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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 2nd Session, 2018**

**Bill Number** HB39                      **Sponsor** Youngblood  
**Tracking Number** .208828.1SA      **Committee Referrals** HLELC/HTRC  
**Short Title** School District Tax Revenue Distribution  
**Analyst** Rogne                                      **Original Date** 1/26/18  
**Last Updated** \_\_\_\_\_

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

**BILL SUMMARY**

Synopsis of Bill

House Bill 39 (HB39) amends the Public School Capital Improvements Act (also known as SB9) and the Public School Buildings Act (also known as HB33) to require school districts to distribute a charter school's share of local tax revenue in the event the charter school's share is distributed to a school district.

**FISCAL IMPACT**

HB39 does not contain an appropriation.

Enactment of HB39 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 charter schools.

**SUBSTANTIVE ISSUES**

HB39 requires school districts to distribute the proportionate share of local tax revenues to charter schools in instances where a board of county commissioners elects not to distribute the tax proceeds, and the taxes are distributed directly to a school district by the state. This bill also requires the Public Education Department (PED) to annually certify to school districts the percentage of revenue to be distributed to each charter school so that school districts can accomplish this task. HB39 pertains to local tax revenues from the Public School Capital Improvements Act (SB9) and the Public School Buildings Act (HB33). HB39 also changes the language used to refer to the calculation of average full-time-equivalent enrollment from "fortieth day" to "first reporting date."

HB39 does not provide additional tax revenue to charter schools; it corrects an unforeseen issue when the acts were amended in 2007 and 2009.

Amendments made to the Public School Capital Improvements Act and the Public School Buildings Act in 2007 and 2009 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 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 pursuant 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, according to PED, certain locally chartered charter schools were not receiving their proportionate share of the property tax revenues from their authorizing school districts. 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 a 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 1989; 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. HB39 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. HB39 would make SB9 and HB33 fund distributions consistent with SEG distributions.

## **RELATED BILLS**

Related to HB48, Prior Year Data for School Distributions, which requires PED to use prior year data for determination of SB9 distribution amounts to school districts.

Related to SB30, Change Capital Outlay Funding Formula, which changes the capital outlay funding formula for determination of state and local matches.

## **SOURCES OF INFORMATION**

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

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