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SENATE BILL 253

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

INTRODUCED BY

William P. Soules

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ADJUSTING THE METHOD FOR  
CALCULATING THE PROGRAM UNITS OF CERTAIN SCHOOL DISTRICTS OR  
CHARTER SCHOOLS WITH A YEAR-OVER-YEAR REDUCTION IN STUDENT  
POPULATION FOR PURPOSES OF DETERMINING THE STATE EQUALIZATION  
GUARANTEE DISTRIBUTION.

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

SECTION 1. Section 6-23-7 NMSA 1978 (being Laws 1993,  
Chapter 231, Section 7, as amended) is amended to read:

"6-23-7. PUBLIC SCHOOL UTILITY CONSERVATION FUND  
CREATED--USE.--

A. The "public school utility conservation fund" is  
created as a special fund in the state treasury. The fund  
shall consist of money transferred to the fund, from year to  
year, from the distribution of the permanent fund and land

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1 income of which the common schools are the beneficiary. No  
2 other money from any school district or state source shall be  
3 deposited or paid into the public school utility conservation  
4 fund.

5 B. Annually, after the calculation of the state  
6 equalization guarantee distribution has been made, the  
7 [~~superintendent of~~] public [~~instruction~~] education department  
8 shall determine the sum of the deductions made in the state  
9 equalization guarantee distribution of school districts  
10 pursuant to Paragraph [~~(7)~~] (8) of Subsection D of Section  
11 22-8-25 NMSA 1978 and shall certify that amount to the  
12 secretary of finance and administration. Distributions from  
13 the permanent fund and land income of which the common schools  
14 are the beneficiary equal to that amount shall be transferred  
15 from the common school current fund to the public school  
16 utility conservation fund.

17 C. Money in the public school utility conservation  
18 fund is appropriated to the [~~state department of~~] public  
19 education department solely for the purpose of disbursing money  
20 to school districts to make payments pursuant to any guaranteed  
21 utility savings contract between the school district and a  
22 qualified provider or any installment contract or lease-  
23 purchase agreement for the purchase and installation of energy  
24 or water conservation measures pursuant to that guaranteed  
25 utility savings contract.

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1           D. Disbursements from the public school utility  
2 conservation fund shall be made only to school districts and  
3 only upon certification by the ~~[superintendent]~~ secretary of  
4 public ~~[instruction]~~ education that the disbursement is for a  
5 payment authorized by the Public Facility Energy Efficiency and  
6 Water Conservation Act.

7           E. The ~~[superintendent of]~~ public ~~[instruction]~~  
8 education department shall submit to the legislative finance  
9 committee prior to each regular legislative session a list of  
10 school districts proposing to enter into approved guaranteed  
11 utility savings contracts in the succeeding fiscal year. The  
12 list shall include information on the amount of the school  
13 district's proposed annual payments and specific amounts that  
14 utility and operational budget items are guaranteed to be  
15 reduced to achieve the savings to make the payments.

16           F. Any unexpended or unencumbered balance remaining  
17 in the public school utility conservation fund at the end of  
18 any fiscal year shall be transferred to the public school  
19 fund."

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

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

24           A. The state equalization guarantee distribution is  
25 that amount of money distributed to each school district to

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1 ensure that its operating revenue, including its local  
2 and federal revenues as defined in this section, is at least  
3 equal to the school district's program cost. For state-  
4 chartered charter schools, the state equalization guarantee  
5 distribution is the difference between the state-chartered  
6 charter school's program cost and the two percent withheld by  
7 the department for administrative services.

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

18 C. "Federal revenue", as used in this section,  
19 means receipts to the school district or state-chartered  
20 charter school, excluding amounts that, if taken into account  
21 in the computation of the state equalization guarantee  
22 distribution, result, under federal law or regulations, in a  
23 reduction in or elimination of federal school funding otherwise  
24 receivable by the school district, derived from the following:

- 25 (1) seventy-five percent of the school

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1 district's share of forest reserve funds distributed in  
2 accordance with Section 22-8-33 NMSA 1978; and

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

8 D. To determine the amount of the state  
9 equalization guarantee distribution, the department shall:

10 (1) calculate the number of program units to  
11 which each school district or charter school is entitled using  
12 an average of the MEM on the second and third reporting dates  
13 of the prior year; or

14 (2) calculate the number of program units to  
15 which a school district or charter school operating under an  
16 approved year-round school calendar is entitled using an  
17 average of the MEM on appropriate dates established by the  
18 department; or

19 (3) calculate the number of program units to  
20 which a school district or charter school with a MEM of two  
21 hundred or less is entitled by using an average of the MEM on  
22 the second and third reporting dates of the prior year or [~~the~~  
23 ~~fortieth day~~] first reporting date of the current year,  
24 whichever is greater; [~~and~~] or

25 (4) calculate the number of program units to

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1 which a school district or charter school not receiving a  
2 supplemental distribution pursuant to Paragraph (2) of  
3 Subsection A of Section 22-8-30 NMSA 1978 and with a reduction  
4 in MEM of twenty-five percent or more from the first reporting  
5 date of the prior year to the first reporting date of the  
6 current year is entitled by using the MEM on the first  
7 reporting date of the current year; and

8 [~~(4)~~] (5) using the results of the  
9 calculations in Paragraph (1), (2), [~~(3)~~] (3) or (4) of this  
10 subsection and the staffing cost multiplier from the October  
11 report of the prior school year, establish a total program cost  
12 of the school district or charter school;

13 [~~(5)~~] (6) for school districts and state-  
14 chartered charter schools, calculate the local and federal  
15 revenues as defined in this section;

16 [~~(6)~~] (7) deduct the sum of the calculations  
17 made in Paragraph [~~(5)~~] (6) of this subsection from the program  
18 cost established in Paragraph [~~(4)~~] (5) of this subsection;

19 [~~(7)~~] (8) deduct the total amount of  
20 guaranteed energy savings contract payments that the department  
21 determines will be made to the school district from the public  
22 school utility conservation fund during the fiscal year for  
23 which the state equalization guarantee distribution is being  
24 computed; and

25 [~~(8)~~] (9) deduct ninety percent of the amount

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1 certified for the school district by the department pursuant to  
2 the Energy Efficiency and Renewable Energy Bonding Act.

3 E. Reduction of a school district's state  
4 equalization guarantee distribution shall cease when the school  
5 district's cumulative reductions equal its proportional share  
6 of the cumulative debt service payments necessary to service  
7 the bonds issued pursuant to the Energy Efficiency and  
8 Renewable Energy Bonding Act.

9 F. The amount of the state equalization guarantee  
10 distribution to which a school district is entitled is the  
11 balance remaining after the deductions made in Paragraphs [~~6~~]  
12 (7) through [~~8~~] (9) of Subsection D of this section.

13 G. The state equalization guarantee distribution  
14 shall be distributed prior to June 30 of each fiscal year. The  
15 calculation shall be based on the local and federal revenues  
16 specified in this section received from June 1 of the previous  
17 fiscal year through May 31 of the fiscal year for which the  
18 state equalization guarantee distribution is being computed.  
19 In the event that a school district or charter school has  
20 received more state equalization guarantee funds than its  
21 entitlement, a refund shall be made by the school district or  
22 charter school to the state general fund."