

HOUSE BILL 254

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Jack Chatfield

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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THOSE SCHOOL DISTRICTS; CREATING AN ADDITIONAL DISTRIBUTION TO THOSE SCHOOL DISTRICTS AND CHARTER SCHOOLS; REPEALING AN OUTDATED SECTION OF LAW.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:

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"22-25-2. [DEFINITIONS] DEFINITION.--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; and~~

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

~~[2] B. purchasing or improving public school or pre-kindergarten grounds;~~

~~[3] C. maintenance of public school buildings or public school or pre-kindergarten grounds, including the purchasing or repairing of maintenance equipment and participating in the facility information management system as required by the Public School Capital Outlay Act and including payments under contracts with regional education cooperatives for maintenance support services and expenditures for technical training and certification for maintenance and facilities management personnel, but excluding salary expenses of school district employees;~~

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~~[(4)]~~ D. purchasing activity vehicles for transporting students to extracurricular school activities;

~~[(5)]~~ E. purchasing computer software and hardware for student use in public school classrooms; and

~~[(6)]~~ F. purchasing and installing education technology improvements, excluding salary expenses of school district employees, but including tools used in the educational process that constitute learning and administrative resources, and that may also include:

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

~~[(b)]~~ (2) improvements, alterations and modifications to, or expansions of, existing buildings or tangible personal property necessary or advisable to house or otherwise accommodate any of the tools listed in this [paragraph] subsection."

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

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"22-25-7. IMPOSITION OF TAX--LIMITATION ON

EXPENDITURES.--

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

B. The revenue produced by the tax and, except as provided in [~~Subsection F, G or H~~] Subsections D and F of Section 22-25-9 NMSA 1978, any state distribution resulting to the district under the Public School Capital Improvements Act shall be expended only for the capital improvements specified in the authorizing resolution.

C. The amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the first reporting date of the prior school year is

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to the total such enrollment in the school district; provided that, in determining the school district's total enrollment, charter school students located within the school district shall be included; and provided further that no distribution shall be made to an approved charter school that had not commenced classroom instruction in the prior school year. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

SECTION 3. 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~~

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

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

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

A. Except as provided in Subsection E of this section, for each year that a capital improvements tax is imposed by a school district, the secretary shall distribute from the public school capital improvements fund to the school

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district an amount equal to the greater of:

(1) the difference between:

(a) the product of: 1) the school district's program units; 2) multiplied by the tax rate imposed by the school district; and 3) multiplied further by the sum calculated pursuant to Subsection B of this section HEC→per program unit←HEC; and

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

(2) the product of:

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

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

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

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

(1) for fiscal year 2021, eighty-nine dollars

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twenty-five cents (\$89.25); and for fiscal year 2022 and each subsequent fiscal year, the amount for the previous fiscal year adjusted by the percentage increase between the next preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor; plus

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

~~[G. For any fiscal year notwithstanding the amount calculated to be distributed pursuant to Subsections A and B of this section, except as provided in Subsection G of this section, a school district, the voters of which have approved a~~

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~~tax pursuant to Section 22-25-3 NMSA 1978, shall not receive a distribution less than the amount calculated pursuant to Subsection E of this section multiplied by the average of the school district's prior year second and third reporting dates' total program units and further multiplying the product obtained by the approved tax rate.~~

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

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

C. If a distribution is made to a school district

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pursuant to Subsection A of this section, the secretary shall make an additional distribution from the public school capital improvements fund to the school district in an amount equal to the product of:

- (1) fifty-three dollars (\$53.00);
- (2) multiplied by the sum of the school district's program units;
- (3) multiplied further by the greater of six percent or the percentage calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978; and
- (4) multiplied further by the tax rate imposed by the school district.

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

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

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

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

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

~~[H.]~~ F. A portion of each distribution made by the state pursuant to this section ~~[on or after July 1, 2009]~~ shall be further distributed by the school district to each locally chartered or state-chartered charter school located within the school district. The amount to be distributed to each charter school shall be in the same proportion as the average full-

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time-equivalent enrollment of the charter school on the second and third reporting dates of the prior school year is to the total such enrollment in the school district; provided that, in determining the school district's total enrollment, charter school students located within the school district shall be included; and provided further that no distribution shall be made to an approved charter school that had not commenced classroom instruction in the prior school year. Each year, the department shall certify to the school district the amount to be distributed to each charter school. Distributions received by a charter school pursuant to this subsection shall be expended pursuant to the provisions of the Public School Capital Improvements Act; except that if capital improvements for the charter school were not identified in a resolution approved by the electors, the charter school may expend the distribution for any capital improvements, including those specified in Subsection [F] D of this section.

~~[I. In determining a school district's total 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.] G. In making distributions pursuant to this section, the secretary shall include such reporting requirements and conditions as are required by rule of the

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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.

H. As used in this section:

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

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

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

(4) "tax rate" means the rate HEC→~~of the capital improvements tax as certified by the department of finance and administration pursuant to Section 22-25-7 NMSA 1978.~~←HEC HEC→approved by the qualified electors in the most

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recent election on the question of imposing a tax pursuant to
the Public School Capital Improvements Act."←HEC

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

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

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