

HOUSE BILL 254

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

INTRODUCED BY

Jack Chatfield

AN ACT

RELATING TO SCHOOL DISTRICTS; ADJUSTING AMOUNTS TO BE USED IN  
CALCULATING STATE DISTRIBUTIONS TO SCHOOL DISTRICTS THAT IMPOSE  
A PUBLIC SCHOOL CAPITAL IMPROVEMENTS TAX AND TO CHARTER SCHOOLS  
WITHIN THOSE SCHOOL DISTRICTS; CREATING AN ADDITIONAL  
DISTRIBUTION TO THOSE SCHOOL DISTRICTS AND CHARTER SCHOOLS;  
REPEALING AN OUTDATED SECTION OF LAW.

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

**SECTION 1.** Section 22-25-2 NMSA 1978 (being Laws 1975  
(S.S.), Chapter 5, Section 2, as amended) is amended to read:

"22-25-2. ~~[DEFINITIONS]~~ DEFINITION.--As used in the  
Public School Capital Improvements Act,

~~[A. "program unit" means the product of the program  
element multiplied by the applicable cost differential factor,  
as defined in Section 22-8-2 NMSA 1978; and~~

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1           B.] "capital improvements" means expenditures,  
2 including payments made with respect to lease-purchase  
3 arrangements as defined in the Education Technology Equipment  
4 Act or the Public School Lease Purchase Act but excluding any  
5 other debt service expenses, for:

6           [~~(1)~~] A. erecting, remodeling, making additions to,  
7 providing equipment for or furnishing public school buildings  
8 and pre-kindergarten classroom facilities;

9           [~~(2)~~] B. purchasing or improving public school or  
10 pre-kindergarten grounds;

11           [~~(3)~~] C. maintenance of public school buildings or  
12 public school or pre-kindergarten grounds, including the  
13 purchasing or repairing of maintenance equipment and  
14 participating in the facility information management system as  
15 required by the Public School Capital Outlay Act and including  
16 payments under contracts with regional education cooperatives  
17 for maintenance support services and expenditures for technical  
18 training and certification for maintenance and facilities  
19 management personnel, but excluding salary expenses of school  
20 district employees;

21           [~~(4)~~] D. purchasing activity vehicles for  
22 transporting students to extracurricular school activities;

23           [~~(5)~~] E. purchasing computer software and hardware  
24 for student use in public school classrooms; and

25           [~~(6)~~] F. purchasing and installing education

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1 technology improvements, excluding salary expenses of school  
2 district employees, but including tools used in the educational  
3 process that constitute learning and administrative resources,  
4 and that may also include:

5 [~~(a)~~] (1) satellite, copper and fiber-optic  
6 transmission; computer and network connection devices; digital  
7 communication equipment, including voice, video and data  
8 equipment; servers; switches; portable media devices, such as  
9 discs and drives to contain data for electronic storage and  
10 playback; and the purchase or lease of software licenses or  
11 other technologies and services, maintenance, equipment and  
12 computer infrastructure information, techniques and tools used  
13 to implement technology in schools and related facilities; and

14 [~~(b)~~] (2) improvements, alterations and  
15 modifications to, or expansions of, existing buildings or  
16 tangible personal property necessary or advisable to house or  
17 otherwise accommodate any of the tools listed in this  
18 [~~paragraph~~] subsection."

19 SECTION 2. Section 22-25-7 NMSA 1978 (being Laws 1975  
20 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

21 "22-25-7. IMPOSITION OF TAX--LIMITATION ON  
22 EXPENDITURES.--

23 A. If as a result of an election held in accordance  
24 with the Public School Capital Improvements Act a majority of  
25 the qualified electors voting on the question votes in favor of

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1 the imposition of the tax, the tax rate shall be certified,  
2 unless the local school board requests by resolution that a  
3 rate be discontinued, by the department of finance and  
4 administration at the rate specified in the resolution  
5 authorized under Section 22-25-3 NMSA 1978 or at any lower rate  
6 required by operation of the rate limitation provisions of  
7 Section 7-37-7.1 NMSA 1978 upon the rate specified in the  
8 resolution and be imposed at the rate certified in accordance  
9 with the provisions of the Property Tax Code.

10 B. The revenue produced by the tax and, except as  
11 provided in [~~Subsection F, G or H~~] Subsections D and F of  
12 Section 22-25-9 NMSA 1978, any state distribution resulting to  
13 the district under the Public School Capital Improvements Act  
14 shall be expended only for the capital improvements specified  
15 in the authorizing resolution.

16 C. The amount of tax revenue to be distributed to  
17 each charter school that was included in the resolution shall  
18 be determined each year and shall be in the same proportion as  
19 the average full-time-equivalent enrollment of the charter  
20 school on the first reporting date of the prior school year is  
21 to the total such enrollment in the school district; provided  
22 that, in determining the school district's total enrollment,  
23 charter school students located within the school district  
24 shall be included; and provided further that no distribution  
25 shall be made to an approved charter school that had not

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1 commenced classroom instruction in the prior school year. Each  
2 year, the department shall certify to the county treasurer of  
3 the county in which the eligible charter schools in the school  
4 district are located the percentage of the revenue to be  
5 distributed to each charter school. The county treasurer shall  
6 distribute the charter school's share of the property tax  
7 revenue directly to the charter school."

8 SECTION 3. Section 22-25-9 NMSA 1978 (being Laws 1975  
9 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

10 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING  
11 TAX UNDER CERTAIN CIRCUMSTANCES.--

12 ~~[A. Except as provided in Subsection C or G of this~~  
13 ~~section, the secretary shall distribute to any school district~~  
14 ~~that has imposed a tax under the Public School Capital~~  
15 ~~Improvements Act an amount from the public school capital~~  
16 ~~improvements fund that is equal to the amount by which the~~  
17 ~~revenue estimated to be received from the imposed tax, using~~  
18 ~~prior year valuations, at the rate certified by the department~~  
19 ~~of finance and administration in accordance with Section~~  
20 ~~22-25-7 NMSA 1978, assuming a one hundred percent collection~~  
21 ~~rate, is less than an amount calculated by multiplying an~~  
22 ~~average of the school district's prior year second and third~~  
23 ~~reporting dates' total program units by the amount specified in~~  
24 ~~Subsection B of this section and further multiplying the~~  
25 ~~product obtained by the tax rate approved by the qualified~~

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1 ~~electors in the most recent election on the question of~~  
2 ~~imposing a tax under the Public School Capital Improvements~~  
3 ~~Act. The distribution shall be made each year that the tax is~~  
4 ~~imposed in accordance with Section 22-25-7 NMSA 1978; provided~~  
5 ~~that no state distribution from the public school capital~~  
6 ~~improvements fund may be used for capital improvements to any~~  
7 ~~administration building of a school district. In the event~~  
8 ~~that sufficient funds are not available in the public school~~  
9 ~~capital improvements fund to make the state distribution~~  
10 ~~provided for in this section, the dollar per program unit~~  
11 ~~figure shall be reduced as necessary.~~

12 ~~B. In calculating the state distribution pursuant~~  
13 ~~to Subsection A of this section, the following amounts shall be~~  
14 ~~used:~~

15 ~~(1) the amount calculated pursuant to~~  
16 ~~Subsection D of this section per program unit; and]~~

17 A. Except as provided in Subsection E of this  
18 section, for each year that a capital improvements tax is  
19 imposed by a school district, the secretary shall distribute  
20 from the public school capital improvements fund to the school  
21 district an amount equal to the greater of:

22 (1) the difference between:

23 (a) the product of: 1) the school  
24 district's program units; 2) multiplied by the tax rate imposed  
25 by the school district; and 3) multiplied further by the sum

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1 calculated pursuant to Subsection B of this section per program  
2 unit; and

3 (b) the school district's estimated tax  
4 revenue; or

5 (2) the product of:

6 (a) five dollars (\$5.00) for fiscal year  
7 2021; and in each subsequent fiscal year, the amount for the  
8 previous fiscal year adjusted by the percentage increase  
9 between the next preceding calendar year and the preceding  
10 calendar year of the consumer price index for the United  
11 States, all items, as published by the United States department  
12 of labor;

13 (b) multiplied by the school district's  
14 program units; and

15 (c) multiplied further by the tax rate  
16 imposed by the school district.

17 B. The amount in Item 3) of Subparagraph (a) of  
18 Paragraph (1) of Subsection A of this section shall be equal to  
19 the sum of:

20 (1) for fiscal year 2021, eighty-nine dollars  
21 twenty-five cents (\$89.25); and for fiscal year 2022 and each  
22 subsequent fiscal year, the amount for the previous fiscal year  
23 adjusted by the percentage increase between the next preceding  
24 calendar year and the preceding calendar year of the consumer  
25 price index for the United States, all items, as published by

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1 the United States department of labor; plus

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

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

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1 ~~obtained by the approved tax rate.~~

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

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

20 C. If a distribution is made to a school district  
21 pursuant to Subsection A of this section, the secretary shall  
22 make an additional distribution from the public school capital  
23 improvements fund to the school district in an amount equal to  
24 the product of:

25 (1) fifty-three dollars (\$53.00);

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1                   (2) multiplied by the sum of the school  
2 district's program units;

3                   (3) multiplied further by the greater of six  
4 percent or the percentage calculated pursuant to Paragraph (6)  
5 of Subsection B of Section 22-24-5 NMSA 1978; and

6                   (4) multiplied further by the tax rate imposed  
7 by the school district.

8                   [F-] D. In expending distributions made pursuant to  
9 this section, school districts and charter schools shall give  
10 priority to maintenance projects, including payments under  
11 contracts with regional education cooperatives for maintenance  
12 support services. In addition, distributions made pursuant to  
13 this section may be expended by school districts and charter  
14 schools as follows, but no distribution from the public school  
15 capital improvements fund may be used for capital improvements  
16 to any administration building of a school district:

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

20                   (2) for the school district portion of  
21 payments made under a financing agreement entered into by a  
22 school district or a charter school for the leasing of a  
23 building or other real property with an option to purchase for  
24 a price that is reduced according to the payments made, if the  
25 school district has received a grant for the state share of the

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1 payments pursuant to Subsection D of Section 22-24-5 NMSA 1978.

2 ~~[G. If a serious deficiency in a roof of a public~~  
3 ~~school facility has been corrected pursuant to Section~~  
4 ~~22-24-4.4 NMSA 1978 and the school district has refused to pay~~  
5 ~~its share of the cost as determined by that section, until the~~  
6 ~~public school capital outlay fund is reimbursed in full for the~~  
7 ~~share attributed to the district, the distribution calculated~~  
8 ~~pursuant to this section shall not be made to the school~~  
9 ~~district but shall be made to the public school capital outlay~~  
10 ~~fund.]~~

11 E. In the event that sufficient funds are not  
12 available in the public school capital improvements fund to  
13 make the distributions pursuant to this section, the dollar per  
14 program unit figure shall be reduced as necessary.

15 ~~[H.]~~ F. A portion of each distribution made by the  
16 state pursuant to this section [on or after July 1, 2009] shall  
17 be further distributed by the school district to each locally  
18 chartered or state-chartered charter school located within the  
19 school district. The amount to be distributed to each charter  
20 school shall be in the same proportion as the average full-  
21 time-equivalent enrollment of the charter school on the second  
22 and third reporting dates of the prior school year is to the  
23 total such enrollment in the school district; provided that, in  
24 determining the school district's total enrollment, charter  
25 school students located within the school district shall be

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1 included; and provided further that no distribution shall be  
2 made to an approved charter school that had not commenced  
3 classroom instruction in the prior school year. Each year, the  
4 department shall certify to the school district the amount to  
5 be distributed to each charter school. Distributions received  
6 by a charter school pursuant to this subsection shall be  
7 expended pursuant to the provisions of the Public School  
8 Capital Improvements Act; except that if capital improvements  
9 for the charter school were not identified in a resolution  
10 approved by the electors, the charter school may expend the  
11 distribution for any capital improvements, including those  
12 specified in Subsection [F] D of this section.

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

18 ~~J.]~~ G. In making distributions pursuant to this  
19 section, the secretary shall include such reporting  
20 requirements and conditions as are required by rule of the  
21 public school capital outlay council. The council shall adopt  
22 such requirements and conditions as are necessary to ensure  
23 that the distributions are expended in the most prudent manner  
24 possible and are consistent with the original purpose as  
25 specified in the authorizing resolution. Copies of reports or

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1 other information received by the secretary in response to the  
2 requirements and conditions shall be forwarded to the council.

3 H. As used in this section:

4 (1) "capital improvements tax" means the tax  
5 authorized pursuant to the Public School Capital Improvements  
6 Act;

7 (2) "estimated tax revenue" means the revenue  
8 estimated to be received by a school district from the capital  
9 improvements tax, using prior year valuations and assuming a  
10 one hundred percent collection rate;

11 (3) "program units" means a school district's  
12 final program units determined pursuant to Sections 22-8-19,  
13 22-8-20 through 22-8-23.1 and 22-8-23.3 NMSA 1978 generated in  
14 the previous fiscal year, including such program units  
15 generated by a charter school located within the school  
16 district; and

17 (4) "tax rate" means the rate of the capital  
18 improvements tax as certified by the department of finance and  
19 administration pursuant to Section 22-25-7 NMSA 1978."

20 SECTION 4. REPEAL.--Section 22-24-4.4 NMSA 1978 (being  
21 Laws 2005, Chapter 274, Section 7, as amended) is repealed.

22 SECTION 5. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2020.