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SENATE BILL 38

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Patrick H. Lyons

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO MUNICIPALITIES; REVISING THE DISTRIBUTION FORMULA  
IN THE SMALL CITIES ASSISTANCE ACT; MAKING AN APPROPRIATION.

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

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

"3-37A-1. SHORT TITLE. -- [~~Sections 1 through 3 of this  
act]~~ Chapter 3, Article 37A NMSA 1978 may be cited as the  
"Small Cities Assistance Act". "

Section 2. 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 [~~any~~] an incorporated  
city, town or village, whether incorporated under general act,

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1 special act or special charter, and incorporated counties and  
2 H-class counties;

3 B. "municipal share" means one and thirty-five  
4 one-hundredths percent of the taxable gross receipts as  
5 defined in the Gross Receipts and Compensating Tax Act  
6 reported annually for each municipality to the taxation and  
7 revenue department during a twelve-month period ending June  
8 30;

9 C. "total municipal share" means the sum of all  
10 municipal shares;

11 D. "statewide per capita average" means the  
12 quotient of the total municipal share divided by the total  
13 [~~statewide-municipal~~] population in all municipalities;

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

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

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

25 H. "qualifying municipality" means a municipality

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1 with a population of less than ten thousand that has enacted  
2 on or before the last day of the preceding fiscal year an  
3 ordinance or ordinances imposing a municipal gross receipts  
4 tax pursuant to Section 7-19D-9 NMSA 1978 at a rate of one-  
5 fourth of one percent or more; ~~and~~

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

9 (1) for which no election has been called in  
10 the manner and within the time provided by Section 7-19D-9  
11 NMSA 1978; or

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

15 J. "minimum amount" means an amount equal to  
16 thirty-five thousand dollars (\$35,000); and

17 K. "distribution share" means the amount equal to  
18 the product of the qualifying municipality's population  
19 multiplied by the difference between the statewide per capita  
20 average and the municipal per capita average less the local  
21 tax effort of the qualifying municipality. "

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

24 "3-37A-3. SMALL CITIES ASSISTANCE FUND--DISTRIBUTION.--

25 A. The "small cities assistance fund" is created

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1 within the state treasury.

2 B. On or before January 31 of each year, the local  
3 government division of the department of finance and  
4 administration shall certify to the taxation and revenue  
5 department the population of each municipality in the state.

6 C. On or before June 10 of each year, the taxation  
7 and revenue department shall compute the [~~distribution share~~  
8 ~~of~~] amount to be distributed to each qualifying municipality  
9 as follows: [~~The distribution share shall be an amount equal~~  
10 ~~to the product of the qualifying municipality's population~~  
11 ~~multiplied by the difference between the statewide per capita~~  
12 ~~average and the municipal per capita average less the local~~  
13 ~~tax effort of the qualifying municipality; provided that the~~  
14 ~~distribution share shall not exceed fifty thousand dollars~~  
15 ~~(\$50,000) if the qualifying municipality has a population of~~  
16 ~~five thousand or less and thirty-five thousand dollars~~  
17 ~~(\$35,000) if the qualifying municipality has a population of~~  
18 ~~more than five thousand but less than ten thousand; and~~  
19 ~~provided that for any municipality with a population of less~~  
20 ~~than ten thousand which does not qualify for a distribution or~~  
21 ~~which qualifies for a distribution of less than the minimum~~  
22 ~~amount, the distribution share shall be the minimum amount;~~  
23 ~~and provided further that if the balance in the small cities~~  
24 ~~assistance fund on the preceding May 30 is less than the sum~~  
25 ~~of the distribution shares calculated pursuant to Subsection C~~

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1 ~~of this section, the taxation and revenue department shall~~  
2 ~~reduce the distribution share of each municipality whose~~  
3 ~~distribution share is in excess of the minimum amount in an~~  
4 ~~amount calculated according to the following formula:~~

5 ~~municipal distribution share in~~  
6 ~~excess of the minimum amount \_\_\_\_\_ X deficiency in fund~~  
7 ~~sum of municipal distribution shares~~  
8 ~~in excess of the minimum amount~~

9 ~~so long as no municipality's distribution share is reduced~~  
10 ~~below the minimum amount, and until each municipality's~~  
11 ~~distribution share is reduced to the minimum amount, if~~  
12 ~~necessary; and provided further that if the sum of the~~  
13 ~~distribution shares when each share is reduced to the minimum~~  
14 ~~amount is still in excess of the balance in the small cities~~  
15 ~~assistance fund on the preceding May 30, the taxation and~~  
16 ~~revenue department shall reduce each municipality's minimum~~  
17 ~~amount distribution share by a percentage equal to a~~  
18 ~~percentage computed by dividing the amount by which the fund~~  
19 ~~is insufficient by the sum of all the distribution shares.~~  
20 ~~The taxation and revenue department shall certify the amount~~  
21 ~~of the distribution shares to the state treasurer.]~~

22 (1) the department first shall compute a  
23 distribution share for each qualifying municipality;

24 (2) the balance in the small cities  
25 assistance fund on the preceding May 31 shall be divided by

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1 the number of qualifying municipalities. The quotient shall  
2 be rounded down to the nearest dollar and shall constitute the  
3 "target amount";

4 (3) if the target amount determined in  
5 Paragraph (2) of this subsection is less than or equal to the  
6 minimum amount, each qualifying municipality shall be  
7 distributed an amount equal to the target amount;

8 (4) if the target amount exceeds the minimum  
9 amount, the amount to be distributed to all qualifying  
10 municipalities whose distribution share is less than or equal  
11 to the minimum amount shall be an amount equal to the minimum  
12 amount. The balance in the small cities assistance fund shall  
13 be reduced by the amount necessary to provide a distribution  
14 of the minimum amount to such municipalities;

15 (5) the target amount shall be increased by  
16 dividing the amount remaining in the fund by the number of  
17 remaining qualifying municipalities. The amount to be  
18 distributed to each remaining qualifying municipality shall be  
19 an amount equal to the lesser of its distribution share or the  
20 increased target amount. If the distribution share of one or  
21 more of the remaining qualifying municipalities is less than  
22 the increased target amount, the balance of the fund shall be  
23 further reduced by the amount necessary to provide for the  
24 distribution to those municipalities of their distribution  
25 shares; and

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1                   (6) the target amount shall be increased  
2 again by dividing the recomputed fund balance by the number of  
3 still remaining qualifying municipalities not yet provided  
4 for, and successive iterations of the process to increase the  
5 target amount shall occur until no remaining municipality's  
6 distribution share is less than the increased target amount.

7                   D. The state treasurer shall distribute from the  
8 small cities assistance fund on or before June 15 of each year  
9 to each qualifying municipality the amount certified by the  
10 taxation and revenue department for each qualifying  
11 municipality for the period ending May ~~[30]~~ 31 of the  
12 preceding year.

13                   ~~[E. Immediately after distribution to~~  
14 ~~municipalities from the small cities assistance fund but no~~  
15 ~~later than June 30 of each year, the unexpended or~~  
16 ~~unencumbered balance in the small cities assistance fund~~  
17 ~~remaining after the distribution to the qualifying~~  
18 ~~municipalities shall revert to the general fund.~~

19                   ~~F.]~~ E. Funds distributed ~~[under]~~ in accordance  
20 with this section shall be placed in the general fund of the  
21 qualifying municipalities receiving distributions.

22                   ~~[G. As used in this section, "minimum amount"~~  
23 ~~means:-~~

24                   ~~(1) for a municipality with a population of~~  
25 ~~five thousand or less, thirty thousand dollars (\$30,000); and~~

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~~(2) for a municipality with a population of more than five thousand but less than ten thousand, twenty-five thousand dollars (\$25,000). ]"~~