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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SCHOOLS; REPEALING AN OUTDATED SECTION OF LAW.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. DEFINITION.--As used in the Public School  
Capital Improvements Act, "capital improvements" means  
expenditures, including payments made with respect to lease-  
purchase arrangements as defined in the Education Technology  
Equipment Act or the Public School Lease Purchase Act but  
excluding any other debt service expenses, for:

A. erecting, remodeling, making additions to,  
providing equipment for or furnishing public school buildings  
and pre-kindergarten classroom facilities;

B. purchasing or improving public school or pre-  
kindergarten grounds;

C. maintenance of public school buildings or  
public school or pre-kindergarten grounds, including the  
purchasing or repairing of maintenance equipment and

1 participating in the facility information management system  
2 as required by the Public School Capital Outlay Act and  
3 including payments under contracts with regional education  
4 cooperatives for maintenance support services and  
5 expenditures for technical training and certification for  
6 maintenance and facilities management personnel, but  
7 excluding salary expenses of school district employees;

8 D. purchasing activity vehicles for transporting  
9 students to extracurricular school activities;

10 E. purchasing computer software and hardware for  
11 student use in public school classrooms; and

12 F. purchasing and installing education technology  
13 improvements, excluding salary expenses of school district  
14 employees, but including tools used in the educational  
15 process that constitute learning and administrative  
16 resources, and that may also include:

17 (1) satellite, copper and fiber-optic  
18 transmission; computer and network connection devices;  
19 digital communication equipment, including voice, video and  
20 data equipment; servers; switches; portable media devices,  
21 such as discs and drives to contain data for electronic  
22 storage and playback; and the purchase or lease of software  
23 licenses or other technologies and services, maintenance,  
24 equipment and computer infrastructure information, techniques  
25 and tools used to implement technology in schools and related

1 facilities; and

2 (2) improvements, alterations and  
3 modifications to, or expansions of, existing buildings or  
4 tangible personal property necessary or advisable to house or  
5 otherwise accommodate any of the tools listed in this  
6 subsection."

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

9 "22-25-7. IMPOSITION OF TAX--LIMITATION ON  
10 EXPENDITURES.--

11 A. If as a result of an election held in  
12 accordance with the Public School Capital Improvements Act a  
13 majority of the qualified electors voting on the question  
14 votes in favor of the imposition of the tax, the tax rate  
15 shall be certified, unless the local school board requests by  
16 resolution that a rate be discontinued, by the department of  
17 finance and administration at the rate specified in the  
18 resolution authorized under Section 22-25-3 NMSA 1978 or at  
19 any lower rate required by operation of the rate limitation  
20 provisions of Section 7-37-7.1 NMSA 1978 upon the rate  
21 specified in the resolution and be imposed at the rate  
22 certified in accordance with the provisions of the Property  
23 Tax Code.

24 B. The revenue produced by the tax and, except as  
25 provided in Subsections D and F of Section 22-25-9 NMSA 1978,

1 any state distribution resulting to the district under the  
2 Public School Capital Improvements Act shall be expended only  
3 for the capital improvements specified in the authorizing  
4 resolution.

5 C. The amount of tax revenue to be distributed to  
6 each charter school that was included in the resolution shall  
7 be determined each year and shall be in the same proportion  
8 as the average full-time-equivalent enrollment of the charter  
9 school on the first reporting date of the prior school year  
10 is to the total such enrollment in the school district;  
11 provided that, in determining the school district's total  
12 enrollment, charter school students located within the school  
13 district shall be included; and provided further that no  
14 distribution shall be made to an approved charter school that  
15 had not commenced classroom instruction in the prior school  
16 year. Each year, the department shall certify to the county  
17 treasurer of the county in which the eligible charter schools  
18 in the school district are located the percentage of the  
19 revenue to be distributed to each charter school. The county  
20 treasurer shall distribute the charter school's share of the  
21 property tax revenue directly to the charter school."

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

24 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT  
25 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

1           A. Except as provided in Subsection E of this  
2 section, for each year that a capital improvements tax is  
3 imposed by a school district, the secretary shall distribute  
4 from the public school capital improvements fund to the  
5 school district an amount equal to the greater of:

6                   (1) the difference between:

7                           (a) the product of: 1) the school  
8 district's program units; 2) multiplied by the tax rate  
9 imposed by the school district; and 3) multiplied further by  
10 the sum calculated pursuant to Subsection B of this section;  
11 and

12                           (b) the school district's estimated tax  
13 revenue; or

14                   (2) the product of:

15                           (a) five dollars (\$5.00) for fiscal  
16 year 2021; and in each subsequent fiscal year, the amount for  
17 the previous fiscal year adjusted by the percentage increase  
18 between the next preceding calendar year and the preceding  
19 calendar year of the consumer price index for the United  
20 States, all items, as published by the United States  
21 department of labor;

22                           (b) multiplied by the school district's  
23 program units; and

24                           (c) multiplied further by the tax rate  
25 imposed by the school district.

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

4                   (1) for fiscal year 2021, eighty-nine  
5 dollars twenty-five cents (\$89.25); and for fiscal year 2022  
6 and each subsequent fiscal year, the amount for the previous  
7 fiscal year adjusted by the percentage increase between the  
8 next preceding calendar year and the preceding calendar year  
9 of the consumer price index for the United States, all items,  
10 as published by the United States department of labor; plus

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

1 Improvements Act.

2 C. If a distribution is made to a school district  
3 pursuant to Subsection A of this section, the secretary shall  
4 make an additional distribution from the public school  
5 capital improvements fund to the school district in an amount  
6 equal to the product of:

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

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

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

13 (4) multiplied further by the tax rate  
14 imposed by the school district.

15 D. In expending distributions made pursuant to  
16 this section, school districts and charter schools shall give  
17 priority to maintenance projects, including payments under  
18 contracts with regional education cooperatives for  
19 maintenance support services. In addition, distributions  
20 made pursuant to this section may be expended by school  
21 districts and charter schools as follows, but no distribution  
22 from the public school capital improvements fund may be used  
23 for capital improvements to any administration building of a  
24 school district:

25 (1) for the school district portion of the

1 total project cost for roof repair or replacement required by  
2 Section 22-24-4.3 NMSA 1978; or

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

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  
14 per program unit figure shall be reduced as necessary.

15 F. A portion of each distribution made by the  
16 state pursuant to this section shall be further distributed  
17 by the school district to each locally chartered or  
18 state-chartered charter school located within the school  
19 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  
22 second and third reporting dates of the prior school year is  
23 to the total such enrollment in the school district; provided  
24 that, in determining the school district's total enrollment,  
25 charter school students located within the school district



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

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

25 H. As used in this section:

1 (1) "capital improvements tax" means the tax  
2 authorized pursuant to the Public School Capital Improvements  
3 Act;

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

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

14 (4) "tax rate" means the rate approved by  
15 the qualified electors in the most recent election on the  
16 question of imposing a tax pursuant to the Public School  
17 Capital Improvements Act."

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

20 SECTION 5. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2020. \_\_\_\_\_

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