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HOUSE BILL 131

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

INTRODUCED BY

Jack Chatfield

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT; CHANGING THE STATE DISTRIBUTION TO SCHOOL DISTRICTS IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.

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

**SECTION 1.** 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

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

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

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

25 (2) an additional amount certified to the

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

15 C. For any fiscal year notwithstanding the amount  
16 calculated to be distributed pursuant to Subsections A and B of  
17 this section, except as provided in Subsection G of this  
18 section, a school district, the voters of which have approved a  
19 tax pursuant to Section 22-25-3 NMSA 1978, shall not receive a  
20 distribution less than the amount calculated pursuant to  
21 Subsection E of this section multiplied by the average of the  
22 school district's prior year second and third reporting dates'  
23 total program units and further multiplying the product  
24 obtained by the approved tax rate.

25 D. For purposes of calculating the distribution

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1 pursuant to Subsection B of this section, the amount used in  
2 Paragraph (1) of that subsection shall equal [~~seventy dollars~~  
3 ~~(\$70.00)~~] one hundred twenty dollars (\$120) in fiscal year  
4 [~~2008~~] 2021 and in each subsequent fiscal year shall equal the  
5 amount for the previous fiscal year adjusted by the percentage  
6 increase between the next preceding calendar year and the  
7 preceding calendar year of the consumer price index for the  
8 United States, all items, as published by the United States  
9 department of labor.

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

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

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

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

11 G. If a serious deficiency in a roof of a public  
12 school facility has been corrected pursuant to Section  
13 22-24-4.4 NMSA 1978 and the school district has refused to pay  
14 its share of the cost as determined by that section, until the  
15 public school capital outlay fund is reimbursed in full for the  
16 share attributed to the district, the distribution calculated  
17 pursuant to this section shall not be made to the school  
18 district but shall be made to the public school capital outlay  
19 fund.

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

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1 time-equivalent enrollment of the charter school on the second  
2 and third reporting dates of the prior school year is to the  
3 total such enrollment in the school district; provided that no  
4 distribution shall be made to an approved charter school that  
5 had not commenced classroom instruction in the prior school  
6 year. 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 the  
10 Public School Capital Improvements Act; except that if capital  
11 improvements for the charter school were not identified in a  
12 resolution approved by the electors, the charter school may  
13 expend the distribution for any capital improvements, including  
14 those specified in Subsection F of this section.

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

20 J. In making distributions pursuant to this  
21 section, the secretary shall include such reporting  
22 requirements and conditions as are required by rule of the  
23 public school capital outlay council. The council shall adopt  
24 such requirements and conditions as are necessary to ensure  
25 that the distributions are expended in the most prudent manner

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1 possible and are consistent with the original purpose as  
2 specified in the authorizing resolution. Copies of reports or  
3 other information received by the secretary in response to the  
4 requirements and conditions shall be forwarded to the council."

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