

1 SENATE BILL 131

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Mimi Stewart

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8 FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

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10 AN ACT

11 RELATING TO PUBLIC SCHOOL CAPITAL IMPROVEMENTS; CREATING
12 DISCRETIONARY PROGRAM UNITS; DEFINING "DISCRETIONARY PROGRAM
13 UNITS"; EXCLUDING CERTAIN PROGRAM UNITS IN CALCULATING
14 DISTRIBUTIONS TO SCHOOL DISTRICTS PURSUANT TO THE PUBLIC SCHOOL
15 CAPITAL IMPROVEMENTS ACT.

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

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

20 "22-25-2. DEFINITIONS.--As used in the Public School
21 Capital Improvements Act:

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

25 B. "capital improvements" means expenditures,

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

5 (1) erecting, remodeling, making additions to,
6 providing equipment for or furnishing public school buildings
7 and pre-kindergarten classroom facilities;

8 (2) purchasing or improving public school or
9 pre-kindergarten grounds;

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

20 (4) purchasing activity vehicles for
21 transporting students to extracurricular school activities;

22 (5) purchasing computer software and hardware
23 for student use in public school classrooms; and

24 (6) purchasing and installing education
25 technology improvements, excluding salary expenses of school

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1 district employees, but including tools used in the educational
2 process that constitute learning and administrative resources,
3 and that may also include:

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

13 (b) improvements, alterations and
14 modifications to, or expansions of, existing buildings or
15 tangible personal property necessary or advisable to house or
16 otherwise accommodate any of the tools listed in this
17 paragraph; and

18 C. "discretionary program units" means program
19 units generated for fine arts education programs pursuant to
20 Section 22-8-23.5 NMSA 1978, elementary physical education
21 programs pursuant to Section 22-8-23.7 NMSA 1978, bilingual
22 multicultural education programs pursuant to Section 22-8-22
23 NMSA 1978, extended learning time programs pursuant to Section
24 22-8-23.10 NMSA 1978 and K-5 plus programs pursuant to Section
25 22-8-23.11 NMSA 1978."

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1 SECTION 2. Section 22-25-9 NMSA 1978 (being Laws 1975
2 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

3 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
4 TAX UNDER CERTAIN CIRCUMSTANCES.--

5 A. Except as provided in Subsection C or G of this
6 section, the secretary shall distribute to any school district
7 that has imposed a tax under the Public School Capital
8 Improvements Act an amount from the public school capital
9 improvements fund that is equal to the amount by which the
10 revenue estimated to be received from the imposed tax, using
11 prior year valuations, at the rate certified by the department
12 of finance and administration in accordance with Section
13 22-25-7 NMSA 1978, assuming a one hundred percent collection
14 rate, is less than an amount calculated by multiplying [~~an~~
15 ~~average of~~] the school district's prior year [~~second and third~~
16 ~~reporting dates' total~~] final program units, excluding
17 discretionary program units, by the amount specified in
18 Subsection B of this section and further multiplying the
19 product obtained by the tax rate approved by the qualified
20 electors in the most recent election on the question of
21 imposing a tax under the Public School Capital Improvements
22 Act. The distribution shall be made each year that the tax is
23 imposed in accordance with Section 22-25-7 NMSA 1978; provided
24 that no state distribution from the public school capital
25 improvements fund may be used for capital improvements to any

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1 administration building of a school district. In the event
2 that sufficient funds are not available in the public school
3 capital improvements fund to make the state distribution
4 provided for in this section, the dollar per program unit
5 figure shall be reduced as necessary.

6 B. In calculating the state distribution pursuant
7 to Subsection A of this section, the following amounts shall be
8 used:

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

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 the
14 amount needed in the next fiscal year for public school capital
15 outlay projects pursuant to the Public School Capital Outlay
16 Act and the amount of revenue, from all sources, available for
17 the projects. If, in the sole discretion of the council, the
18 amount available exceeds the amount needed, the council may
19 certify an additional amount pursuant to this paragraph;
20 provided that the sum of the amount calculated pursuant to this
21 paragraph plus the amount in Paragraph (1) of this subsection
22 shall not result in a total statewide distribution that, in the
23 opinion of the council, exceeds one-half of the total revenue
24 estimated to be received from taxes imposed pursuant to the
25 Public School Capital Improvements Act.

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

12 D. For purposes of calculating the distribution
13 pursuant to Subsection B of this section, the amount used in
14 Paragraph (1) of that subsection shall equal seventy dollars
15 (\$70.00) in fiscal year 2008 and in each subsequent fiscal year
16 shall equal the amount for the previous fiscal year adjusted by
17 the percentage increase between the next preceding calendar
18 year and the preceding calendar year of the consumer price
19 index for the United States, all items, as published by the
20 United States department of labor.

21 E. For purposes of calculating the minimum
22 distribution pursuant to Subsection C of this section, the
23 amount used in that subsection shall equal five dollars (\$5.00)
24 through fiscal year 2005 and in each subsequent fiscal year
25 shall equal the amount for the previous fiscal year adjusted by

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1 the percentage increase between the next preceding calendar
2 year and the preceding calendar year of the consumer price
3 index for the United States, all items, as published by the
4 United States department of labor.

5 F. In expending distributions made pursuant to this
6 section, school districts and charter schools shall give
7 priority to maintenance projects, including payments under
8 contracts with regional education cooperatives for maintenance
9 support services. In addition, distributions made pursuant to
10 this section may be expended by school districts and charter
11 schools as follows:

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

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

22 G. If a serious deficiency in a roof of a public
23 school facility has been corrected pursuant to Section
24 22-24-4.4 NMSA 1978 and the school district has refused to pay
25 its share of the cost as determined by that section, until the

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1 public school capital outlay fund is reimbursed in full for the
2 share attributed to the district, the distribution calculated
3 pursuant to this section shall not be made to the school
4 district but shall be made to the public school capital outlay
5 fund.

6 H. A portion of each distribution made by the state
7 pursuant to this section on or after July 1, 2009 shall be
8 further distributed by the school district to each locally
9 chartered or state-chartered charter school located within the
10 school district. The amount to be distributed to each charter
11 school shall be in the same proportion as the average full-
12 time-equivalent enrollment of the charter school on the second
13 and third reporting dates of the prior school year is to the
14 total such enrollment in the school district; provided that no
15 distribution shall be made to an approved charter school that
16 had not commenced classroom instruction in the prior school
17 year. Each year, the department shall certify to the school
18 district the amount to be distributed to each charter school.
19 Distributions received by a charter school pursuant to this
20 subsection shall be expended pursuant to the provisions of the
21 Public School Capital Improvements Act; except that if capital
22 improvements for the charter school were not identified in a
23 resolution approved by the electors, the charter school may
24 expend the distribution for any capital improvements, including
25 those specified in Subsection F of this section.

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

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

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.