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SENATE BILL 118

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO TAXATION; CREATING AN OPTIONAL DESIGNATION FOR A  
PERSONAL INCOME TAX CONTRIBUTION TO SUPPORT THE STATE  
EQUALIZATION GUARANTEE DISTRIBUTION; CREATING THE SCHOOL  
PROGRAM ENHANCEMENT FUND; PROVIDING FOR A DISTRIBUTION; MAKING  
AN APPROPRIATION.

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

SECTION 1. A new section of the Tax Administration Act is  
enacted to read:

"[NEW MATERIAL] DISTRIBUTION--SCHOOL PROGRAM ENHANCEMENT  
FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978  
shall be made to the school program enhancement fund of all  
amounts designated pursuant to Section 2 of this 2011 act as  
contributions to the school program enhancement fund."

SECTION 2. A new section of the Income Tax Act is enacted

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1 to read:

2 "[NEW MATERIAL] OPTIONAL DESIGNATION OF TAX REFUND  
3 CONTRIBUTION--SCHOOL PROGRAM ENHANCEMENT FUND.--

4 A. Except as otherwise provided in Subsection C of  
5 this section, any individual whose state income tax liability  
6 after application of allowable credits and tax rebates in any  
7 year is lower than the amount of money held by the department  
8 to the credit of that individual for that tax year may  
9 designate any portion of the income tax refund due to the  
10 individual to be paid to the school program enhancement fund.  
11 In the case of a joint return, both individuals shall make such  
12 a designation.

13 B. The department shall revise the state income tax  
14 form to allow the designation of contributions in the following  
15 form:

16 "School Program Enhancement Fund - Check [ ]  
17 if you wish to contribute a part or all of your tax refund to  
18 the school program enhancement fund to help support the  
19 operational costs of educational programs at school districts  
20 and charter schools statewide. Enter here \$ \_\_\_\_\_ the  
21 amount of your contribution."

22 C. The provisions of this section do not apply to  
23 income tax refunds subject to interception under the provisions  
24 of the Tax Refund Intercept Program Act, and any designation  
25 made under the provisions of this section to such refunds is

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1 void."

2 SECTION 3. A new section of the Public School Finance Act  
3 is enacted to read:

4 "[NEW MATERIAL] SCHOOL PROGRAM ENHANCEMENT FUND--  
5 CREATED--DISTRIBUTION.--

6 A. The "school program enhancement fund" is created  
7 in the state treasury. The fund shall consist of distributions  
8 made to the fund from receipts of the optional designation of  
9 personal income tax refunds made pursuant to Section 2 of this  
10 2011 act. Income from the fund shall be credited to the fund.  
11 Money in the fund at the end of a fiscal year shall not revert  
12 to any other fund. The department shall administer the fund,  
13 and money in the fund is appropriated to the department to  
14 distribute pursuant to Subsection B of this section.  
15 Expenditures from the fund shall be made on warrant of the  
16 secretary of finance and administration pursuant to vouchers  
17 signed by the secretary of public education.

18 B. The purpose of the fund is to supplement the  
19 state equalization guarantee distribution to each school  
20 district and charter school in proportion to the total program  
21 cost of the school district and charter school and above the  
22 amount of the state equalization guarantee distribution to  
23 which a school district and charter school are entitled. Each  
24 year, the department shall distribute to each school district  
25 and charter school an amount determined by the department on a

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1 per program cost basis, which shall be in addition to the state  
2 equalization guarantee distribution made from the public school  
3 fund and pursuant to the general appropriation act. If money  
4 in the fund is insufficient to make a significant and equitable  
5 distribution to each school district and charter school, the  
6 department shall not make a distribution for that year. The  
7 department shall determine the allocations to each school  
8 district and charter school from the school program cost  
9 support fund, subject to the limits established by law."

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