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AN ACT

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

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

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

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

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

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

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

17 (2) an additional amount certified to the
18 secretary by the public school capital outlay council. No
19 later than June 1 of each year, the council shall determine
20 the amount needed in the next fiscal year for public school
21 capital outlay projects pursuant to the Public School Capital
22 Outlay Act and the amount of revenue, from all sources,
23 available for the projects. If, in the sole discretion of
24 the council, the amount available exceeds the amount needed,
25 the council may certify an additional amount pursuant to this

1 paragraph; provided that the sum of the amount calculated
2 pursuant to this paragraph plus the amount in Paragraph (1)
3 of this subsection shall not result in a total statewide
4 distribution that, in the opinion of the council, exceeds
5 one-half of the total revenue estimated to be received from
6 taxes imposed pursuant to the Public School Capital
7 Improvements Act.

8 C. For any fiscal year notwithstanding the amount
9 calculated to be distributed pursuant to Subsections A and B
10 of this section, except as provided in Subsection G of this
11 section, a school district, the voters of which have approved
12 a tax pursuant to Section 22-25-3 NMSA 1978, shall not
13 receive a distribution less than the amount calculated
14 pursuant to Subsection E of this section multiplied by the
15 average of the school district's prior year second and third
16 reporting dates' total program units and further multiplying
17 the product obtained by the approved tax rate.

18 D. For purposes of calculating the distribution
19 pursuant to Subsection B of this section, the amount used in
20 Paragraph (1) of that subsection shall equal seventy dollars
21 (\$70.00) in fiscal year 2008 and in each subsequent fiscal
22 year shall equal the amount for the previous fiscal year
23 adjusted by the percentage increase between the next
24 preceding calendar year and the preceding calendar year of
25 the consumer price index for the United States, all items, as

1 published by the United States department of labor.

2 E. For purposes of calculating the minimum
3 distribution pursuant to Subsection C of this section, the
4 amount used in that subsection shall equal five dollars
5 (\$5.00) through fiscal year 2005 and in each subsequent
6 fiscal year shall equal the amount for the previous fiscal
7 year adjusted by the percentage increase between the next
8 preceding calendar year and the preceding calendar year of
9 the consumer price index for the United States, all items, as
10 published by the United States department of labor.

11 F. In expending distributions made pursuant to
12 this section, school districts and charter schools shall give
13 priority to maintenance projects, including payments under
14 contracts with regional education cooperatives for
15 maintenance support services. In addition, distributions
16 made pursuant to this section may be expended by school
17 districts and charter schools as follows:

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

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

1 if the school district has received a grant for the state
2 share of the payments pursuant to Subsection D of Section
3 22-24-5 NMSA 1978.

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

13 H. A portion of each distribution made by the
14 state pursuant to this section on or after July 1, 2009 shall
15 be further distributed by the school district to each locally
16 chartered or state-chartered charter school located within
17 the school district. The amount to be distributed to each
18 charter school shall be in the same proportion as the average
19 full-time-equivalent enrollment of the charter school on the
20 second and third reporting dates of the prior school year is
21 to the total such enrollment in the school district; provided
22 that no distribution shall be made to an approved charter
23 school that had not commenced classroom instruction in the
24 prior school year. Each year, the department shall certify
25 to the school district the amount to be distributed to each

1 charter school. Distributions received by a charter school
2 pursuant to this subsection shall be expended pursuant to the
3 provisions of the Public School Capital Improvements Act;
4 except that if capital improvements for the charter school
5 were not identified in a resolution approved by the electors,
6 the charter school may expend the distribution for any
7 capital improvements, including those specified in Subsection
8 F of this section.

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

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

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.
