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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 1st Session, 2017**

<b>Bill Number</b>	<u>HB184/aHEC</u>	<b>Sponsor</b>	<u>Youngblood</u>
<b>Tracking Number</b>	<u>.204821.3SA</u>	<b>Committee Referrals</b>	<u>HEC/HTRC</u>
<b>Short Title</b>	<u>Property Tax Revenue to Charter Schools</u>		
<b>Analyst</b>	<u>Rogne</u>	<b>Original Date</b>	<u>2/6/17</u>
		<b>Last Updated</b>	<u>2/27/17</u>

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**FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**BILL SUMMARY**

Synopsis of HEC Amendment

The House Education Committee (HEC) Amendment to HB184/aHEC inserts new language that states “if a board of county commissioners elects not to distribute the proceeds of a tax due to a school district in the county, any amount distributed by the secretary of finance and administration to a school district that is due to a charter school shall be distributed to the charter school by the school district.” This language replaces language stating, “in the event that a charter school’s share of the property tax revenue is distributed to a school district, the school district shall distribute that share to the charter school.”

The HEC amendment also requires that the Public Education Department certify the percentage of revenue to be distributed to each charter school to each school district in which eligible charter schools are located.

Synopsis of Original Bill

House Bill 184 (HB184) requires school districts to distribute the proportionate share of ad valorem tax revenues to charter schools in instances where the taxes are not collected by the local county treasurer and are distributed directly to a school district by the state. This bill pertains to local taxes from the Public School Capital Improvements Act (also known as SB9) and the Public School Buildings Act (also known as HB33). HB184 also changes the language used to refer to the date of calculation of average full-time-equivalent enrollment from “fortieth day” to “first reporting date.”

**FISCAL IMPACT**

HB184/aHEC does not contain an appropriation. Enactment of HB184/aHEC would ensure school districts allocate the proportionate share of local taxes generated from the Public School

Capital Improvements Act and the Public School Buildings Act to locally chartered charter schools.

## **SUBSTANTIVE ISSUES**

HB184/aHEC amends the Public School Capital Improvements Act (SB9) and the Public School Buildings Act (HB33) to require school districts to distribute a charter school's share of property tax revenue in the event the charter school's share is distributed to a school district. This bill would also require the Public Education Department (PED) to certify to school districts the percentage of the revenue to be distributed to each charter school so that school districts can accomplish this task. Lastly, HB184/aHEC changes the language of the date of calculation of average full-time-equivalent enrollment from "fortieth day" to "first reporting date."

HB184/aHEC does not provide additional tax revenue to charter schools; it corrects an unforeseen issue when the acts were originally amended.

In 2007 and 2009 amendments were made to the Public School Capital Improvements Act and the Public School Buildings Act. That required school districts to include locally chartered and state-chartered charter schools in the resolution submitted to voters when these taxes were renewed (as long as charter schools provided the necessary information for inclusion to the school district in a timely manner). The amendments also required PED to certify annually to the local county treasurers the percentage of the revenue that should be distributed to each charter school, based on 40th-day membership of the prior year. The county treasurer was then required to distribute revenues to each charter school. These amendments have been in place for over 10 years and have given charter schools access to HB33 and SB9 funds.

However, it was recently brought to the attention of PED that certain locally chartered charter schools were not receiving their proportionate share of the property tax revenues from their authorizing school district. Statute requires commercial and residential property tax revenue to be allocated to school districts and charter schools by the local county treasurer. However, pursuant to the Tax Administration Act, a board of county commissioners may elect not to distribute the tax proceeds collected on oil and gas. If the board of county commissioners' elects not to have county treasurers distribute oil and gas tax proceeds, the Department of Finance and Administration (DFA) is responsible for distributing any oil and gas ad valorem taxes to a state-chartered charter school and school district. DFA is statutorily prohibited from distributing the oil and gas ad valorem taxes directly to a locally chartered charter school because locally chartered charter schools are not a board of finance pursuant to Section 22-8B-13 NMSA 1978; only state-chartered charter schools are a board of finance. For example, locally chartered charter schools receive their state equalization guarantee (SEG) allocations through the authorizing school district. HB184/aHEC would require school districts to distribute the proportionate share of ad valorem gas and oil taxes to locally chartered charter schools that were included in the resolution in these instances. HB184/aHEC would make SB9 and HB33 fund distributions consistent with SEG distributions.

## **RELATED BILLS**

HB69/aHTRC/aHFI#1, Education Technology Improvements & Admin, authorizing school boards to submit to voters if a property tax mill levy should be imposed for education technology improvements.

HB161, Prior Year Data for School Distributions, would require PED to use prior year data for determination of capital outlay distribution amounts.

SB63/aHTRC/aHFI#1, “Education Technology Improvements” Uses, a bill which expands the definition of education technology for which property tax revenues imposed pursuant to the Public School Buildings Act and the Public School Capital Improvements Act may be used.

SB147/aHLEDC, School Capital Outlay State-Local Matches, a bill changing the formula for determining state and local matches for capital outlay projects.

**SOURCES OF INFORMATION**

- LESC Files
- Public Education Department
- Public School Facilities Authority

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