

1 SENATE BILL 575

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO GEOSPATIAL AND POPULATION STUDIES; AMENDING
12 SECTIONS OF THE SMALL CITIES ASSISTANCE ACT, THE SMALL COUNTIES
13 ASSISTANCE ACT AND THE TAX ADMINISTRATION ACT TO MAKE CHANGES
14 TO HOW POPULATION IS ESTIMATED.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "3-37A-2. DEFINITIONS.--As used in the Small Cities
20 Assistance Act:

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

25 B. "municipal share" means one and thirty-five one-

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1 hundredths percent of the taxable gross receipts as defined in
2 the Gross Receipts and Compensating Tax Act reported annually
3 for each municipality to the taxation and revenue department
4 during a twelve-month period ending June 30;

5 C. "total municipal share" means the sum of all
6 municipal shares;

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

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

13 F. "population" means:

14 (1) the most recent official census or
15 estimate determined by the United States census bureau [~~of the~~
16 ~~census~~] in years in which a census is taken, and the most
17 current estimate prepared by the geospatial and population
18 studies at the university of New Mexico in other years; or

19 (2) if neither the census nor the estimate
20 provided pursuant to Paragraph (1) of this subsection is
21 available, "population" means an estimate as determined by the
22 local government division of the department of finance and
23 administration;

24 G. "local tax effort" means the amount produced by
25 a one-fourth of one percent municipal gross receipts tax in the

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1 previous fiscal year;

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

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

11 (1) for which no election has been called in
12 the manner and within the time provided by Section 7-19D-9 NMSA
13 1978; or

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

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

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

21 "3-37A-3. SMALL CITIES ASSISTANCE FUND--DISTRIBUTION.--

22 A. The "small cities assistance fund" is created
23 within the state treasury.

24 B. On or before January 31, 2004 and on or before
25 January 31 of each subsequent year, the [~~bureau of business and~~
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1 ~~economic research located~~] geospatial and population studies at
2 the university of New Mexico shall certify to the taxation and
3 revenue department the population of each municipality in the
4 state in the most current administrative boundaries.

5 C. On or before the last day of February of 2004
6 and of each subsequent year, the taxation and revenue
7 department shall compute the amount to be distributed to each
8 qualifying municipality as follows:

9 (1) the department first shall compute a
10 distribution share for each qualifying municipality. The
11 distribution share shall be an amount equal to the product of
12 the qualifying municipality's population multiplied by the
13 difference between the statewide per capita average and the
14 municipal per capita average less the local tax effort of the
15 qualifying municipality;

16 (2) in 2004 and subsequent years, the balance
17 in the small cities assistance fund in February immediately
18 after the distribution to the fund pursuant to Section 7-1-6.2
19 NMSA 1978 for the preceding January will be divided by the
20 number of qualifying municipalities. The quotient will be
21 rounded down to the nearest dollar and may be cited as the
22 "target amount";

23 (3) if the target amount determined in
24 Paragraph (2) of this subsection is less than or equal to the
25 minimum amount, the target amount is the amount to be

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1 distributed to each qualifying municipality; and

2 (4) if the target amount exceeds the minimum
3 amount, the amount to be distributed to all qualifying
4 municipalities whose distribution share equals or is less than
5 the minimum amount shall equal the minimum amount. The sum to
6 be distributed to such municipalities shall be subtracted from
7 the amount in the fund. The target amount then shall be
8 increased by dividing the balance remaining in the fund by the
9 number of remaining qualifying municipalities. The amount to
10 be distributed to each remaining qualifying municipality shall
11 equal the lesser of the municipality's distribution share or
12 the increased target amount. If the distribution share of one
13 or more of these remaining qualifying municipalities is less
14 than the increased target amount, the balance of the fund is to
15 be further reduced by the amount necessary to provide for a
16 distribution to those municipalities of their distribution
17 shares. The target amount is to be increased again by dividing
18 the recomputed fund balance by the number of qualifying
19 municipalities not yet provided for. Successive iterations of
20 the process to increase the target amount shall occur until no
21 remaining municipality's distribution share is less than the
22 increased target amount.

23 D. The state treasurer shall distribute from the
24 small cities assistance fund on or before March 1, 2004 and
25 March 1 of each subsequent year to each qualifying municipality

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1 the amount certified by the taxation and revenue department for
2 each qualifying municipality for the year.

3 E. Funds distributed in accordance with this
4 section shall be placed in the general fund of the qualifying
5 municipalities receiving distributions."

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

8 "4-61-2. DEFINITIONS.--As used in the Small Counties
9 Assistance Act:

10 A. "adjustment factor" means a fraction, the
11 numerator of which is the net taxable value of the state for
12 the property tax year prior to the year in which the amount of
13 small counties assistance is being determined and the
14 denominator of which is the net taxable value for property tax
15 year 2002; the adjustment factor shall be calculated without
16 reference to assessed value determined pursuant to the Oil and
17 Gas Ad Valorem Production Tax Act, assessed value determined
18 pursuant to the Oil and Gas Production Equipment Ad Valorem Tax
19 Act or taxable value determined pursuant to the Copper
20 Production Ad Valorem Tax Act;

21 B. "ceiling valuation" means:

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

24 (2) for each subsequent property tax year, an
25 amount equal to the product obtained by multiplying one billion

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1 four hundred million dollars (\$1,400,000,000) by the adjustment
2 factor for the year;

3 C. "demographer" means the ~~[bureau of business and~~
4 ~~economic research]~~ geospatial and population studies at the
5 university of New Mexico;

6 D. "inflation factor" means a fraction whose
7 numerator is the annual implicit price deflator index for state
8 and local government purchases of goods and services, as
9 published in the United States department of commerce monthly
10 publication entitled "Survey of Current Business" or any
11 successor publication prepared by an agency of the United
12 States and adopted by the department of finance and
13 administration, for the calendar year one year prior to the
14 year in which the distribution is to be made and whose
15 denominator is the annual index for calendar year 2004;
16 provided that, if the inflation factor is calculated to have a
17 value less than one, it shall be deemed to have a value of one;

18 E. "population" means the official population shown
19 by the most recent federal decennial census or, if there is a
20 change in boundaries after the date of the census, "population"
21 for each affected unit shall be the most current estimated
22 population for that unit provided in writing by the
23 demographer; provided that after five years from the first day
24 of the calendar year of the most recent federal decennial
25 census, that census shall not be used, and "population" for the

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1 period from that date until the date when the next following
2 official final decennial census population data are available
3 shall be the most current estimated population provided in
4 writing by the demographer;

5 F. "qualifying county" means a county that has:

6 (1) for the property tax year in which any
7 distribution under the Small Counties Assistance Act is made to
8 the county, imposed a property tax rate for general county
9 purposes pursuant to Paragraph (1) of Subsection B of Section
10 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at
11 least eight dollars eighty-five cents (\$8.85) per one thousand
12 dollars (\$1,000) of net taxable value;

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

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

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

10 (5) a total valuation for the property tax
11 year preceding the year in which a distribution pursuant to the
12 Small Counties Assistance Act for that county is to be made
13 that is no greater than the ceiling valuation for that property
14 tax year;

15 G. "tax rate factor" means a fraction, the
16 numerator of which is the average rate imposed in Section 7-9-7
17 NMSA 1978 for the fiscal year one year prior to the fiscal year
18 in which the distribution is to be made and the denominator of
19 which is five percent; and

20 H. "total valuation" means the sum for a
21 jurisdiction for a property tax year of the net taxable value
22 determined pursuant to the Property Tax Code, the assessed
23 value determined pursuant to the Oil and Gas Ad Valorem
24 Production Tax Act, the assessed value determined pursuant to
25 the Oil and Gas Production Equipment Ad Valorem Tax Act and the

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1 taxable value determined pursuant to the Copper Production Ad
2 Valorem Tax Act."

3 SECTION 4. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
4 Chapter 213, Section 27, as amended) is amended to read:

5 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

6 A. Beginning on September 15, 1989 and on September
7 15 of each year thereafter, the department shall distribute to
8 any county that has imposed or continued in effect during the
9 state's preceding fiscal year a county gross receipts tax
10 pursuant to Section 7-20E-9 NMSA 1978 an amount equal to:

11 (1) the product of a fraction, the numerator
12 of which is the county's population and the denominator of
13 which is the state's population, multiplied by the annual sum
14 for the county; less

15 (2) the net receipts received by the
16 department during the report year, including any increase or
17 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
18 attributable to the county gross receipts tax at a rate of one-
19 eighth percent; provided that for any month in the report year,
20 if no county gross receipts tax was in effect in the county in
21 the previous month, the net receipts, for the purposes of this
22 section, for that county for that month shall be zero.

23 B. If the amount determined by the calculation in
24 Subsection A of this section is zero or a negative number for a
25 county, no distribution shall be made to that county.

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1 C. As used in this section:

2 (1) "annual sum" means for each county the sum
3 of the monthly amounts for those months in the report year that
4 follow a month in which the county had in effect a county gross
5 receipts tax;

6 (2) "monthly amount" means an amount equal to
7 the product of:

8 (a) the net receipts received by the
9 department in the month attributable to the state gross
10 receipts tax plus five percent of the total amount of
11 deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the
12 month plus five percent of the total amount of deductions
13 claimed pursuant to Section 7-9-93 NMSA 1978 for the month; and

14 (b) a fraction, the numerator of which
15 is one-eighth percent and the denominator of which is the tax
16 rate imposed by Section 7-9-4 NMSA 1978 in effect on the last
17 day of the previous month;

18 (3) "population" means the most recent
19 official census or estimate determined by the United States
20 census bureau for the unit or, if neither is available, the
21 most current estimated population for the unit provided in
22 writing by the [~~bureau of business and economic research~~]
23 geospatial and population studies at the university of New
24 Mexico; and

25 (4) "report year" means the twelve-month

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1 period ending on the July 31 immediately preceding the date
2 upon which a distribution pursuant to this section is required
3 to be made."

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