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SENATE BILL 38

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LEONARD TSOSIE

AN ACT

RELATING TO PUBLIC SCHOOL FUNDING; AMENDING THE STATE
EQUALIZATION FORMULA; PROVIDING FOR THE DISTRIBUTION OF
CERTAIN FEDERAL FUNDS.

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

Section 1. Section 22-8-25 NMSA 1978 (being Laws 1981,
Chapter 176, Section 5, as amended) is amended to read:

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

A. The state equalization guarantee distribution
is that amount of money distributed to each school district to
ensure that the school district's operating revenue, including
its local and federal revenues as defined in this section, is
at least equal to the school district's program cost.

B. "Local revenue", as used in this section, means

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

11 C. As used in this section:

12 (1) "federal revenue" [~~as used in this~~
13 ~~section~~] means ninety-five percent of receipts to the school
14 district, excluding amounts which, if taken into account in
15 the computation of the state equalization guarantee
16 distribution, result, under federal law or regulations, in a
17 reduction in or elimination of federal school funding
18 otherwise receivable by the school district, derived from the
19 following:

20 [(1)] (a) the school district's share
21 of forest reserve funds distributed in accordance with Section
22 22-8-33 NMSA 1978; and

23 [(2)] (b) grants from the federal
24 government as assistance to those areas affected by federal
25 activity authorized in accordance with [~~Sections 236 through~~

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1 ~~240]~~ Title 8 of the Elementary and Secondary Education Act,
2 Sections 7701 through 7714 of Title 20 of the United States
3 Code, commonly known as ["~~PL 874 funds~~" or an amount equal to
4 ~~the revenue the district was entitled to receive if no~~
5 ~~application was made for such funds~~] impact aid and formerly
6 known as PL 874 funds, but deducting from those grants: 1)
7 the [~~additional amounts to which school districts would be~~
8 ~~entitled because of the provisions of Subparagraph (D) of~~
9 ~~Paragraph (2) of Subsection (d) of Section 238 of Title 20 of~~
10 ~~the United States Code~~] impact aid payments generated by that
11 part of a factor in excess of 1.0 for children residing on
12 Indian lands within the school district, payments in addition
13 to the basic payment for children with disabilities for
14 heavily impacted school districts or for school districts with
15 high concentrations of children with severe disabilities and
16 any other payments that cannot be used to equalize state
17 funding to school districts pursuant to federal law or
18 regulation; and 2) after deduction of the amount identified in
19 Item 1) of this subparagraph, that percent of the remaining
20 impact aid generated by children who reside on Indian lands
21 that a school district elects to retain for use solely for
22 capital improvements on district facilities, provided that the
23 amount shall be no more than the product of the percent of
24 obligated bonding capacity of the school district as of June
25 30 of the prior fiscal year multiplied by the amount of impact

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1 aid for children who reside on Indian lands received by that
2 school district in the current fiscal year that is potentially
3 available for use in the state equalization guarantee
4 distribution formula if it is not retained for capital
5 improvements; and

6 (2) "federal revenue" shall not include
7 amounts of impact aid generated by children living on Indian
8 lands if that inclusion would result in lower funding per
9 pupil for a district than for the highest funded school
10 district in the state. To determine if that impact aid if
11 included as federal revenue would result in lower funding per
12 pupil, the funding shall be calculated by the use of basic
13 program ADM on the fortieth day and shall include all impact
14 aid funds for the school district.

15 D. To determine the amount of the state
16 equalization guarantee distribution, the state superintendent
17 shall:

18 (1) calculate the number of program units to
19 which each school district is entitled using the basic program
20 membership of the fortieth day for all programs; provided that
21 special education program units shall be calculated using the
22 membership in special education programs on December 1; or

23 (2) calculate the number of program units to
24 which a school district operating under an approved year-round
25 school calendar is entitled using the basic program membership

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1 on an appropriate date established by the state board; or

2 (3) calculate the number of program units to
3 which a school district with a basic program MEM of 200 or
4 less is entitled by using the basic program membership on the
5 fortieth day of either the prior or the current year,
6 whichever is greater; provided that special education program
7 units shall be calculated using the membership in special
8 education programs on December 1 of either the prior or the
9 current year; and

10 (4) using the results of the calculations in
11 Paragraph (1), (2) or (3) of this subsection and the
12 instructional staff training and experience index from the
13 October report of the prior school year, establish a total
14 program cost of the school district;

15 (5) calculate the local and federal revenues
16 as defined in this section;

17 (6) deduct the sum of the calculations made
18 in Paragraph (5) of this subsection from the program cost
19 established in Paragraph (4) of this subsection; and

20 (7) deduct the total amount of guaranteed
21 energy savings contract payments that the state superintendent
22 determines will be made to the school district from the public
23 school energy efficiency fund during the fiscal year for which
24 the state equalization guarantee distribution is being
25 computed.

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1 E. 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 and (7) of Subsection D of this section.

5 F. 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 district has received more
12 state equalization guarantee funds than its entitlement, a
13 refund shall be made by the district to the state general
14 fund.

15 G. Notwithstanding the methods of calculating the
16 state equalization guarantee distribution in this section and
17 Laws 1974, Chapter 8, Section 22, if a school district
18 received funds under Section 2391 of Title 42 USCA and if the
19 federal government takes into consideration grants authorized
20 by Sections 236 through 240 of Title 20 of the United States
21 Code and all other revenues available to the school district
22 in determining the level of federal support for the school
23 district for the sixty-fourth and succeeding fiscal years, the
24 state equalization guarantee distribution for school districts
25 receiving funds under this subsection shall be computed as

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1 guarantee distribution is being computed, equals the fiscal
2 year state equalization guarantee distribution for the year
3 for which the state equalization guarantee distribution is
4 being computed.

5 If at any time grants from the federal government as
6 assistance to those areas affected by federal activity
7 authorized in accordance with Sections 236 through 240 of
8 Title 20 of the United States Code (commonly known as "PL 874
9 funds") are reduced or are no longer available, the state
10 equalization guarantee distribution shall be computed by the
11 formula contained in this subsection plus an increase by fifty
12 percent of the amount the prior year's PL 874 funds exceed PL
13 874 funds for the year for which the state equalization
14 guarantee distribution is being computed. "

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 January 22, 1998
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8 Mr. President:
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10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 38
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14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to
16 the EDUCATION COMMITTEE.
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19 Respectfully submitted,
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Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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5 January 29, 1998

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7 Mr. President:

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9 Your EDUCATION COMMITTEE, to whom has been referred

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11 SENATE BILL 38

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13 has had it under consideration and reports same with recommendation
14 that it DO PASS, and thence referred to the FINANCE COMMITTEE.

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16 Respectfully submitted,

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21 Cynthia Nava, Chair man

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25 Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

The roll call vote was 6 For 3 Against

Yes: 6

No: Boitano, Gorham, Maloof

Excused: Rodriguez

Absent: None

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February 17, 1998

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE BILL 38

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 2, line 11, strike the colon and insert in lieu thereof a comma and on line 12, strike the paragraph designation "(1)".

2. On page 2, line 20, remove the brackets and line-through and strike the subparagraph designation "(a)".

3. On page 2, line 23, remove the brackets and line-through and

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strike the subparagraph designation "(b)".

4. On page 3, line 1, strike the underscored language, and on line 2, strike the underscored language and "of".

5. On page 3, line 6, strike the colon and the item designation "1)".

6. On page 3, line 7, strike "the".

7. On page 3, lines 10 through 15, strike the underscored language in its entirety.

8. On page 3, line 18, after the semicolon strike the remainder of the line and insert in lieu thereof:

"provided that a school district generating impact aid may elect in any given fiscal year to retain that amount of impact aid in excess of the amount of impact aid considered to be federal revenue for purposes of the state equalization guarantee distribution for that school district for the period beginning June 1, 1997 and ending May 31, 1998 for expenditure by that school district for capital

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improvements. Any impact aid in excess of the amount of aid considered to be federal revenue for purposes of the state equalization guarantee distribution for that school district for the period beginning June 1, 1997 and ending May 31, 1998 not elected to be retained by a school district shall be transferred to the public school capital outlay fund. If retention of the impact aid in excess of that amount considered to be federal revenue would result in the state being unable to take credit for impact aid to New Mexico's school districts pursuant to Title 20 of the United States Code, as that code applies to impact aid, no school shall be permitted to elect to retain impact aid funds."

9. On page 3, strike lines 19 through 25 in their entirety and on page 4, strike lines 1 through 14 in their entirety.

Respectfully submitted,

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Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Ingle, Lyons, McKibben, Romero

Absent: None

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SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE

SECOND SESSION

February 17, 1998

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 38, as amended

Amendment sponsored by Senator Leonard Tsosie

1. Strike Senate Finance Committee Amendment 8.

2. On page 3, line 18, after the semicolon strike the remainder of the line and insert in lieu thereof:

provided that a school district generating impact aid may elect in any given fiscal year to retain that amount of impact aid in excess of the amount of impact aid considered to be federal revenue for purposes of the state equalization guarantee distribution for that school district for the period beginning June 1, 1997 and ending May 31, 1998 for expenditure by that school district for capital

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FORTY-THIRD LEGISLATURE
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improvements except that five percent of the impact aid received by a school district that is used in the calculation to determine the amount of federal revenue credited to the state equalization guarantee formula may be used by the school district for any purpose. Any impact aid in excess of the amount of aid considered to be federal revenue for purposes of the state equalization guarantee distribution for that school district for the period beginning June 1, 1997 and ending May 31, 1998 not elected to be retained by a school district shall be transferred to the public school capital outlay fund. If retention of the impact aid in excess of that amount considered to

be federal revenue would result in the state being unable to take credit for impact aid to New Mexico's school districts pursuant to Title 20 of the United States Code, as that code applies to impact aid, no school shall be permitted to elect to retain impact aid

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FORTY-THIRD LEGISLATURE
SECOND SESSION

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funds. "

Leonard Tsosie

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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