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HOUSE BILL 26

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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and Michael Padilla

AN ACT

RELATING TO TRANSPORTATION; CREATING THE HIGHWAY PROJECT FUND;
CHANGING THE "LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND" TO
THE "TRANSPORTATION PROJECT FUND"; ALLOWING INDIAN NATION,
TRIBE OR PUEBLO PROJECTS TO BE FUNDED BY THE TRANSPORTATION
PROJECT FUND; DISTRIBUTING REVENUE IN EXCESS OF A FIVE-YEAR
AVERAGE OF MONEY RECEIVED BY THE STATE PURSUANT TO THE FEDERAL
MINERAL LEASING ACT TO THE STATE ROAD FUND AND THE
TRANSPORTATION PROJECT FUND; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] HIGHWAY PROJECT FUND.--

A. The "highway project fund" is created in the
state treasury. Income from investment of the fund shall be
credited to the fund. Money in the fund shall be expended as
provided in this section. Money in the fund shall not revert

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1 to the general fund.

2 B. On July 1 of each year, a distribution shall be
3 made from the highway project fund to the state road fund in an
4 amount equal to the greater of five percent of the average of
5 the year-end market values of the fund for the immediately
6 preceding five calendar years or:

7 (1) on July 1, 2020, twenty million dollars
8 (\$20,000,000);

9 (2) on July 1, 2021, thirty million dollars
10 (\$30,000,000); and

11 (3) on July 1, 2022 and each July 1
12 thereafter, forty million dollars (\$40,000,000).

13 C. In addition to the distribution pursuant to
14 Subsection B of this section, money in the highway project fund
15 may be expended as follows:

16 (1) up to fifty percent of the balance of the
17 highway project fund may be appropriated by a two-thirds'
18 majority vote of both houses of the legislature following
19 receipt by the legislature of a declaration of the governor
20 that such an appropriation is necessary for the public peace,
21 health and safety; provided that such appropriation shall not
22 interfere with the distribution pursuant to Subsection B of
23 this section for the current and following fiscal year; and

24 (2) in the event that general fund balances,
25 including all authorized revenues and transfers to the general

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1 fund and balances in the general fund operating reserve, the
2 appropriation contingency fund and the tax stabilization
3 reserve, will not meet the level of appropriations authorized
4 from the general fund for a fiscal year. In that event, to
5 avoid an unconstitutional deficit, the legislature may
6 appropriate from the highway project fund to the general fund
7 up to the amount necessary to meet general fund appropriations.

8 SECTION 2. [NEW MATERIAL] DISTRIBUTION--STATE ROAD FUND--
9 TRANSPORTATION PROJECT FUND--PAYMENTS PURSUANT TO FEDERAL
10 MINERAL LEASING ACT.--

11 A. If, by June 30 of each fiscal year, the net
12 receipts for that fiscal year of the money received by the
13 state pursuant to the federal Mineral Leasing Act exceed the
14 annual average amount, seventy-five percent of the excess shall
15 be distributed to the state road fund and twenty-five percent
16 of the excess shall be distributed to the transportation
17 project fund. If there is an excess amount, the distributions
18 shall be made as soon as practicable. If there is not an
19 excess amount, no distribution shall be made. The department
20 of finance and administration shall make the calculation to
21 determine if an excess amount shall be distributed.

22 B. As used in this section, "annual average amount"
23 means the total net receipts attributable to money received by
24 the state pursuant to the federal Mineral Leasing Act in the
25 immediately preceding five fiscal years, divided by five.

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1 SECTION 3. Section 22-8-34 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 90, as amended) is amended to read:

3 "22-8-34. FEDERAL MINERAL LEASING FUNDS.--

4 A. ~~[Except for an annual appropriation to the~~
5 ~~instructional material fund and to the bureau of geology and~~
6 ~~mineral resources of the New Mexico institute of mining and~~
7 ~~technology, and except as provided in Subsection B of this~~
8 ~~section, all other]~~ Money received by the state pursuant to the
9 provisions of the federal Mineral ~~[Lands]~~ Leasing Act ~~[30 USCA~~
10 ~~181, et seq.]~~ shall be distributed to the public school fund,
11 except as follows:

12 (1) an annual appropriation to the
13 instructional material fund;

14 (2) an annual appropriation to the board of
15 regents of the New Mexico institute of mining and technology
16 for the bureau of geology and mineral resources;

17 (3) the distribution made pursuant to
18 Subsection B of this section; and

19 (4) the distribution made pursuant to Section
20 2 of this 2020 act.

21 B. ~~[All]~~ Money received by the state as its share
22 of a prepayment of royalties pursuant to 30 U.S.C. 1726(b), as
23 that section may be amended or renumbered, shall be distributed
24 as follows:

25 (1) a portion of the receipts, estimated by

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1 the taxation and revenue department to be equal to the amount
2 that the state would have received as its share of royalties in
3 the same fiscal year if the prepayment had not been made, shall
4 be distributed to the public school fund; and

5 (2) the remainder shall be distributed to the
6 common school permanent fund."

7 SECTION 4. Section 67-3-78 NMSA 1978 (being Laws 2019,
8 Chapter 205, Section 1) is amended to read:

9 "67-3-78. [~~DEFINITIONS LOCAL GOVERNMENT~~] TRANSPORTATION
10 PROJECT FUND CREATED--[~~DISTRIBUTIONS~~] PLANNING AND
11 PRIORITIZATION OF FUNDING TRANSPORTATION PROJECTS FOR COUNTIES,
12 MUNICIPALITIES AND TRIBES.--

13 [~~A. As used in this section:~~

14 (1) ~~"fund" means the local government~~
15 ~~transportation project fund;~~

16 (2) ~~"local government" means a county or~~
17 ~~municipality;~~

18 (3) ~~"local government transportation project"~~
19 ~~means environmental and other studies, planning, design,~~
20 ~~construction and acquisition of rights of way necessary for the~~
21 ~~development of transportation infrastructure in a county or~~
22 ~~municipality;~~

23 (4) ~~"non-state money" means money that does~~
24 ~~not derive from revenue or interest into the state treasury or~~
25 ~~into a state fund; and~~

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1 ~~(5) "transportation infrastructure" means~~
2 ~~highways, streets, roadways, bridges, crossing structures and~~
3 ~~parking facilities, including all areas for vehicular use for~~
4 ~~travel, ingress, egress and parking.~~

5 B.] A. The "[~~local government~~] transportation
6 project fund" is created in the state treasury. The fund
7 consists of appropriations, donations, interest from investment
8 of the fund and other money distributed to the fund. The
9 department shall administer the fund and may establish
10 subaccounts for the fund as it deems necessary. Money in the
11 fund is appropriated to the department for expenditure as
12 provided in this section; provided that money in the fund is
13 subject to appropriation by the legislature for any purpose.
14 Disbursements from the fund shall be made by warrant of the
15 secretary of finance and administration pursuant to vouchers
16 signed by the secretary of transportation or the secretary's
17 designee. Money in the fund shall not revert at the end of a
18 fiscal year.

19 ~~[G.]~~ B. Money in the fund may be used to make a
20 grant to a [~~local government~~] county, municipality or tribe for
21 a [~~local government~~] transportation project that has been
22 approved pursuant to Subsection [~~D~~] C of this section for up
23 to:

24 (1) ninety-five percent of the total cost of a
25 [~~local government~~] transportation project; provided that the

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1 ~~[local government]~~ county, municipality or tribe has
2 demonstrated an ability, and has contracted, to provide the
3 remainder of the project costs in non-state money; or
4 (2) one hundred percent of the total cost of a
5 ~~[local government]~~ transportation project if a financial
6 hardship qualification certificate is issued to the ~~[local~~
7 ~~government]~~ county, municipality or tribe by the department of
8 finance and administration and the level of hardship assistance
9 is approved by the state transportation commission; provided
10 that the ~~[local government]~~ county, municipality or tribe has
11 demonstrated an ability, and has contracted, to provide the
12 remainder, if any, of the project costs in non-state money.

13 ~~[D.]~~ C. By ~~[August 1, 2019 and by]~~ August 1 of each
14 year ~~[thereafter]~~, the secretary shall submit a proposed list
15 to the state transportation commission of ~~[local government]~~
16 transportation projects identified through a transportation
17 planning process by ~~[the department's metropolitan planning~~
18 ~~organization and regional transportation planning organization~~
19 ~~planning process to the state transportation commission.~~
20 ~~Subject to any direction by the legislature regarding~~
21 ~~distributions from the fund, such as minimum distributions by~~
22 ~~engineering districts or to rural or urbanized local~~
23 ~~governments]~~ metropolitan planning organizations and regional
24 transportation planning organizations. The commission shall
25 approve a prioritized list of ~~[local government]~~ the

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1 transportation projects for funding from the fund by ~~September~~
2 ~~1, 2019 and by~~ September 1 of each year ~~[thereafter]~~. The
3 commission may approve subsequent changes to a priority list as
4 ~~[it]~~ the commission deems necessary.

5 ~~[E.]~~ D. By ~~[November 30, 2019 and by]~~ November 30
6 of each year ~~[thereafter]~~, the department shall provide a
7 report to the appropriate interim legislative committee on the
8 status of the fund, the status of the ~~[local government]~~
9 transportation projects for which grants have been made from
10 the fund and the outstanding demand for assistance from the
11 fund.

12 E. As used in this section:

13 (1) "fund" means the transportation project
14 fund;

15 (2) "metropolitan planning organization" means
16 the policy board of an organization designated by the state to
17 carry out a transportation planning process as permitted by
18 federal law pursuant to 23 U.S.C. 134, as that section may be
19 amended or renumbered;

20 (3) "non-state money" means money that does
21 not derive from revenue or interest into the state treasury or
22 into a state fund;

23 (4) "regional transportation planning
24 organization" means the policy board of an organization
25 designated by the state to carry out a transportation planning

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1 process as permitted by federal law pursuant to 23 U.S.C. 135,
2 as that section may be amended or renumbered;

3 (5) "transportation infrastructure" means
4 highways, streets, roadways, bridges, crossing structures and
5 parking facilities, including all areas for vehicular use for
6 travel, ingress, egress and parking;

7 (6) "transportation project" means
8 environmental and other studies, planning, design, construction
9 and maintenance of transportation infrastructure, and
10 acquisition of rights of way necessary for the development of
11 transportation infrastructure, in a county, municipality or
12 tribe, but "transportation project" does not mean a
13 beautification project, as determined by the state
14 transportation commission; and

15 (7) "tribe" means an Indian nation, tribe or
16 pueblo located wholly or partially in New Mexico."

17 SECTION 5. APPROPRIATION.--Two hundred million dollars
18 (\$200,000,000) is appropriated from the general fund to the
19 highway project fund for expenditure in fiscal year 2020 and
20 subsequent fiscal years to provide initial funding to the
21 highway project fund. Any unexpended or unencumbered balance
22 remaining at the end of a fiscal year shall not revert to the
23 general fund.