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AN ACT

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

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.--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;

B. "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:

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

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

1 (3) maintenance of public school buildings
2 or public school or pre-kindergarten grounds, including the
3 purchasing or repairing of maintenance equipment and
4 participating in the facility information management system
5 as required by the Public School Capital Outlay Act and
6 including payments under contracts with regional education
7 cooperatives for maintenance support services and
8 expenditures for technical training and certification for
9 maintenance and facilities management personnel, but
10 excluding salary expenses of school district employees;

11 (4) purchasing activity vehicles for
12 transporting students to extracurricular school activities;

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

15 (6) purchasing and installing education
16 technology improvements, excluding salary expenses of school
17 district employees, but including tools used in the
18 educational process that constitute learning and
19 administrative resources, and that may also include:

20 (a) satellite, copper and fiber-optic
21 transmission; computer and network connection devices;
22 digital communication equipment, including voice, video and
23 data equipment; servers; switches; portable media devices,
24 such as discs and drives to contain data for electronic
25 storage and playback; and the purchase or lease of software

1 licenses or other technologies and services, maintenance,
2 equipment and computer infrastructure information, techniques
3 and tools used to implement technology in schools and related
4 facilities; and

5 (b) improvements, alterations and
6 modifications to, or expansions of, existing buildings or
7 tangible personal property necessary or advisable to house or
8 otherwise accommodate any of the tools listed in this
9 paragraph; and

10 C. "discretionary program units" means program
11 units generated for fine arts education programs pursuant to
12 Section 22-8-23.5 NMSA 1978, elementary physical education
13 programs pursuant to Section 22-8-23.7 NMSA 1978, bilingual
14 multicultural education programs pursuant to Section 22-8-22
15 NMSA 1978, extended learning time programs pursuant to
16 Section 22-8-23.10 NMSA 1978 and K-5 plus programs pursuant
17 to Section 22-8-23.11 NMSA 1978."

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

20 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT
21 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

22 A. Except as provided in Subsection C or G of this
23 section, the secretary shall distribute to any school
24 district that has imposed a tax under the Public School
25 Capital Improvements Act an amount from the public school

1 capital improvements fund that is equal to the amount by
2 which the revenue estimated to be received from the imposed
3 tax, using prior year valuations, at the rate certified by
4 the department of finance and administration in accordance
5 with Section 22-25-7 NMSA 1978, assuming a one hundred
6 percent collection rate, is less than an amount calculated by
7 multiplying the school district's prior year final program
8 units, excluding discretionary program units, by the amount
9 specified in Subsection B of this section and further
10 multiplying the product obtained by the tax rate approved by
11 the qualified electors in the most recent election on the
12 question of imposing a tax under the Public School Capital
13 Improvements Act. The distribution shall be made each year
14 that the tax is imposed in accordance with Section 22-25-7
15 NMSA 1978; provided that no state distribution from the
16 public school capital improvements fund may be used for
17 capital improvements to any administration building of a
18 school district. In the event that sufficient funds are not
19 available in the public school capital improvements fund to
20 make the state distribution provided for in this section, the
21 dollar per program unit figure shall be reduced as necessary.

22 B. In calculating the state distribution pursuant
23 to Subsection A of this section, the following amounts shall
24 be used:

25 (1) the amount calculated pursuant to

1 Subsection D of this section per program unit; and

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

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

1 discretionary program units, and further multiplying the
2 product obtained by the approved tax rate.

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

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

21 F. In expending distributions made pursuant to
22 this section, school districts and charter schools shall give
23 priority to maintenance projects, including payments under
24 contracts with regional education cooperatives for
25 maintenance support services. In addition, distributions

1 made pursuant to this section may be expended by school
2 districts and charter schools as follows:

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

6 (2) for the school district portion of
7 payments made under a financing agreement entered into by a
8 school district or a charter school for the leasing of a
9 building or other real property with an option to purchase
10 for a price that is reduced according to the payments made,
11 if the school district has received a grant for the state
12 share of the payments pursuant to Subsection D of Section
13 22-24-5 NMSA 1978.

14 G. If a serious deficiency in a roof of a public
15 school facility has been corrected pursuant to Section
16 22-24-4.4 NMSA 1978 and the school district has refused to
17 pay its share of the cost as determined by that section,
18 until the public school capital outlay fund is reimbursed in
19 full for the share attributed to the district, the
20 distribution calculated pursuant to this section shall not be
21 made to the school district but shall be made to the public
22 school capital outlay fund.

23 H. A portion of each distribution made by the
24 state pursuant to this section on or after July 1, 2009 shall
25 be further distributed by the school district to each locally

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

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

25 J. In making distributions pursuant to this

1 section, the secretary shall include such reporting
2 requirements and conditions as are required by rule of the
3 public school capital outlay council. The council shall
4 adopt such requirements and conditions as are necessary to
5 ensure that the distributions are expended in the most
6 prudent manner possible and are consistent with the original
7 purpose as specified in the authorizing resolution. Copies
8 of reports or other information received by the secretary
9 in response to the requirements and conditions shall be
10 forwarded to the council."

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

SB 131
Page 9

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