

1 HOUSE BILL 161

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Dennis J. Roch

5
6
7 ENDORSED BY THE PUBLIC SCHOOL CAPITAL OUTLAY
8 OVERSIGHT TASK FORCE

9
10 AN ACT

11 RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; AMENDING THE PUBLIC
12 SCHOOL CAPITAL IMPROVEMENTS ACT TO REQUIRE THE PUBLIC EDUCATION
13 DEPARTMENT TO USE PRIOR YEAR DATA FOR DETERMINATION OF
14 DISTRIBUTION AMOUNTS TO SCHOOL DISTRICTS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-25-9 NMSA 1978 (being Laws 1975
18 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

19 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
20 TAX UNDER CERTAIN CIRCUMSTANCES.--

21 A. Except as provided in Subsection C or G of this
22 section, the secretary shall distribute to any school district
23 that has imposed a tax under the Public School Capital
24 Improvements Act an amount from the public school capital
25 improvements fund that is equal to the amount by which the

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1 revenue estimated to be received from the imposed tax, using
2 prior year valuations, at the rate certified by the department
3 of finance and administration in accordance with Section
4 22-25-7 NMSA 1978, assuming a one hundred percent collection
5 rate, is less than an amount calculated by multiplying the
6 school district's prior year first [~~forty days~~¹] reporting
7 date's total program units by the amount specified in
8 Subsection B of this section and further multiplying the
9 product obtained by the tax rate approved by the qualified
10 electors in the most recent election on the question of
11 imposing a tax under the Public School Capital Improvements
12 Act. The distribution shall be made each year that the tax is
13 imposed in accordance with Section 22-25-7 NMSA 1978; provided
14 that no state distribution from the public school capital
15 improvements fund may be used for capital improvements to any
16 administration building of a school district. In the event
17 that sufficient funds are not available in the public school
18 capital improvements fund to make the state distribution
19 provided for in this section, the dollar per program unit
20 figure shall be reduced as necessary.

21 B. In calculating the state distribution pursuant
22 to Subsection A of this section, the following amounts shall be
23 used:

24 (1) the amount calculated pursuant to
25 Subsection D of this section per program unit; and

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1 (2) an additional amount certified to the
2 secretary by the public school capital outlay council. No
3 later than June 1 of each year, the council shall determine the
4 amount needed in the next fiscal year for public school capital
5 outlay projects pursuant to the Public School Capital Outlay
6 Act and the amount of revenue, from all sources, available for
7 the projects. If, in the sole discretion of the council, the
8 amount available exceeds the amount needed, the council may
9 certify an additional amount pursuant to this paragraph;
10 provided that the sum of the amount calculated pursuant to this
11 paragraph plus the amount in Paragraph (1) of this subsection
12 shall not result in a total statewide distribution that, in the
13 opinion of the council, exceeds one-half of the total revenue
14 estimated to be received from taxes imposed pursuant to the
15 Public School Capital Improvements Act.

16 C. For any fiscal year notwithstanding the amount
17 calculated to be distributed pursuant to Subsections A and B of
18 this section, except as provided in Subsection G of this
19 section, a school district, the voters of which have approved a
20 tax pursuant to Section 22-25-3 NMSA 1978, shall not receive a
21 distribution less than the amount calculated pursuant to
22 Subsection E of this section multiplied by the school
23 district's prior year first [~~forty days~~] reporting date's
24 total program units and further multiplying the product
25 obtained by the approved tax rate.

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1 D. For purposes of calculating the distribution
2 pursuant to Subsection B of this section, the amount used in
3 Paragraph (1) of that subsection shall equal seventy dollars
4 (\$70.00) in fiscal year 2008 and in each subsequent fiscal year
5 shall equal the amount for the previous fiscal year adjusted by
6 the percentage increase between the next preceding calendar
7 year and the preceding calendar year of the consumer price
8 index for the United States, all items, as published by the
9 United States department of labor.

10 E. For purposes of calculating the minimum
11 distribution pursuant to Subsection C of this section, the
12 amount used in that subsection shall equal five dollars (\$5.00)
13 through fiscal year 2005 and in each subsequent fiscal year
14 shall equal the amount for the previous fiscal year adjusted by
15 the percentage increase between the next preceding calendar
16 year and the preceding calendar year of the consumer price
17 index for the United States, all items, as published by the
18 United States department of labor.

19 F. In expending distributions made pursuant to this
20 section, school districts and charter schools shall give
21 priority to maintenance projects, including payments under
22 contracts with regional education cooperatives for maintenance
23 support services. In addition, distributions made pursuant to
24 this section may be expended by school districts and charter
25 schools as follows:

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1 (1) for the school district portion of the
2 total project cost for roof repair or replacement required by
3 Section 22-24-4.3 NMSA 1978; or

4 (2) for the school district portion of
5 payments made under a financing agreement entered into by a
6 school district or a charter school for the leasing of a
7 building or other real property with an option to purchase for
8 a price that is reduced according to the payments made, if the
9 school district has received a grant for the state share of the
10 payments pursuant to Subsection D of Section 22-24-5 NMSA 1978.

11 G. If a serious deficiency in a roof of a public
12 school facility has been corrected pursuant to Section
13 22-24-4.4 NMSA 1978 and the school district has refused to pay
14 its share of the cost as determined by that section, until the
15 public school capital outlay fund is reimbursed in full for the
16 share attributed to the district, the distribution calculated
17 pursuant to this section shall not be made to the school
18 district but shall be made to the public school capital outlay
19 fund.

20 H. A portion of each distribution made by the state
21 pursuant to this section on or after July 1, 2009 shall be
22 further distributed by the school district to each locally
23 chartered or state-chartered charter school located within the
24 school district. The amount to be distributed to each charter
25 school shall be in the same proportion as the average full-

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1 time-equivalent enrollment of the charter school on the
2 [~~fortieth day~~] first reporting date of the prior school year is
3 to the total such enrollment in the school district; provided
4 that no distribution shall be made to an approved charter
5 school that had not commenced classroom instruction in the
6 prior school year. Each year, the department shall certify to
7 the school district the amount to be distributed to each
8 charter school. Distributions received by a charter school
9 pursuant to this subsection shall be expended pursuant to the
10 provisions of the Public School Capital Improvements Act;
11 except that if capital improvements for the charter school were
12 not identified in a resolution approved by the electors, the
13 charter school may expend the distribution for any capital
14 improvements, including those specified in Subsection F of this
15 section.

16 I. In determining a school district's total program
17 units pursuant to Subsections A and C of this section and a
18 school district's total enrollment pursuant to Subsection H of
19 this section, students attending a state-chartered charter
20 school within the school district shall be included.

21 J. In making distributions pursuant to this
22 section, the secretary shall include such reporting
23 requirements and conditions as are required by rule of the
24 public school capital outlay council. The council shall adopt
25 such requirements and conditions as are necessary to ensure

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1 that the distributions are expended in the most prudent manner
2 possible and are consistent with the original purpose as
3 specified in the authorizing resolution. Copies of reports or
4 other information received by the secretary in response to the
5 requirements and conditions shall be forwarded to the council."

6 SECTION 2. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2017.