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HOUSE BILL 6

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

INTRODUCED BY

Patricia A. Lundstrom and Brian Egolf and Harry Garcia
and D. Wonda Johnson

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; SPECIFYING USES FOR STATE
EQUALIZATION GUARANTEE DISTRIBUTION OFFSETS FOR CERTAIN FEDERAL
AND PROPERTY TAX REVENUE SOURCES.

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

SECTION 1. Section 6-23-7 NMSA 1978 (being Laws 1993,
Chapter 231, Section 7, as amended) is amended to read:

"6-23-7. PUBLIC SCHOOL UTILITY CONSERVATION FUND CREATED--
USE.--

A. The "public school utility conservation fund" is
created as a special fund in the state treasury. The fund
shall consist of money transferred to the fund, from year to
year, from the distribution of the permanent fund and land
income of which the common schools are the beneficiary. No
other money from any school district or state source shall be

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1 deposited or paid into the public school utility conservation
2 fund.

3 B. Annually, after the calculation of the state
4 equalization guarantee distribution has been made, the
5 ~~[superintendent of public instruction]~~ secretary of public
6 education shall determine the sum of the deductions made in the
7 state equalization guarantee distribution of school districts
8 pursuant to Paragraph ~~[(7)]~~ (5) of Subsection D of Section
9 22-8-25 NMSA 1978 and shall certify that amount to the
10 secretary of finance and administration. Distributions from
11 the permanent fund and land income of which the common schools
12 are the beneficiary equal to that amount shall be transferred
13 from the common school current fund to the public school
14 utility conservation fund.

15 C. Money in the public school utility conservation
16 fund is appropriated to the ~~[state department of]~~ public
17 education department solely for the purpose of disbursing money
18 to school districts to make payments pursuant to any guaranteed
19 utility savings contract between the school district and a
20 qualified provider or any installment contract or lease-
21 purchase agreement for the purchase and installation of energy
22 or water conservation measures pursuant to that guaranteed
23 utility savings contract.

24 D. Disbursements from the public school utility
25 conservation fund shall be made only to school districts and

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1 only upon certification by the [~~superintendent of public~~
2 ~~instruction~~] secretary of public education that the
3 disbursement is for a payment authorized by the Public Facility
4 Energy Efficiency and Water Conservation Act.

5 E. The [~~superintendent of public instruction~~]
6 secretary of public education shall submit to the legislative
7 finance committee prior to each regular legislative session a
8 list of school districts proposing to enter into approved
9 guaranteed utility savings contracts in the succeeding fiscal
10 year. The list shall include information on the amount of the
11 school district's proposed annual payments and specific amounts
12 that utility and operational budget items are guaranteed to be
13 reduced to achieve the savings to make the payments.

14 F. Any unexpended or unencumbered balance remaining
15 in the public school utility conservation fund at the end of
16 any fiscal year shall be transferred to the public school
17 fund."

18 SECTION 2. Section 22-8-13.3 NMSA 1978 (being Laws 2020,
19 Chapter 71, Section 1) is amended to read:

20 "22-8-13.3. REPORTING SYSTEM--REPORTING REQUIREMENTS.--

21 A. No later than December 31, 2021, the department,
22 with input from stakeholders, including school districts,
23 charter school leaders, business managers and staff from the
24 legislative finance committee and legislative education study
25 committee, shall establish, implement and maintain a statewide

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1 financial reporting system that is based on a standard chart of
2 accounts. The department shall annually update the reporting
3 system.

4 B. In designing, implementing and maintaining the
5 reporting system pursuant to Subsection A of this section, the
6 department shall adhere to the following guidelines:

7 (1) the reporting system shall be based on a
8 standard chart of accounts that will enable comparisons between
9 schools, between local education agencies and between regional
10 education cooperatives;

11 (2) the reporting system shall allow for the
12 display of administrative costs of every school site and local
13 education agency;

14 (3) the reporting system shall make it
15 possible to determine how school sites and local education
16 agencies budget funds to support at-risk students, offer
17 bilingual and multicultural educational services to students
18 and support special education students;

19 (4) the reporting system shall make it
20 possible to determine each local education agency's and
21 regional education cooperative's actual expenditures, which
22 shall include actual salary expenditures and actual benefit
23 expenditures reported by job category specified in the standard
24 chart of accounts at the local education agency level, at the
25 school site level and, if applicable, at the regional education

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1 cooperative level; ~~and~~

2 (5) the reporting system shall report the
3 expenditures for each of the major categories specified in the
4 chart of accounts for school sites and local education
5 agencies; and

6 (6) the reporting system shall make it
7 possible to determine how school sites and local education
8 agencies budget state equalization guarantee distributions
9 pursuant to Subsection H of Section 22-8-25 NMSA 1978.

10 C. The standard chart of accounts shall include the
11 reporting of revenues received at all levels, including local,
12 state and federal funds.

13 D. As used in this section:

14 (1) "local education agency" means a school
15 district or state-chartered charter school; and

16 (2) "reporting system" means a statewide
17 online financial reporting system."

18 SECTION 3. Section 22-8-25 NMSA 1978 (being Laws 1981,
19 Chapter 176, Section 5, as amended) is amended to read:

20 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
21 DEFINITIONS--DETERMINATION OF AMOUNT.--

22 A. The state equalization guarantee distribution is
23 that amount of money distributed to each school district to
24 ensure that its operating revenue [~~including its local and~~
25 ~~federal revenues as defined in this section~~] is at least equal

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1 to the school district's program cost, after accounting for
2 payments from the public school utility conservation fund and
3 the amount certified pursuant to the Energy Efficiency and
4 Renewable Energy Bonding Act. For state-chartered charter
5 schools, the state equalization guarantee distribution is the
6 difference between the state-chartered charter school's program
7 cost and the two percent withheld by the department for
8 administrative services.

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

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

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1 (1) seventy-five percent of the school
2 district's share of forest reserve funds distributed in
3 accordance with Section 22-8-33 NMSA 1978; and

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

9 D. To determine the amount of the state
10 equalization guarantee distribution, the department shall:

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

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

20 (3) calculate the number of program units to
21 which a school district or charter school with a MEM of two
22 hundred or less is entitled by using an average of the MEM on
23 the second and third reporting dates of the prior year or the
24 fortieth day of the current year, whichever is greater; and

25 (4) using the results of the calculations in

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

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

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

11 ~~(7)]~~ (5) deduct the total amount of guaranteed
12 energy savings contract payments that the department determines
13 will be made to the school district from the public school
14 utility conservation fund during the fiscal year for which the
15 state equalization guarantee distribution is being computed;
16 and

17 ~~[(8)]~~ (6) deduct ninety percent of the amount
18 certified for the school district by the department pursuant to
19 the Energy Efficiency and Renewable Energy Bonding Act.

20 E. Reduction of a school district's state
21 equalization guarantee distribution shall cease when the school
22 district's cumulative reductions equal its proportional share
23 of the cumulative debt service payments necessary to service
24 the bonds issued pursuant to the Energy Efficiency and
25 Renewable Energy Bonding Act.

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

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

15 H. The department shall require school districts
16 and state-chartered charter schools to budget an amount of the
17 state equalization guarantee distribution equal to each school
18 district's or state-chartered charter school's local and
19 federal revenues, as defined in this section, for purposes
20 relating to the Indian Education Act, the Public School Capital
21 Outlay Act, the Public School Capital Improvements Act, the
22 Public School Buildings Act and the Community Schools Act."

23 SECTION 4. Section 22-8-31 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 84, as amended) is amended to read:

25 "22-8-31. STATE-SUPPORT RESERVE FUND.--

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1 A. The "state-support reserve fund" is created.

2 B. The state-support reserve fund shall be used
3 only to augment the appropriations for the state equalization
4 guarantee distribution in order to insure, to the extent of the
5 amount undistributed in the fund, that the maximum figures for
6 such distribution established by law shall not be reduced.

7 C. The undistributed money in the state-support
8 reserve fund shall be invested by the state treasurer in
9 interest-bearing securities of the United States government or
10 in certificates of deposit in qualified banks and in savings
11 and [~~loans~~] loan associations whose deposits are insured with
12 an agency of the United States. The state treasurer may
13 deposit money from the state-support reserve fund or any other
14 fund in one or more accounts with any such bank or federally
15 insured savings and loan association, but the state treasurer,
16 in any official capacity, shall not deposit money from [~~said~~]
17 that fund or any other fund in any one [~~such~~] federally insured
18 savings and loan association the aggregate of which would
19 exceed the amount of federal savings and loan insurance
20 corporation insurance for a single public account. Income from
21 these investments shall be periodically credited to the general
22 fund.

23 D. At least forty-five days before the money is
24 needed, the [~~chief~~] state superintendent shall notify the state
25 treasurer in writing of the amount that will be needed for

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1 distribution.

2 ~~[E. In the event that local or federal revenues as~~
3 ~~defined in Section 77-6-19 NMSA 1953 are received after May 31~~
4 ~~of the fiscal year for which the state equalization guarantee~~
5 ~~distribution is being computed and it is therefore necessary to~~
6 ~~use money from the state-support reserve fund to augment the~~
7 ~~appropriation for the state equalization guarantee~~
8 ~~distribution, the chief, upon receipt by the school district of~~
9 ~~the delayed local or federal revenues, shall deduct the~~
10 ~~appropriate amount from the current state equalization~~
11 ~~guarantee distribution to that school district and reimburse~~
12 ~~the state-support reserve fund in the amount of the deduction.~~

13 ~~F.]~~ E. It is the intent of the legislature that the
14 state-support reserve fund be reimbursed in the amount of the
15 yearly distribution by appropriation in the year following the
16 distribution so that the fund at the beginning of each fiscal
17 year shall have a credit balance of at least ten million
18 dollars (\$10,000,000).

19 ~~[G.]~~ F. Distribution from ~~[this]~~ the state-support
20 reserve fund shall be made in the same manner and on the same
21 basis as the state equalization guarantee distribution."

22 SECTION 5. APPLICABILITY.--The provisions of this act
23 apply to fiscal year 2022 and subsequent fiscal years.

24 SECTION 6. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2021.

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