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SENATE BILL 171

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Mary Jane M. Garcia

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; MAKING THE PUBLIC SCHOOL
FUND A NONREVERTING FUND; PROVIDING FOR THE DEPOSIT OF
REPAYMENTS OF EXCESS STATE EQUALIZATION GUARANTEE FUNDS IN THE
STATE-SUPPORT RESERVE FUND; PROVIDING FOR TRANSFER OF EXCESS
BALANCES IN THE STATE-SUPPORT RESERVE FUND TO THE PUBLIC SCHOOL
FUND.

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

SECTION 1. Section 22-8-14 NMSA 1978 (being Laws 1967,
Chapter 16, Section 69, as amended) is amended to read:

"22-8-14. PUBLIC SCHOOL FUND.--

A. The "public school fund" is created.

B. The public school fund shall be distributed to
school districts and state-chartered charter schools in the
following parts:

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- 1 (1) state equalization guarantee distribution;
- 2 (2) transportation distribution; and
- 3 (3) supplemental distributions:
 - 4 (a) out-of-state tuition to school
 - 5 districts;
 - 6 (b) emergency; and
 - 7 (c) program enrichment.

8 C. The distributions of the public school fund
9 shall be made by the department within limits established by
10 law. The balance remaining in the public school fund at the
11 end of each fiscal year shall not revert to the general fund
12 [~~unless otherwise provided by law~~]."

13 SECTION 2. Section 22-8-25 NMSA 1978 (being Laws 1981,
14 Chapter 176, Section 5, as amended) is amended to read:

15 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
16 DEFINITIONS--DETERMINATION OF AMOUNT.--

17 A. The state equalization guarantee distribution is
18 that amount of money distributed to each school district to
19 ensure that its operating revenue, including its local and
20 federal revenues as defined in this section, is at least equal
21 to the school district's program cost. For state-chartered
22 charter schools, the state equalization guarantee distribution
23 is the difference between the state-chartered charter school's
24 program cost and the two percent withheld by the department for
25 administrative services.

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

11 C. "Federal revenue", as used in this section,
12 means receipts to the school district, excluding amounts that,
13 if taken into account in the computation of the state
14 equalization guarantee distribution, result, under federal law
15 or regulations, in a reduction in or elimination of federal
16 school funding otherwise receivable by the school district,
17 derived from the following:

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

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

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1 D. To determine the amount of the state
2 equalization guarantee distribution, the department shall:
3 (1) calculate the number of program units to
4 which each school district or charter school is entitled using
5 an average of the MEM on the second and third reporting dates
6 of the prior year; or
7 (2) calculate the number of program units to
8 which a school district or charter school operating under an
9 approved year-round school calendar is entitled using an
10 average of the MEM on appropriate dates established by the
11 department; or
12 (3) calculate the number of program units to
13 which a school district or charter school with a MEM of two
14 hundred or less is entitled by using an average of the MEM on
15 the second and third reporting dates of the prior year or the
16 fortieth day of the current year, whichever is greater; and
17 (4) using the results of the calculations in
18 Paragraph (1), (2) or (3) of this subsection and the
19 instructional staff training and experience index from the
20 October report of the prior school year, establish a total
21 program cost of the school district or charter school;
22 (5) for school districts, calculate the local
23 and federal revenues as defined in this section;
24 (6) deduct the sum of the calculations made in
25 Paragraph (5) of this subsection from the program cost

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1 established in Paragraph (4) of this subsection;

2 (7) deduct the total amount of guaranteed
3 energy savings contract payments that the department determines
4 will be made to the school district from the public school
5 utility conservation fund during the fiscal year for which the
6 state equalization guarantee distribution is being computed;
7 and

8 (8) deduct ninety percent of the amount
9 certified for the school district by the department pursuant to
10 the Energy Efficiency and Renewable Energy Bonding Act.

11 E. Reduction of a school district's state
12 equalization guarantee distribution shall cease when the school
13 district's cumulative reductions equal its proportional share
14 of the cumulative debt service payments necessary to service
15 the bonds issued pursuant to the Energy Efficiency and
16 Renewable Energy Bonding Act.

17 F. The amount of the state equalization guarantee
18 distribution to which a school district is entitled is the
19 balance remaining after the deductions made in Paragraphs (6)
20 through (8) of Subsection D of this section.

21 G. The state equalization guarantee distribution
22 shall be distributed prior to June 30 of each fiscal year. The
23 calculation shall be based on the local and federal revenues
24 specified in this section received from June 1 of the previous
25 fiscal year through May 31 of the fiscal year for which the

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1 state equalization guarantee distribution is being computed.
2 In the event that a school district or charter school has
3 received more state equalization guarantee funds than its
4 entitlement, a refund shall be made by the school district or
5 charter school to the [~~state general~~] state-support reserve
6 fund."

7 SECTION 3. Section 22-8-31 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 84, as amended) is amended to read:

9 "22-8-31. STATE-SUPPORT RESERVE FUND.--

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

11 B. The state-support reserve fund shall be used
12 only to augment the appropriations for the state equalization
13 guarantee distribution in order to [~~insure~~] ensure, to the
14 extent of the amount undistributed in the fund, that the
15 maximum figures for such distribution established by law shall
16 not be reduced.

17 C. The undistributed money in the state-support
18 reserve fund shall be invested by the state treasurer in
19 interest-bearing securities of the United States government or
20 in certificates of deposit in qualified banks and in savings
21 and [~~loans~~] loan associations whose deposits are insured with
22 an agency of the United States. The state treasurer may
23 deposit money from the state-support reserve fund or any other
24 fund in one or more accounts with any such bank or federally
25 insured savings and loan association, but the state treasurer,

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1 in any official capacity, shall not deposit money from [~~said~~]
2 that fund or any other fund in any one [~~such~~] federally insured
3 savings and loan association the aggregate of which would
4 exceed the amount of federal savings and loan insurance
5 corporation insurance for a single public account. Income from
6 these investments shall be periodically credited to the general
7 fund.

8 D. At least forty-five days before the money is
9 needed, the [~~chief~~] secretary shall notify the state treasurer
10 in writing of the amount that will be needed for distribution.

11 E. In the event that local or federal revenues as
12 defined in Section [~~77-6-19 NMSA 1953~~] 22-8-25 NMSA 1978 are
13 received after May 31 of the fiscal year for which the state
14 equalization guarantee distribution is being computed and it is
15 therefore necessary to use money from the state-support reserve
16 fund to augment the appropriation for the state equalization
17 guarantee distribution, the [~~chief~~] secretary, upon receipt by
18 the school district of the delayed local or federal revenues,
19 shall deduct the appropriate amount from the current state
20 equalization guarantee distribution to that school district and
21 reimburse the state-support reserve fund in the amount of the
22 deduction.

23 F. It is the intent of the legislature that the
24 state-support reserve fund be reimbursed in the amount of the
25 yearly distribution by appropriation in the year following the

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1 distribution so that the fund at the beginning of each fiscal
2 year shall have a credit balance of at least ten million
3 dollars (\$10,000,000). Any balance above ten million dollars
4 (\$10,000,000) shall be transferred to the public school fund.

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