

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 672

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING CAPITAL OUTLAY, MAINTENANCE AND EDUCATIONAL
TECHNOLOGY FUNDING FOR IMPACT AID SCHOOL DISTRICTS AND CHARTER
SCHOOLS; MAKING AN APPROPRIATION; PROVIDING FOR A DELAYED
REPEAL.

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

SECTION 1. A new section of the Severance Tax Bonding Act
is enacted to read:

"[NEW MATERIAL] BONDING CAPACITY--AUTHORIZATION FOR
SEVERANCE TAX BONDS--PRIORITY FOR IMPACT AID SCHOOL DISTRICT
AND CHARTER SCHOOL PROJECTS.--

A. By January 15 of each year, the division shall
estimate the amount of bonding capacity available for severance
tax bonds to be authorized by the legislature.

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1 B. The division shall allocate ten percent of the
2 estimated bonding capacity each year for capital outlay
3 projects for impact aid school districts and charter schools,
4 and the legislature shall authorize the state board of finance
5 to issue severance tax bonds in the annually allocated amount
6 for use by the public school capital outlay council to fund
7 impact aid school district and charter school capital outlay
8 projects. The public school capital outlay council shall
9 certify to the state board of finance the need for issuance of
10 bonds for impact aid school district and charter school
11 projects. The state board of finance may issue and sell the
12 bonds in the same manner as other severance tax bonds in an
13 amount not to exceed the authorized amount provided for in this
14 subsection. If necessary, the state board of finance shall
15 take the appropriate steps to comply with the federal Internal
16 Revenue Code of 1986, as amended. Proceeds from the sale of
17 the bonds are appropriated to the public school facilities
18 authority for the purposes certified by the public school
19 capital outlay council to the state board of finance.

20 C. Each impact aid school district shall provide
21 the charter schools in its district the charter schools'
22 proportionate share of severance tax bonding capacity based on
23 its proportionate membership of the total membership in the
24 district.

25 D. Each impact aid school district shall receive

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1 its proportionate share of severance tax bonding capacity based
2 on the amount of its credited impact aid basic support payments
3 from June 1 of the previous year to May 31 of the current year.
4 If an impact aid school district or charter school has a
5 particularly expensive capital improvement project for which
6 the school district or charter school does not have enough
7 bonding capacity to complete a functional phase or to complete
8 the project, it may hold its bonding capacity until there is
9 enough to issue bonds for a phase or the complete project.

10 E. An impact aid school district or charter school
11 may use its bonding capacity as the required match for
12 receiving funding from the public school capital outlay council
13 pursuant to other sections of the Public School Capital Outlay
14 Act.

15 F. Money from the severance tax bonds provided for
16 in this section shall not be used to pay indirect project
17 costs. Any unexpended balance from proceeds of severance tax
18 bonds issued for an impact aid school district or charter
19 school project shall revert to the severance tax bonding fund
20 within six months of completion of the project. The public
21 school facilities authority shall monitor and ensure proper
22 reversions of the bond proceeds appropriated for impact aid
23 school district and charter school projects.

24 G. The public school capital outlay council shall
25 take project applications from impact aid school districts and

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1 shall rank the projects in order of importance based on the
2 districts' five-year facilities plans.

3 H. As used in this section:

4 (1) "division" means the board of finance
5 division of the department of finance and administration; and

6 (2) "impact aid school district and charter
7 schools" means a school district that has applied for and
8 received basic support payments from federal impact aid, also
9 known as P.L. 874 funds, for the last three years and includes
10 the charter schools in that district."

11 SECTION 2. A new Section 22-25-9.1 NMSA 1978 is enacted
12 to read:

13 "22-25-9.1. [NEW MATERIAL] STATE DISTRIBUTION TO IMPACT
14 AID SCHOOL DISTRICTS AND CHARTER SCHOOLS IMPOSING TAX UNDER
15 CERTAIN CIRCUMSTANCES.--

16 A. As used in this section:

17 (1) "impact aid school district" means a
18 school district, other than a large impact aid school district,
19 that has applied for and received basic support payments from
20 federal impact aid, also known as P.L. 874 funds, for the last
21 three years; and

22 (2) "large impact aid school district" means a
23 school district that receives federal impact aid, has a
24 significant property tax base and has a districtwide full-time-
25 equivalent student enrollment greater than thirty thousand.

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1 B. A large impact aid school district shall receive
2 a distribution pursuant to the Public School Capital
3 Improvements Act under the calculation in Section 22-25-9 NMSA
4 1978.

5 C. For all other impact aid school districts and
6 their charter schools, except as provided in Subsection D or H
7 of this section, the secretary shall distribute to any school
8 district that has imposed a tax pursuant to the Public School
9 Capital Improvements Act an amount from the public school
10 capital improvements fund that is equal to the amount by which
11 the revenue estimated to be received from the imposed tax,
12 using prior year valuations, at the rate certified by the
13 department of finance and administration in accordance with
14 Section 22-25-7 NMSA 1978, assuming a one-hundred-percent
15 collection rate, is less than an amount calculated by
16 multiplying an average of the school district's prior year
17 second and third reporting dates' total program units by the
18 amount specified in Subsection D of this section and further
19 multiplying the product obtained by the tax rate approved by
20 the qualified electors in the most recent election on the
21 question of imposing a tax under the Public School Capital
22 Improvements Act. The distribution shall be made each year
23 that the tax is imposed in accordance with Section 22-25-7 NMSA
24 1978. In the event that sufficient funds are not available in
25 the public school capital improvements fund to make the state

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1 distribution provided for in this section, the dollar per
2 program unit figure shall be reduced as necessary.

3 D. In calculating the state distribution pursuant
4 to Subsection C of this section, the following amounts shall be
5 used:

6 (1) one hundred twenty-five dollars (\$125) for
7 fiscal year 2020 and in each subsequent fiscal year shall equal
8 the amount for the previous fiscal year adjusted by the
9 percentage increase between the next preceding calendar year
10 and the preceding calendar year of the consumer price index for
11 the United States, all items, as published by the United States
12 department of labor;

13 (2) the minimum distribution of nine dollars
14 fifty cents (\$9.50) for fiscal year 2020 and in each subsequent
15 fiscal year shall equal the amount for the previous fiscal year
16 adjusted by the percentage increase between the next preceding
17 calendar year and the preceding calendar year of the consumer
18 price index for the United States, all items, as published by
19 the United States department of labor; or

20 (3) every impact aid school district shall be
21 guaranteed to receive a minimum distribution of one million
22 dollars (\$1,000,000) if the calculations for Paragraph (1) or
23 (2) of this subsection result in a distribution of less than
24 one million dollars (\$1,000,000).

25 E. For any fiscal year, notwithstanding the amount

1 calculated to be distributed pursuant to Paragraph (1) of
 2 Subsection D of this section, except as provided in Subsection
 3 G of this section, an impact aid school district, the voters of
 4 which have approved a tax pursuant to Section 22-25-3 NMSA
 5 1978, shall not receive a distribution less than the amount
 6 calculated pursuant to Paragraph (2) of Subsection D of this
 7 section multiplied by the average of the impact aid school
 8 district's prior year second and third reporting dates' total
 9 program units and further multiplying the product obtained by
 10 the approved tax rate.

11 F. In expending distributions made pursuant to this
 12 section, impact aid school districts and charter schools shall
 13 give priority to maintenance projects, including payments under
 14 contracts with regional education cooperatives for maintenance
 15 support services. In addition, distributions made pursuant to
 16 this section may be expended by impact aid school districts and
 17 charter schools as follows:

18 (1) for the impact aid school district portion
 19 of the total project cost for roof repair or replacement
 20 required by Section 22-24-4.3 NMSA 1978; or

21 (2) for the impact aid school district portion
 22 of payments made under a financing agreement entered into by an
 23 impact aid school district or a charter school for the leasing
 24 of a building or other real property with an option to purchase
 25 for a price that is reduced according to the payments made, if

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1 the impact aid school district has received a grant for the
2 state share of the payments pursuant to Subsection D of Section
3 22-24-5 NMSA 1978.

4 G. If a serious deficiency in a roof of a public
5 school facility has been corrected pursuant to Section
6 22-24-4.4 NMSA 1978 and the impact aid school district or
7 charter school has refused to pay its share of the cost as
8 determined by that section, until the public school capital
9 outlay fund is reimbursed in full for the share attributed to
10 the impact aid school district or charter school, the
11 distribution calculated pursuant to this section shall not be
12 made to the impact aid school district or charter school but
13 shall be made to the public school capital outlay fund.

14 H. A portion of each distribution made by the state
15 pursuant to this section on or after July 1, 2019 shall be
16 further distributed by the impact aid school district to each
17 charter school located within the impact aid school district.
18 The amount to be distributed to each charter school shall be in
19 the same proportion as the average full-time-equivalent
20 enrollment of the charter school on the second and third
21 reporting dates of the prior school year is to the total such
22 enrollment in the impact aid school district; provided that no
23 distribution shall be made to an approved charter school that
24 had not commenced classroom instruction in the prior school
25 year. Each year, the department shall certify to the impact

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1 aid school district the amount to be distributed to each
2 charter school. Distributions received by a charter school
3 pursuant to this subsection shall be expended pursuant to the
4 provisions of the Public School Capital Improvements Act;
5 except that if capital improvements for the charter school were
6 not identified in a resolution approved by the electors, the
7 charter school may expend the distribution for any capital
8 improvements, including those specified in Subsection F of this
9 section.

10 I. In determining an impact aid school district's
11 total program units pursuant to Subsections C and E of this
12 section and an impact aid school district's total enrollment
13 pursuant to Subsection H of this section, students attending a
14 state-chartered charter school within the school district shall
15 be included.

16 J. In making distributions pursuant to this
17 section, the secretary shall include such reporting
18 requirements and conditions as are required by rule of the
19 public school capital outlay council. The council shall adopt
20 such requirements and conditions as are necessary to ensure
21 that the distributions are expended in the most prudent manner
22 possible and are consistent with the original purpose as
23 specified in the authorizing resolution. Copies of reports or
24 other information received by the secretary in response to the
25 requirements and conditions shall be forwarded to the council."

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