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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SCHOOLS; REPEALING AN OUTDATED SECTION OF LAW.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. DEFINITIONS.--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, including teacher housing and pre-kindergarten
classroom facilities;

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

C. maintenance of public school buildings,
including teacher housing, or public school or pre-

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

10 D. purchasing activity vehicles for transporting
11 students to extracurricular school activities;

12 E. purchasing computer software and hardware for
13 student use in public school classrooms; and

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

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

1 equipment and computer infrastructure information, techniques
2 and tools used to implement technology in schools and related
3 facilities; and

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

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

11 "22-25-7. IMPOSITION OF TAX--LIMITATION ON
12 EXPENDITURES.--

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

1 B. The revenue produced by the tax and, except as
2 provided in Subsections D and F of Section 22-25-9 NMSA 1978,
3 any state distribution resulting to the district under the
4 Public School Capital Improvements Act shall be expended only
5 for the capital improvements specified in the authorizing
6 resolution.

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

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

1 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT
2 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

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

8 (1) the difference between:

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

14 (b) the school district's estimated tax
15 revenue; or

16 (2) the product of:

17 (a) five dollars (\$5.00) for fiscal
18 year 2023; and in each subsequent fiscal year, the amount for
19 the previous fiscal year adjusted by the percentage increase
20 between the next preceding calendar year and the preceding
21 calendar year of the consumer price index for the United
22 States, all items, as published by the United States
23 department of labor;

24 (b) multiplied by the school district's
25 program units; and

1 (c) multiplied further by the tax rate
2 imposed by the school district.

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

6 (1) for fiscal year 2023, eighty-nine
7 dollars twenty-five cents (\$89.25); and in each subsequent
8 fiscal year, the amount for the previous fiscal year adjusted
9 by the percentage increase between the next preceding
10 calendar year and the preceding calendar year of the consumer
11 price index for the United States, all items, as published by
12 the United States department of labor; plus

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

1 one-half of the total revenue estimated to be received from
2 taxes imposed pursuant to the Public School Capital
3 Improvements Act.

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

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

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

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

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

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

1 school district:

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

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

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

17 F. A portion of each distribution made by the
18 state pursuant to this section shall be further distributed
19 by the school district to each locally chartered or
20 state-chartered charter school located within the school
21 district. The amount to be distributed to each charter
22 school shall be in the same proportion as the average full-
23 time-equivalent enrollment of the charter school on the
24 second and third reporting dates of the prior school year is
25 to the total such enrollment in the school district; provided

1 that, in determining the school district's total enrollment,
2 charter school students located within the school district
3 shall be included; and provided further that no distribution
4 shall be made to an approved charter school that had not
5 commenced classroom instruction in the prior school year.

6 Each year, the department shall certify to the school
7 district the amount to be distributed to each charter school.
8 Distributions received by a charter school pursuant to this
9 subsection shall be expended pursuant to the provisions of
10 the Public School Capital Improvements Act; except that if
11 capital improvements for the charter school were not
12 identified in a resolution approved by the electors, the
13 charter school may expend the distribution for any capital
14 improvements, including those specified in Subsection D of
15 this section.

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

1 forwarded to the council.

2 H. As used in this section:

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

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

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

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

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, 2022. _____