amount equal to fifteen percent of the net receipts attributable to the compensating tax."

**SECTION 4.** Section 7-9-46 NMSA 1978 (being Laws 1969, Chapter 144, Section 36, as amended) is amended to read:

"7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS--SALES TO MANUFACTURERS.--

A. Receipts from selling tangible personal property may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling tangible personal

property that is used in such a way that it is consumed in the manufacturing process of a product, provided that the tangible personal property is not a tool or equipment used to create the manufactured product, to a person engaged in the business of manufacturing that product and who delivers a nontaxable transaction certificate to the seller may be deducted in the following percentages from gross receipts or from governmental gross receipts:

(1) twenty percent of receipts received prior to January 1, 2014;

(2) forty percent of receipts received in calendar year 2014;

(3) sixty percent of receipts received in calendar year 2015;

(4) eighty percent of receipts received in calendar year 2016; and

(5) one hundred percent of receipts received on or after January 1, 2017.

C. The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

D. The department shall annually report to the



revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

E. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately for each deduction provided in this section and attribute the amount of the deduction to the appropriate authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature of the benefit to the state of these deductions."

**SECTION 5.** Section 7-9-52 NMSA 1978 (being Laws 1969, Chapter 144, Section 42, as amended by Laws 2000, Chapter 84, Section 4 and also by Laws 2000, Chapter 98, Section 2) is amended to read:

"7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling a construction service or a construction-related service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service

or a construction-related service.

B. The buyer delivering the nontaxable transaction certificate shall have the construction services or construction-related services directly contracted for or billed to:

(1) a construction project that is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

C. As used in this section, "construction-related service" means a service directly contracted for or billed to a specific construction project, including design, architecture, drafting, surveying, engineering, environmental and structural testing, security, sanitation and services required to comply with governmental construction-related regulations; but "construction-related service" excludes general business services such as legal or accounting services, equipment maintenance and real estate sales commissions."

**SECTION 6.** A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--LEASE OF CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from leasing construction equipment may be deducted from gross receipts if the construction equipment is leased to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person leasing the construction equipment.

B. The lessee delivering the nontaxable transaction certificate shall only use the construction equipment at the construction location of:

(1) a construction project that is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

C. As used in this section, "construction equipment" means equipment used on a construction project, including trash containers, portable toilets, scaffolding and

temporary fencing."

**SECTION 7. APPLICABILITY.**--The distribution pursuant to Section 3 of this act applies to receipts from compensating taxes that are attributable to sales on or after January 1, 2013.

**SECTION 8. EFFECTIVE DATE.**--

A. The effective date of the provisions of Sections 3 through 6 of this act is January 1, 2013.

B. The effective date of the provisions of Section 2 of this act is July 1, 2013.

C. The effective date of the provisions of Section 1 of this act is January 1, 2014.