

HOUSE FLOOR SUBSTITUTE FOR
HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 672

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING CAPITAL OUTLAY, MAINTENANCE AND EDUCATIONAL
TECHNOLOGY FUNDING FOR IMPACT AID SCHOOL DISTRICTS AND CHARTER
SCHOOLS; PROVIDING A DELAYED REPEAL; MAKING AN APPROPRIATION.

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

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

"[NEW MATERIAL] BONDING CAPACITY--AUTHORIZATION FOR
SEVERANCE TAX BONDS--PRIORITY FOR IMPACT AID SCHOOL DISTRICT
AND CHARTER SCHOOL PROJECTS.--

A. By January 15 of each year, the division shall
estimate the amount of bonding capacity available for severance
tax bonds to be authorized by the legislature.

B. The division shall allocate ten percent of the

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1 estimated bonding capacity each year for capital outlay
2 projects for impact aid school districts, and the legislature
3 shall authorize the state board of finance to issue severance
4 tax bonds in the annually allocated amount for use by the
5 public school capital outlay council to fund impact aid school
6 district and charter school capital outlay projects. The
7 public school capital outlay council shall certify to the state
8 board of finance the need for issuance of bonds for impact aid
9 school district projects. The state board of finance may issue
10 and sell the bonds in the same manner as other severance tax
11 bonds in an amount not to exceed the authorized amount provided
12 for in this subsection. If necessary, the state board of
13 finance shall take the appropriate steps to comply with the
14 federal Internal Revenue Code of 1986, as amended. Proceeds
15 from the sale of the bonds are appropriated to the public
16 school facilities authority for the purposes certified by the
17 public school capital outlay council to the state board of
18 finance.

19 C. Each impact aid school district shall receive
20 its proportionate share of severance tax bonding capacity based
21 on its proportionate share of impact aid basic support payments
22 received by all school districts from June 1 of the previous
23 year to May 31 of the current year. If an impact aid school
24 district has a particularly expensive capital improvement
25 project for which the school district does not have enough

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1 bonding capacity to complete a functional phase or to complete
2 the project, it may hold its bonding capacity until there is
3 enough to issue bonds for a phase or the complete project.

4 D. An impact aid school district may use bond
5 proceeds as the required match for receiving funding from the
6 public school capital outlay council pursuant to the Public
7 School Capital Outlay Act.

8 E. Money from the severance tax bonds provided for
9 in this section shall not be used to pay indirect project
10 costs. Any unexpended balance from proceeds of severance tax
11 bonds issued for an impact aid school district project shall
12 revert to the severance tax bonding fund within six months of
13 completion of the project. The public school facilities
14 authority shall monitor and ensure proper reversions of the
15 bond proceeds appropriated for impact aid school district
16 projects.

17 F. The public school capital outlay council shall
18 take project applications from impact aid school districts and
19 shall rank the projects in order of importance based on the
20 districts' five-year facilities plans.

21 G. As used in this section:

22 (1) "division" means the board of finance
23 division of the department of finance and administration; and

24 (2) "impact aid school district" means a
25 school district that has applied for and received basic support

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1 payments from the federal government as assistance to those
2 areas affected by federal activity authorized in accordance
3 with Title 20 of the United States Code, commonly known as
4 "P.L. 874 funds" or "impact aid", for the last three years."

5 SECTION 2. A new Section 22-25-9.1 NMSA 1978 is enacted
6 to read:

7 "22-25-9.1. [NEW MATERIAL] STATE DISTRIBUTION TO IMPACT
8 AID SCHOOL DISTRICTS AND CHARTER SCHOOLS IMPOSING TAX UNDER
9 CERTAIN CIRCUMSTANCES.--

10 A. As used in this section, "impact aid school
11 district" means a school district that has applied for and
12 received basic support payments from the federal government as
13 assistance to those areas affected by federal activity
14 authorized in accordance with Title 20 of the United States
15 Code, commonly known as "P.L. 874 funds" or "impact aid" for
16 the last three years; provided that the amount of basic support
17 payments that are deducted from the school district's
18 calculated program cost pursuant to the Public School Finance
19 Act comprise at least two percent of the impact aid school
20 district's program cost.

21 B. All impact aid school districts that receive a
22 distribution pursuant to Section 22-25-9 NMSA 1978 shall also
23 receive the distribution provided for in this section.

24 C. Except as provided in Subsection E of this
25 section, the secretary shall distribute to any impact aid

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1 school district that has imposed a tax pursuant to the Public
 2 School Capital Improvements Act an amount from the public
 3 school capital improvements fund that is equal to the amount by
 4 which the revenue estimated to be received from the imposed
 5 tax, using prior year valuations, at the rate certified by the
 6 department of finance and administration in accordance with
 7 Section 22-25-7 NMSA 1978, assuming a one-hundred-percent
 8 collection rate, is less than an amount calculated by
 9 multiplying an average of the impact aid school district's
 10 prior year second and third reporting dates' total program
 11 units by the amount specified in Subsection D of this section
 12 and further multiplying the product obtained by the tax rate
 13 approved by the qualified electors in the most recent election
 14 on the question of imposing a tax under the Public School
 15 Capital Improvements Act. The distribution shall be made each
 16 year that the tax is imposed in accordance with Section 22-25-7
 17 NMSA 1978. In the event that sufficient funds are not
 18 available in the public school capital improvements fund to
 19 make the state distribution provided for in this section, the
 20 dollar per program unit figure shall be reduced as necessary.

21 D. In calculating the state distribution pursuant
 22 to Subsection C of this section, one hundred seventy-five
 23 dollars (\$175) shall be used for fiscal year 2020, and in each
 24 subsequent fiscal year that amount shall equal the amount for
 25 the previous fiscal year adjusted by the percentage increase

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1 between the next preceding calendar year and the preceding
2 calendar year of the consumer price index for the United
3 States, all items, as published by the United States department
4 of labor.

5 E. Notwithstanding the amount calculated to be
6 distributed pursuant to Subsections C and D of this section,
7 for any fiscal year an impact aid school district, the voters
8 of which have approved a tax pursuant to Section 22-25-3 NMSA
9 1978, shall not receive a distribution less than the amount
10 calculated pursuant to Subsection F of this section multiplied
11 by the average of the impact aid school district's prior year
12 second and third reporting dates' total program units and
13 further multiplying the product obtained by the approved tax
14 rate; provided that every impact aid school district shall be
15 guaranteed to receive a minimum distribution of five hundred
16 thousand dollars (\$500,000) if the calculation pursuant to
17 Subsection C of this section results in a distribution of less
18 than five hundred thousand dollars (\$500,000).

19 F. For purposes of calculating the minimum
20 distribution pursuant to Subsection E of this section, the
21 amount used in that subsection shall equal nine dollars fifty
22 cents (\$9.50) for fiscal year 2020 and in each subsequent
23 fiscal year shall equal the amount for the previous fiscal year
24 adjusted by the percentage increase between the next preceding
25 calendar year and the preceding calendar year of the consumer

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1 price index for the United States, all items, as published by
2 the United States department of labor.

3 G. In expending distributions made pursuant to this
4 section, impact aid school districts and charter schools shall
5 give priority to maintenance projects, including payments under
6 contracts with regional education cooperatives for maintenance
7 support services. In addition, distributions made pursuant to
8 this section may be expended for the impact aid school district
9 portion of payments made under a financing agreement entered
10 into by an impact aid school district or a charter school for
11 the leasing of a building or other real property with an option
12 to purchase for a price that is reduced according to payments
13 made, or if the impact aid school district has received a grant
14 for the state share of the payments pursuant to Subsection D of
15 Section 22-24-5 NMSA 1978.

16 H. A portion of each distribution made by the state
17 pursuant to this section on or after July 1, 2019 shall be
18 further distributed by the impact aid school district to each
19 locally or state-chartered charter school geographically
20 located within the impact aid school district. The amount to
21 be distributed to each charter school shall be in the same
22 proportion as the average full-time-equivalent enrollment of
23 the charter school on the second and third reporting dates of
24 the prior school year is to the total such enrollment in the
25 impact aid school district; provided that no distribution shall

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1 be made to an approved charter school that has not commenced
2 classroom instruction in the prior school year. Each year, the
3 department shall certify to the impact aid school district the
4 amount to be distributed to each charter school. Distributions
5 received by a charter school pursuant to this subsection shall
6 be expended pursuant to the provisions of the Public School
7 Capital Improvements Act, except that if capital improvements
8 for the charter school were not identified in a resolution
9 approved by the electors, the charter school may expend the
10 distribution for any capital improvements, including those
11 specified in Subsection G of this section.

12 I. In determining an impact aid school district's
13 total program units pursuant to Subsections C and E of this
14 section, program units generated by students attending a
15 locally or state-chartered charter school geographically
16 located within the school district shall be included.

17 J. In determining an impact aid school district's
18 total enrollment pursuant to Subsection H of this section,
19 students attending a locally or state-chartered charter school
20 shall be included.

21 K. In making distributions pursuant to this
22 section, the secretary shall include such reporting
23 requirements and conditions as are required by rule of the
24 public school capital outlay council. The council shall adopt
25 such requirements and conditions as are necessary to ensure

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1 that the distributions are expended in the most prudent manner
 2 possible and are consistent with the original purpose as
 3 specified in the authorizing resolution. Copies of reports or
 4 other information received by the secretary in response to the
 5 requirements and conditions shall be forwarded to the council."

6 SECTION 3. A new section of the Technology for Education
 7 Act is enacted to read:

8 "[NEW MATERIAL] IMPACT AID EDUCATIONAL TECHNOLOGY FUND--
 9 CREATED.--The "impact aid educational technology fund" is
 10 created as a nonreverting fund in the state treasury. Money in
 11 the fund is appropriated to the department for the purpose of
 12 implementing Section 4 of this 2019 act, and money in the fund
 13 shall be distributed in the manner provided in that section.
 14 Money in the fund shall be expended on warrants issued by the
 15 department of finance and administration pursuant to vouchers
 16 signed by the chief or the secretary."

17 SECTION 4. A new section of the Technology for Education
 18 Act is enacted to read:

19 "[NEW MATERIAL] IMPACT AID EDUCATIONAL TECHNOLOGY FUND--
 20 DISTRIBUTION.--

21 A. As used in this section:

22 (1) "impact aid school district" means a
 23 school district that has applied for and received basic support
 24 payments from the federal government as assistance to those
 25 areas affected by federal activity authorized in accordance

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1 with Title 20 of the United States Code, commonly known as
2 "P.L. 874 funds" or "impact aid", for the last three years;
3 provided that the amount of basic support payments that are
4 deducted from the school district's calculated program cost
5 pursuant to the Public School Finance Act comprise at least two
6 percent of the impact aid school district's program cost; and

7 (2) "membership" means the total enrollment of
8 qualified students, as defined in the Public School Finance Act
9 on the current roll of class or school on a specified day. The
10 current roll is established by the addition of original entries
11 and reentries minus withdrawals. Withdrawal of students, in
12 addition to students formally withdrawn from the public school,
13 includes students absent from the public school for as many as
14 ten consecutive school days. Membership for a school district
15 that qualifies for a distribution from the impact aid
16 educational technology fund includes the membership of locally
17 chartered charter schools geographically located within the
18 school district.

19 B. Upon annual review and approval of an impact aid
20 school district's educational technology plan, the bureau shall
21 determine a separate distribution from the impact aid
22 educational technology fund for each impact aid school
23 district.

24 C. On or before July 31 of each year, the bureau
25 shall distribute money in the impact aid educational technology

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1 fund directly to each impact aid school district in an amount
 2 equal to ninety percent of the impact aid school district's
 3 estimated adjusted entitlement calculated pursuant to
 4 Subsection D of this section. An impact aid school district's
 5 unadjusted entitlement is that portion of the total amount of
 6 the annual appropriation that the projected membership bears to
 7 the projected total membership of all impact aid school
 8 districts. Kindergarten membership shall be calculated on a
 9 one-half full-time-equivalent basis.

10 D. An impact aid school district's estimated
 11 adjusted entitlement shall be calculated by the bureau using
 12 the following procedure:

13 (1) a base allocation is calculated by
 14 multiplying the total annual appropriation by seventy-five
 15 thousandths percent;

16 (2) the estimated adjusted entitlement amount
 17 for an impact aid school district whose unadjusted entitlement
 18 is at or below the base allocation shall be equal to the base
 19 allocation. For an impact aid school district whose unadjusted
 20 entitlement is higher than the base allocation, the estimated
 21 adjusted entitlement shall be calculated pursuant to Paragraphs
 22 (3) through (6) of this subsection;

23 (3) the total projected membership in those
 24 school districts that will receive the base allocation pursuant
 25 to Paragraph (2) of this subsection is subtracted from the

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1 total projected membership of all impact aid school districts;

2 (4) the total of the estimated adjusted
3 entitlement amounts that will be distributed to those school
4 districts receiving the base allocation pursuant to Paragraph
5 (2) of this subsection is subtracted from the total
6 appropriation;

7 (5) the projected membership for the impact
8 aid school district is divided by the result calculated
9 pursuant to Paragraph (3) of this subsection; and

10 (6) the estimated adjusted entitlement amount
11 for the impact aid school district equals the number calculated
12 pursuant to Paragraph (5) of this subsection multiplied by the
13 value calculated pursuant to Paragraph (4) of this subsection.

14 E. On or before January 30 of each year, the bureau
15 shall recompute each adjusted entitlement using the final
16 funded membership for that year and, without making any
17 additional reductions, shall allocate the balance of the annual
18 appropriation adjusting for any over- or under-projection of
19 membership.

20 F. An impact aid school district receiving funding
21 pursuant to the Technology for Education Act is responsible for
22 the purchase, distribution, use and maintenance of educational
23 technology.

24 G. A portion of each distribution made by the state
25 pursuant to this section shall be further distributed by the

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1 school district to each locally or state-chartered charter
 2 school geographically located within the school district that
 3 has a department-approved educational technology plan. The
 4 amount to be distributed to each charter school shall be in the
 5 same proportion as the average full-time-equivalent enrollment
 6 of the charter school on the second and third reporting dates
 7 of the prior school year is to the total such enrollment in the
 8 impact aid school district; provided that no distribution shall
 9 be made to an approved charter school that has not commenced
 10 classroom instruction in the prior school year. Each year, the
 11 department shall certify to an impact aid school district the
 12 amount to be distributed to each charter school. Distributions
 13 received by a charter school pursuant to this subsection shall
 14 be expended pursuant to the provisions of the Technology for
 15 Education Act."

16 SECTION 5. DELAYED REPEAL.--Section 1 of this act is
 17 repealed effective June 30, 2034.

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