

1 SENATE BILL 142

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 George K. Munoz

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10 AN ACT

11 RELATING TO PUBLIC SCHOOL FINANCE; ELIMINATING FEDERAL AND
12 LOCAL REVENUES FROM THE STATE EQUALIZATION GUARANTEE
13 DISTRIBUTION; ALLOWING ONE HUNDRED PERCENT OF LOCAL REVENUE,
14 FOREST RESERVE AND FEDERAL IMPACT AID TO BE SEGREGATED IN
15 SPECIAL FUNDS AND USED FOR OPERATIONS, CAPITAL IMPROVEMENTS AND
16 DEBT SERVICE; PROVIDING LIMITATIONS ON OPERATIONAL
17 EXPENDITURES; ALLOWING LOCAL AND FEDERAL REVENUE TO BE USED FOR
18 DEBT SERVICE FOR INCOME PROJECTS.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 22-8-25 NMSA 1978 (being Laws 1981,
22 Chapter 176, Section 5, as amended) is amended to read:

23 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
24 DEFINITIONS--DETERMINATION OF AMOUNT.--

25 A. The state equalization guarantee distribution is

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1 that amount of money distributed to each school district to
2 ensure that its operating revenue [~~including its local~~
3 ~~and federal revenues as defined in this section~~] is at least
4 equal to the school district's program cost. For state-
5 chartered charter schools, the state equalization guarantee
6 distribution is the difference between the state-chartered
7 charter school's program cost and the two percent withheld by
8 the department for administrative services.

9 B. "Local revenue", as used in this section, means
10 [~~seventy-five percent of~~] receipts to the school district
11 derived from that amount produced by a school district property
12 tax applied at the rate of fifty cents (\$.50) to each one
13 thousand dollars (\$1,000) of net taxable value of property
14 allocated to the school district and to the assessed value of
15 products severed and sold in the school district as determined
16 under the Oil and Gas Ad Valorem Production Tax Act and upon
17 the assessed value of equipment in the school district as
18 determined under the Oil and Gas Production Equipment Ad
19 Valorem Tax Act.

20 C. "Federal revenue", as used in this section,
21 means receipts to the school district or state-chartered
22 charter school [~~excluding amounts that, if taken into account~~
23 ~~in the computation of the state equalization guarantee~~
24 ~~distribution, result, under federal law or regulations, in a~~
25 ~~reduction in or elimination of federal school funding otherwise~~

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1 ~~receivable by the school district]~~ derived from the following:

2 (1) ~~[seventy-five percent of]~~ the school
3 district's or state-chartered charter school's share of forest
4 reserve funds distributed in accordance with Section 22-8-33
5 NMSA 1978; and

6 (2) ~~[seventy-five percent of]~~ grants from the
7 federal government as assistance to those areas affected by
8 federal activity authorized in accordance with Title 20 of the
9 United States Code, commonly known as "PL 874 funds" or "impact
10 aid".

11 D. To determine the amount of the state
12 equalization guarantee distribution, the department shall:

13 (1) calculate the number of program units to
14 which each school district or charter school is entitled using
15 an average of the MEM on the second and third reporting dates
16 of the prior year; or

17 (2) calculate the number of program units to
18 which a school district or charter school operating under an
19 approved year-round school calendar is entitled using an
20 average of the MEM on appropriate dates established by the
21 department; or

22 (3) calculate the number of program units to
23 which a school district or charter school with a MEM of two
24 hundred or less is entitled by using an average of the MEM on
25 the second and third reporting dates of the prior year or the

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1 fortieth day of the current year, whichever is greater; and

2 (4) using the results of the calculations in
3 Paragraph (1), (2) or (3) of this subsection and the staffing
4 cost multiplier from the October report of the prior school
5 year, establish a total program cost of the school district or
6 charter school;

7 ~~[(5) for school districts and state-chartered~~
8 ~~charter schools, calculate the local and federal revenues as~~
9 ~~defined in this section;~~

10 ~~(6) deduct the sum of the calculations made in~~
11 ~~Paragraph (5) of this subsection from the program cost~~
12 ~~established in Paragraph (4) of this subsection;~~

13 ~~(7)]~~ (5) deduct the total amount of guaranteed
14 energy savings contract payments that the department determines
15 will be made to the school district from the public school
16 utility conservation fund during the fiscal year for which the
17 state equalization guarantee distribution is being computed;
18 and

19 ~~[(8)]~~ (6) deduct ninety percent of the amount
20 certified for the school district by the department pursuant to
21 the Energy Efficiency and Renewable Energy Bonding Act.

22 E. Reduction of a school district's state
23 equalization guarantee distribution shall cease when the school
24 district's cumulative reductions equal its proportional share
25 of the cumulative debt service payments necessary to service

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1 the bonds issued pursuant to the Energy Efficiency and
2 Renewable Energy Bonding Act.

3 F. The amount of the state equalization guarantee
4 distribution to which a school district is entitled is the
5 balance remaining after the deductions made in Paragraphs (5)
6 and (6) [~~through (8)~~] of Subsection D of this section.

7 G. The state equalization guarantee distribution
8 shall be distributed prior to June 30 of each fiscal year.
9 [~~The calculation shall be based on the local and federal~~
10 ~~revenues specified in this section received from June 1 of the~~
11 ~~previous fiscal year through May 31 of the fiscal year for~~
12 ~~which the state equalization guarantee distribution is being~~
13 ~~computed.~~] In the event that a school district or charter
14 school has received more state equalization guarantee funds
15 than its entitlement, a refund shall be made by the school
16 district or charter school to the state general fund.

17 H. School districts and state-chartered charter
18 schools shall retain their local and federal revenue in one or
19 more special funds for use for general operations, excluding
20 administrative salaries in function codes 2300 and 2500 of the
21 public schools chart of accounts; capital improvements; and
22 debt service."

23 SECTION 2. Section 22-19-2 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 241) is amended to read:

25 "22-19-2. DEFINITIONS.--As used in the School Revenue

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1 Bond Act:

2 A. "income project" means purchasing, erecting,
3 improving, repairing or furnishing a building, improvement or
4 facility, including the land upon which it is situated, which
5 will produce an income to the school district;

6 B. "net income from the income project" means all
7 income derived from an income project, including the income
8 pledged pursuant to the School Revenue Bond Act, less the
9 operating costs of the income project; ~~and~~

10 C. "operating costs" means expenses of operating,
11 maintaining and keeping in repair an income project, including
12 the cost of heating, electricity, insurance, service employees
13 and equipment replacement; and

14 D. "pledgeable revenue" means "local revenue" and
15 "federal revenue" as defined in Section 22-8-25 NMSA 1978."

16 SECTION 3. Section 22-19-4 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 243) is amended to read:

18 "22-19-4. BONDS--MORTGAGES.--

19 A. A local school board may issue bonds or other
20 special obligations to finance the repayment of all money
21 borrowed for an income project pursuant to the School Revenue
22 Bond Act.

23 B. A local school board may use pledgeable revenue
24 or execute a mortgage, deed of trust or a security agreement
25 upon the income project to secure payment of any bonds or other

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1 special obligations issued pursuant to the School Revenue Bond
2 Act.

3 C. Revenue from federal forest reserve and federal
4 impact aid payments may be pledged even if the federal payments
5 are subject to annual appropriation. Federal payments shall
6 not be pledged unless such use is allowed by federal law. The
7 local school board shall include in its determination required
8 pursuant to Section 22-19-5 NMSA 1978 a statement as to the
9 legality of pledging the federal payments and what other
10 revenue will be available to make bond payments if federal
11 payments are not appropriated."

12 SECTION 4. Section 22-19-6 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 245) is amended to read:

14 "22-19-6. REPORT TO [~~STATE BOARD~~] DEPARTMENT.--Prior to
15 borrowing any money to finance an income project, a local
16 school board shall furnish to the [~~state board~~] department the
17 following information:

18 A. a detailed description of the income project;

19 B. an explanation of the necessity for the income
20 project;

21 C. an estimate of the total cost of the income
22 project;

23 D. an estimate of the amount of income anticipated
24 from the income project;

25 E. an estimate of the amount of pledgeable revenue

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1 and income from existing buildings, improvements or facilities
2 that will be pledged to pay for the income project;

3 F. an estimate of the yearly operating cost of the
4 income project; and

5 G. an estimate of the anticipated yearly net income
6 from the income project."

7 SECTION 5. Section 22-19-7 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 246) is amended to read:

9 "22-19-7. [~~STATE BOARD~~] DEPARTMENT APPROVAL--
10 DETERMINATION BY [~~STATE BOARD~~] DEPARTMENT.--

11 A. A local school board shall obtain written
12 approval of the [~~state board~~] department before it borrows
13 money, issues bonds or other special obligations or executes
14 mortgages, deeds of trust or security agreements for financing
15 an income project pursuant to the School Revenue Bond Act.

16 B. Prior to giving written approval to an income
17 project, the [~~state board~~] department shall determine that the
18 income project is necessary and that sufficient pledgeable
19 revenue or sufficient income will be produced by the income
20 project to repay all money borrowed and to discharge any bonds
21 or other special obligations issued for the repayment of the
22 money borrowed."