

HOUSE BILL 105

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; CHANGING THE METHOD FOR DETERMINING AN ANNUAL IN-LIEU TAX PAYMENT FOR AN ELECTRIC GENERATION OR TRANSMISSION FACILITY PROJECT; PROVIDING FOR THE

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SHARING OF IN-LIEU TAX PAYMENTS AMONG CERTAIN SCHOOL DISTRICTS;  
CLARIFYING THAT CERTAIN PAYMENTS TO THE STATE FOR AN ELECTRIC  
TRANSMISSION PROJECT SHALL BE MADE BY THE PERSON PROPOSING THE  
ELECTRIC TRANSMISSION PROJECT; DECLARING AN EMERGENCY.

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

SECTION 1. Section 3-32-6 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--

In addition to any other powers that it may now have, a  
municipality shall have the following powers:

A. to acquire, whether by construction, purchase,  
gift or lease, one or more projects that shall be located  
within this state and may be located within or without the  
municipality or partially within or partially without the  
municipality, but which shall not be located more than fifteen  
miles outside of the corporate limits of the municipality;  
provided that:

(1) urban transit buses qualifying as a  
project pursuant to Subsection B of Section 3-32-3 NMSA 1978  
need not be continuously located within this state, but the  
commercial enterprise using the urban transit buses for leasing  
shall meet the location requirement of this subsection; and

(2) a municipality shall not acquire any  
electricity generation or transmission facility project unless  
the school [~~district in which the project is located~~ will

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~~receive the same amount, or greater, of annual in-lieu tax payments as would have been received in property taxes for the fully developed project had the project not been acquired]~~  
districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

(b) in an aggregate amount equal to the amount received by the municipality multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the municipality HENRC→and state debt service mills←HENRC as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;

(c) shared among the school districts located within the municipality equally, if there is more than one school district in such municipality; and

(d) not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or

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all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such

project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor."

SECTION 2. Section 3-32-6.2 NMSA 1978 (being Laws 2020, Chapter 14, Section 3) is amended to read:

"3-32-6.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO THE STATE.--~~[The state shall receive]~~ A person proposing an electric transmission facility project pursuant to Paragraph (2) of Subsection A of Section 3-32-6 NMSA 1978 shall pay to the state annual payments equal to five percent of the total amount of in-lieu tax payments ~~[made by a person proposing an electric transmission project]~~ to be made in that calendar year by such person to counties, municipalities and other local entities authorized to levy taxes on property, including in-lieu tax payments made to school districts pursuant to Paragraph (2) of Subsection A of Section 3-32-6 NMSA 1978, and five percent of the value of any other consideration related to the project paid to local entities authorized to levy taxes on

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property by a person proposing an electric transmission project. A copy of any agreement providing for such in-lieu tax payments shall be provided to the secretary of finance and administration within thirty days of written approval of such agreement by all of the parties. Each annual payment to the state shall be made no later than the end of each fiscal year in which in-lieu tax payments are made to local taxing entities. Each annual payment shall be made to the department of finance and administration for deposit to the general fund."

SECTION 3. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:

"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In addition to any other powers that it may now have, each county shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:

(1) a class A county with a population of more than three hundred thousand may acquire projects located anywhere in the county; and

(2) a county shall not acquire any electricity generation or transmission facility project unless the school ~~[district in which the project is located will receive the same amount, or greater, of annual in-lieu tax payments as would~~

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~~have been received in property taxes for the fully developed project had the project not been acquired]~~ districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the county owns and leases the project;

(b) in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the county HENRC→and state debt service mills←HENRC as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;

(c) shared among the school districts located within the county equally; and

(d) not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and

C. to issue revenue bonds for the purpose of

defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof."

SECTION 4. Section 4-59-4.2 NMSA 1978 (being Laws 2020, Chapter 14, Section 6) is amended to read:

"4-59-4.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO THE STATE.--~~[The state shall receive]~~ A person proposing an electric transmission facility project pursuant to Paragraph (2) of Subsection A of Section 4-59-4 NMSA 1978 shall pay to the state annual payments equal to five percent of the total amount of in-lieu tax payments to be made in that calendar year by such person to counties, municipalities and other local entities authorized to levy taxes on property, including in-lieu tax payments made to school districts pursuant to Paragraph (2) of Subsection A of Section 4-59-4 NMSA 1978, and five percent of the value of any other consideration related to the project paid to local entities authorized to levy taxes on property by a person proposing an electric transmission project. A copy of any agreement providing for such in-lieu tax payments shall be provided to the secretary of finance and administration within thirty days of written approval of such agreement by all of the parties. Each annual payment to the state shall be made no later than the end of each fiscal year in which in-lieu tax payments are made to local taxing

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entities. Each annual payment shall be made to the department of finance and administration for deposit to the general fund."

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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