

1 SENATE BILL 72

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Steven P. Neville

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO INDUSTRIAL REVENUE BONDS; CHANGING THE METHOD FOR  
12 DETERMINING AN ANNUAL IN-LIEU TAX PAYMENT FOR AN ELECTRIC  
13 GENERATION OR TRANSMISSION FACILITY PROJECT; PROVIDING FOR THE  
14 SHARING OF IN-LIEU TAX PAYMENTS AMONG CERTAIN SCHOOL DISTRICTS;  
15 CLARIFYING THAT CERTAIN PAYMENTS TO THE STATE FOR AN ELECTRIC  
16 TRANSMISSION PROJECT SHALL BE MADE BY THE PERSON PROPOSING THE  
17 ELECTRIC TRANSMISSION PROJECT; DECLARING AN EMERGENCY.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--

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

25 A. to acquire, whether by construction, purchase,

.218990.2

underscored material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 gift or lease, one or more projects that shall be located  
2 within this state and may be located within or without the  
3 municipality or partially within or partially without the  
4 municipality, but which shall not be located more than fifteen  
5 miles outside of the corporate limits of the municipality;  
6 provided that:

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

12 (2) a municipality shall not acquire any  
13 electricity generation or transmission facility project unless  
14 the school ~~[district in which the project is located will~~  
15 ~~receive the same amount, or greater, of annual in-lieu tax~~  
16 ~~payments as would have been received in property taxes for the~~  
17 ~~fully developed project had the project not been acquired]~~  
18 districts within the municipality in which the project is  
19 located receive annual in-lieu tax payments; provided that the  
20 annual in-lieu tax payments required by this paragraph shall  
21 be:

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

24 (b) in an aggregate amount equal to the  
25 amount received by the municipality multiplied by the

.218990.2

underscoring material = new  
~~[bracketed material]~~ = delete

1 percentage determined by dividing the average of the operating,  
2 capital improvement and bond mills imposed by the school  
3 districts in the municipality as of the date of issuance of the  
4 bonds by the average of the mills imposed by all entities  
5 levying taxes on property in the municipality as of such date;

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

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

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

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

23 D. to refinance one or more hospital or 501(c)(3)  
24 corporation projects and to acquire any such hospital or  
25 501(c)(3) corporation project whether by construction,

.218990.2

underscoring material = new  
~~[bracketed material] = delete~~

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

13 E. to refinance one or more projects of any private  
14 institution of higher education and to acquire any such  
15 project, whether by construction, purchase, gift or lease;  
16 provided that the project shall be located within this state  
17 and may be located within or without the municipality or  
18 partially within or partially without the municipality, but the  
19 project shall not be located more than fifteen miles outside of  
20 the corporate limits of the municipality, and to issue revenue  
21 bonds to refinance and acquire any project of any private  
22 institution of higher education and to secure the payment of  
23 such bonds. A municipality shall not have the power to operate  
24 a project of a private institution of higher education as a  
25 business or in any manner except as lessor."

.218990.2

underscored material = new  
[bracketed material] = delete

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

3           "3-32-6.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO  
4 THE STATE.--~~[The state shall receive]~~ A person proposing an  
5 electric transmission facility project pursuant to Paragraph  
6 (2) of Subsection A of Section 3-32-6 NMSA 1978 shall pay to  
7 the state annual payments equal to five percent of the total  
8 amount of in-lieu tax payments ~~[made by a person proposing an~~  
9 ~~electric transmission project]~~ to be made in that calendar year  
10 by such person to counties, municipalities and other local  
11 entities authorized to levy taxes on property, including in-  
12 lieu tax payments made to school districts pursuant to  
13 Paragraph (2) of Subsection A of Section 3-32-6 NMSA 1978, and  
14 five percent of the value of any other consideration related to  
15 the project paid to local entities authorized to levy taxes on  
16 property by a person proposing an electric transmission  
17 project. A copy of any agreement providing for such in-lieu  
18 tax payments shall be provided to the secretary of finance and  
19 administration within thirty days of written approval of such  
20 agreement by all of the parties. Each annual payment to the  
21 state shall be made no later than the end of each fiscal year  
22 in which in-lieu tax payments are made to local taxing  
23 entities. Each annual payment shall be made to the department  
24 of finance and administration for deposit to the general fund."

25           SECTION 3. Section 4-59-4 NMSA 1978 (being Laws 1975,  
.218990.2

underscored material = new  
[bracketed material] = delete

1 Chapter 286, Section 4, as amended) is amended to read:

2 "4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In  
3 addition to any other powers that it may now have, each county  
4 shall have the following powers:

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

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

13 (2) a county shall not acquire any electricity  
14 generation or transmission facility project unless the school  
15 ~~[district in which the project is located will receive the same~~  
16 ~~amount, or greater, of annual in-lieu tax payments as would~~  
17 ~~have been received in property taxes for the fully developed~~  
18 ~~project had the project not been acquired]~~ districts within the  
19 county in which the project is located receive annual in-lieu  
20 tax payments; provided that the annual in-lieu tax payments  
21 required by this paragraph shall be:

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

24 (b) in an aggregate amount equal to the  
25 amount received by the county multiplied by the percentage

.218990.2

underscored material = new  
[bracketed material] = delete

1 determined by dividing the average of the operating, capital  
2 improvement and bond mills imposed by the school districts in  
3 the county as of the date of issuance of the bonds by the  
4 average of the mills imposed by all entities levying taxes on  
5 property in the county as of such date;

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

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

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

16 C. to issue revenue bonds for the purpose of  
17 defraying the cost of acquiring, by construction and purchase  
18 or either, any project and to secure the payment of such bonds,  
19 all as provided in the County Industrial Revenue Bond Act. No  
20 county shall have the power to operate any project as a  
21 business or in any manner except as lessor thereof."

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

24 "4-59-4.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO  
25 THE STATE.--~~[The state shall receive]~~ A person proposing an

.218990.2

underscored material = new  
[bracketed material] = delete

1 electric transmission facility project pursuant to Paragraph  
2 (2) of Subsection A of Section 4-59-4 NMSA 1978 shall pay to  
3 the state annual payments equal to five percent of the total  
4 amount of in-lieu tax payments to be made in that calendar year  
5 by such person to counties, municipalities and other local  
6 entities authorized to levy taxes on property, including in-  
7 lieu tax payments made to school districts pursuant to  
8 Paragraph (2) of Subsection A of Section 4-59-4 NMSA 1978, and  
9 five percent of the value of any other consideration related to  
10 the project paid to local entities authorized to levy taxes on  
11 property by a person proposing an electric transmission  
12 project. A copy of any agreement providing for such in-lieu  
13 tax payments shall be provided to the secretary of finance and  
14 administration within thirty days of written approval of such  
15 agreement by all of the parties. Each annual payment to the  
16 state shall be made no later than the end of each fiscal year  
17 in which in-lieu tax payments are made to local taxing  
18 entities. Each annual payment shall be made to the department  
19 of finance and administration for deposit to the general fund."

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

22 - 8 -  
23  
24  
25