

1 SENATE BILL 474

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Benny Shendo, Jr.

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10 AN ACT

11 RELATING TO INDUSTRIAL REVENUE BONDS; AMENDING THE INDUSTRIAL  
12 REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT  
13 REGARDING HOW CERTAIN PAYMENT-IN-LIEU-OF-TAXES PAYMENTS ARE  
14 SHARED AMONG SCHOOL DISTRICTS.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--  
20 In addition to any other powers that it may now have, a  
21 municipality shall have the following powers:

22 A. to acquire, whether by construction, purchase,  
23 gift or lease, one or more projects that shall be located  
24 within this state and may be located within or without the  
25 municipality or partially within or partially without the

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1 municipality, but which shall not be located more than fifteen  
2 miles outside of the corporate limits of the municipality;  
3 provided that:

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

9 (2) a municipality shall not acquire any  
10 electricity generation or transmission facility project unless  
11 the school districts within the municipality in which the  
12 project is located receive annual in-lieu tax payments;  
13 provided that the annual in-lieu tax payments required by this  
14 paragraph shall be:

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

17 (b) in an aggregate amount equal to the  
18 amount received by the municipality multiplied by the  
19 percentage determined by dividing the average of [~~the~~  
20 ~~operating, capital improvement and bond~~] mills imposed by the  
21 school districts [~~in~~] within the municipality [~~and~~] plus state  
22 debt service mills as of the date of issuance of the bonds by  
23 the average of the mills imposed by all entities levying taxes  
24 on property in the municipality as of such date;

25 (c) [~~shared~~] divided among the school

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1 districts located within the municipality, [~~equally~~] if there  
2 is more than one school district in such municipality, and the  
3 in-lieu payment shall be allocated as follows: 1) fifty  
4 percent allocated equally among all school districts in which  
5 the project is located; 2) forty percent allocated to the  
6 school districts within the municipality in proportion to the  
7 area of each school district within the municipality; and 3)  
8 ten percent allocated to the school districts in proportion to  
9 the average of each school district's student membership  
10 pursuant to the Public School Code reported on the second and  
11 third reporting dates for the most recent school year for which  
12 data is available as of the date of issuance of the bonds; and

13 (d) [~~not be~~] for each individual school  
14 district located within the municipality, no less than the  
15 amount due to the school [~~districts~~] district in the tax year  
16 immediately preceding the issuance of the bonds from the  
17 property included in a project, had such project not been  
18 created;

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

23 C. to issue revenue bonds for the purpose of  
24 defraying the cost of acquiring by construction and purchase,  
25 or either, any project and to secure the payment of such bonds,

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1 all as provided in the Industrial Revenue Bond Act. No  
2 municipality shall have the power to operate any project as a  
3 business or in any manner except as lessor;

4 D. to refinance one or more hospital or 501(c)(3)  
5 corporation projects and to acquire any such hospital or  
6 501(c)(3) corporation project whether by construction,  
7 purchase, gift or lease, which hospital or 501(c)(3)  
8 corporation project shall be located within this state and may  
9 be located within or without the municipality or partially  
10 within or partially without the municipality, but which shall  
11 not be located more than fifteen miles outside of the corporate  
12 limits of the municipality, and to issue revenue bonds to  
13 refinance and acquire a hospital or 501(c)(3) corporation  
14 project and to secure the payment of such bonds, all as  
15 provided in the Industrial Revenue Bond Act. A municipality  
16 shall not have the power to operate a hospital or 501(c)(3)  
17 corporation project as a business or in any manner except as  
18 lessor; and

19 E. to refinance one or more projects of any private  
20 institution of higher education and to acquire any such  
21 project, whether by construction, purchase, gift or lease;  
22 provided that the project shall be located within this state  
23 and may be located within or without the municipality or  
24 partially within or partially without the municipality, but the  
25 project shall not be located more than fifteen miles outside of

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1 the corporate limits of the municipality, and to issue revenue  
2 bonds to refinance and acquire any project of any private  
3 institution of higher education and to secure the payment of  
4 such bonds. A municipality shall not have the power to operate  
5 a project of a private institution of higher education as a  
6 business or in any manner except as lessor."

7 SECTION 2. Section 4-59-4 NMSA 1978 (being Laws 1975,  
8 Chapter 286, Section 4, as amended) is amended to read:

9 "4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In  
10 addition to any other powers that it may now have, each county  
11 shall have the following powers:

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

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

20 (2) a county shall not acquire any electricity  
21 generation or transmission facility project unless the school  
22 districts within the county in which the project is located  
23 receive annual in-lieu tax payments; provided that the annual  
24 in-lieu tax payments required by this paragraph shall be:

25 (a) payable to the school districts for

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1 the period the county owns and leases the project;

2 (b) in an aggregate amount equal to the  
3 amount received by the county multiplied by the percentage  
4 determined by dividing the average of all of the mills imposed  
5 by the school districts in the county, including the operating,  
6 capital improvement, building improvement, education technology  
7 and bond mills imposed by the school districts in the county  
8 [and] plus state debt service mills as of the date of issuance  
9 of the bonds by the average of the mills imposed by all  
10 entities levying taxes on property in the county as of such  
11 date;

12 (c) ~~[shared]~~ divided among the school  
13 districts located within the county, ~~[equally]~~ and if there is  
14 more than one school district in such county, the in-lieu  
15 payment shall be allocated as follows: 1) fifty percent  
16 allocated equally among all school districts in which the  
17 project is located; 2) forty percent allocated to the school  
18 districts within the county in proportion to the area of each  
19 school district within the county; and 3) ten percent allocated  
20 to the school districts in proportion to the average of each  
21 school district's student membership pursuant to the Public  
22 School Code reported on the second and third reporting dates  
23 for the most recent school year for which data is available as  
24 of the date of issuance of the bonds; and

25 (d) ~~[not be]~~ for each individual school

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1 district located within the county, no less than the amount due  
2 to the school [~~districts~~] district in the tax year immediately  
3 preceding the issuance of the bonds from the property included  
4 in a project, had such project not been created;

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

9 C. to issue revenue bonds for the purpose of  
10 defraying the cost of acquiring, by construction and purchase  
11 or either, any project and to secure the payment of such bonds,  
12 all as provided in the County Industrial Revenue Bond Act. No  
13 county shall have the power to operate any project as a  
14 business or in any manner except as lessor thereof."

15 SECTION 3. APPLICABILITY.--The provisions of this act  
16 apply to the distribution of in-lieu tax payments required to  
17 be made to school districts for industrial revenue bonds issued  
18 pursuant to the Industrial Revenue Bond Act and county  
19 industrial bonds issued pursuant to the County Industrial  
20 Revenue Bond Act on or after January 1, 2023.

21 SECTION 4. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2023.