

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING CRITERIA AND PROCEDURES FOR FUNDING PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS FOR PUBLIC SCHOOL BUILDINGS, INCLUDING CAPITAL OUTLAY FOR KINDERGARTEN CLASSROOMS; AUTHORIZING THE ISSUANCE OF SUPPLEMENTAL SEVERANCE TAX BONDS; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; CREATING A DEFICIENCIES CORRECTION UNIT AS PART OF THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL; CREATING THE PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. Section 7-27-12 NMSA 1978 (being Laws 1961, Chapter 5, Section 10, as amended) is amended to read:

"7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

A. The state board of finance shall issue and sell all severance tax bonds when authorized to do so by any law that sets out the amount of the issue and the recipient of the money.

B. The state board of finance shall also issue and sell severance tax bonds authorized by Sections 72-14-36 through 72-14-42 NMSA 1978, and such authority as has been given to the interstate stream commission to issue and sell such bonds is transferred to the state board of finance. The state board of finance shall issue and sell all severance tax

bonds only when so instructed by resolution of the governing body or by written direction from an authorized officer of the recipient of the bond money.

C. Except as provided in Subsection D of this section, proceeds from supplemental severance tax bonds shall be used only for public school capital outlay projects pursuant to the Public School Capital Outlay Act or the Public School Capital Improvements Act.

D. Proceeds from supplemental severance tax bonds issued pursuant to Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) shall be used for the purposes specified in that paragraph.

E. Except as provided in Subsection F of this section, the state board of finance shall issue and sell all supplemental severance tax bonds when so instructed by resolution of the public school capital outlay council pursuant to Section 7-27-12.2 NMSA 1978.

F. The state board of finance shall issue and sell supplemental severance tax bonds authorized by Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) when so instructed by resolution of the commission on higher education."

Section 2. A new section of the Severance Tax Bonding Act, Section 7-27-12.2 NMSA 1978, is enacted to read:

"7-27-12.2. SUPPLEMENTAL SEVERANCE TAX BONDS--PUBLIC

SCHOOL CAPITAL OUTLAY PROJECTS.--

A. The public school capital outlay council is authorized to certify by resolution that proceeds of supplemental severance tax bonds are needed for public school capital outlay projects pursuant to Section 22-24-5 NMSA 1978 or for the state distribution for public school capital improvements pursuant to the Public School Capital Improvements Act. The resolution shall specify the total amount needed.

B. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act when the public school capital outlay council certifies by resolution the need for the issuance of the bonds. The amount of the bonds sold at each sale shall not exceed the lesser of the amount certified by the council or the amount that may be issued pursuant to the restrictions of Section 7-27-14 NMSA 1978.

C. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible.

D. The proceeds from the sale of the bonds are appropriated as follows:

(1) the amount certified by the superintendent of public instruction as necessary to make the distribution pursuant to Section 22-25-9 NMSA 1978 is appropriated to the public school capital improvements fund

for the purpose of carrying out the provisions of the Public School Capital Improvements Act; and

(2) the remainder of the proceeds is appropriated to the public school capital outlay fund for the purpose of making awards of grant assistance pursuant to Section 22-24-5 NMSA 1978, except that, of the proceeds received from the sale of the bonds in fiscal year 2001, fifty million dollars (\$50,000,000) shall be used for projects to correct outstanding deficiencies pursuant to Sections 22-24-4.1 and 22-24-4.2 NMSA 1978."

Section 3. Section 7-27-27 NMSA 1978 (being Laws 1961, Chapter 5, Section 27, as amended) is amended to read:

"7-27-27. PURPOSE AND INTENT.--The purpose of the Severance Tax Bonding Act is to establish the authority who shall issue and sell all severance tax bonds for financing specific projects authorized by the legislature and all supplemental severance tax bonds pursuant to Section 7-27-12.2 NMSA 1978 and to guarantee redemption of such bonds by revenue derived from the receipts from taxes levied upon natural resource products severed and saved from the soil and such other money as the legislature may from time to time determine. It is intended that projects to be financed from the fund shall include the construction of public school buildings, other buildings for state institutions and water resource projects; and it is further intended that the income from water resource projects in excess of the amount required

for operation and maintenance of the project shall be used to repay the severance tax bonding fund."

Section 4. A new Section 22-20-4 NMSA 1978 is enacted to read:

"22-20-4. APPLICABILITY.--The provisions of Chapter 22, Article 20 NMSA 1978 do not apply to public school capital outlay projects subject to the oversight of the public school capital outlay council pursuant to the Public School Capital Outlay Act."

Section 5. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended) is amended to read:

"22-24-4. FUND CREATED--USE.--

A. There is created the "public school capital outlay fund". Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Money in the fund may be used only for capital expenditures deemed by the council necessary for an adequate educational program.

C. The council may authorize the purchase by the property control division of the general services department of property to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title and custody to the property shall rest in the property control division. The council shall authorize the lending of the property to school districts

upon request and upon finding that sufficient need exists. Application for use or return of state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the property while in the custody of the property control division shall be paid from the fund; expenses of maintenance and insurance of the property while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the property by the property control division with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by local school districts to the council in accordance with requirements of the council.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that meet the criteria of the Public School Capital Outlay Act.

F. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that an application has been approved."

Section 6. A new section of the Public School Capital Outlay Act, Section 22-24-4.1 NMSA 1978, is enacted to read:

"22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--  
CORRECTION.--

A. No later than September 1, 2001, the council shall define and develop guidelines, consistent with the codes adopted by the construction industries commission pursuant to the Construction Industries Licensing Act, for school districts to use to identify outstanding serious deficiencies in public school buildings and grounds, including buildings and grounds of charter schools, that may adversely affect the health or safety of students and school personnel.

B. A local school district shall use these guidelines to complete a self-assessment of the outstanding health or safety deficiencies within the district and provide cost projections to correct the outstanding deficiencies.

C. The council shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the fund for such purposes, the council shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code, enter into construction contracts with contractors to correct the deficiencies.

E. In entering into construction contracts to correct deficiencies pursuant to this section, the council

shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible and consistent with the original purpose.

F. Any deficiency that may adversely affect the health or safety of students or school personnel may be corrected pursuant to this section, regardless of the local effort or percentage of indebtedness of the school district.

G. It is the intent of the legislature that all outstanding deficiencies in public schools and grounds that may adversely affect the health or safety of students and school personnel be identified and funded pursuant to this section no later than June 30, 2004."

Section 7. A new section of the Public School Capital Outlay Act, Section 22-24-4.2 NMSA 1978, is enacted to read:

"22-24-4.2. DEFICIENCIES CORRECTION UNIT.--

A. A "deficiencies correction unit" is created as part of the public school capital outlay council. The unit shall be headed by a director, selected by the council, who shall be versed in construction, architecture or project management. Within budgetary constraints, the director shall employ or contract with such technical and administrative personnel as are necessary to carry out the provisions of this section. The director shall be exempt from the provisions of the Personnel Act.

B. The deficiencies correction unit shall:

(1) work with the local school districts to validate the assessment of the outstanding deficiencies and the projected costs to correct the deficiencies;

(2) work with the school districts to provide direct oversight of the management and construction of the projects that will correct the outstanding deficiencies;

(3) oversee all aspects of the contracts entered into by the council to correct the outstanding deficiencies;

(4) conduct on-site inspections while the deficiencies correction work is being done to assure that the construction specifications are being met and periodically inspect all of the documents relating to the projects;

(5) require the use of standardized construction documents as defined by the property control division of the general services department and the use of a standardized process for change orders; and

(6) have access to the premises of a project and any documentation relating to the project."

Section 8. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--  
APPLICATION--GRANT ASSISTANCE.--

A. For project allocation cycles occurring before

September 1, 2003, the council shall approve an application for grant assistance from the fund for a public school capital outlay project not wholly funded pursuant to Section 22-24-4.1 NMSA 1978, when the council determines that:

(1) a need exists requiring action;

(2) the residents of the school district have provided available resources to the school district to meet its capital outlay requirements;

(3) the school district has used its capital resources in a prudent manner;

(4) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(5) the school district:

(a) is indebted at not less than sixty-five percent of the total general obligation debt authorized by law; or

(b) within the last three years, was indebted at the level required in Subparagraph (a) of this paragraph and received a grant pursuant to this section for the initial stages of a project and currently has a critical need for an additional grant to complete the same project;

(6) the application includes:

(a) the capital needs of any charter

schools located in the school district or the school district has shown that the capital needs of the charter schools are not as great as the capital needs requested in the application; and

(b) the facilities needed in the school district to implement a full-day kindergarten program or that the school district has shown that the need for facilities to implement the program is not as great as the capital needs requested in the application; provided that the total amount of assistance grants made in a fiscal year for the purpose of implementing full-day kindergarten programs shall not exceed five million dollars (\$5,000,000); and

(7) the school district has submitted a five-year facilities plan that includes:

(a) enrollment projections;

(b) a current preventive maintenance plan to which the school adheres for each public school in the district; and

(c) projections for the facilities needed in order to maintain a full-day kindergarten program.

B. The council shall consider all applications for assistance from the fund and, after a public hearing, shall either approve or deny the application. Applications for grant assistance shall only be accepted by the council after a school district has complied with the provisions of this

section. The council shall list all applications in order of priority, and all allocations shall be made on a priority basis, except:

(1) twenty million dollars (\$20,000,000) of the proceeds from supplemental severance tax bonds available for the funding cycle ~~in fiscal year 2001 and fifty million dollars (\$50,000,000) of the proceeds from supplemental severance tax bonds available for the funding cycle~~ in each of fiscal years 2002 and 2003 shall be set aside for allocation solely for projects in school districts that are eligible for funding from the fund and that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid"; and

(2) in the case of an emergency, the order of priority shall first reflect those projects that have been previously funded but are not as yet completed, excluding expansion of those projects and contingent upon maintenance of the required local support.

C. For allocation cycles beginning after September 1, 2003, the following provisions apply:

(1) all school districts are eligible to apply for funding from the fund, regardless of percentage of indebtedness;

(2) priorities for funding shall be determined by using the statewide adequacy standards developed pursuant to Subsection D of this section; provided that the council shall apply the standards to charter schools to the same extent that they are applied to other public schools;

(3) after consulting with the staff architect of the property control division of the general services department, the council shall establish criteria to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs; and

(c) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(4) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology

infrastructure;

(5) except as provided in Paragraph (6) of this subsection, a project approved and ranked by the council shall be funded within available resources in accordance with the following formula:

(school district final prior year assessed valuation per MEM ÷ the state average final prior year assessed valuation per MEM) x 0.5. The product is subtracted from 1.0 and the difference is then multiplied by seventy-five percent. The product of that calculation added to (the percent of bonding capacity used x 0.25) equals the percentage of the cost of the approved project to be funded from the fund. "MEM" means the total enrollment of students attending public school in a school district in the final funded prior school year, with kindergarten being counted as 0.5. In those instances in which the formula provides less than 0.1, 0.1 shall be used as the state's share;

(6) in those instances in which a school

district has used all of its local resources, the council may fund the total amount of a project; and

(7) no application for grant assistance from the fund shall be approved unless the council determines that:

(a) the public school capital outlay project is needed and included in the school district's five-year facilities plan among its top priorities;

(b) the school district has used its capital resources in a prudent manner;

(c) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(d) the school district has submitted a five-year facilities plan that includes: 1) enrollment projections; 2) a current preventive maintenance plan to which the school adheres for each public school in the district; and 3) projections for the facilities needed in order to maintain a full-day kindergarten program;

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (5) of this subsection established by law, is not funded with grant assistance from the fund;

(f) the application includes the

capital needs of any charter schools located in the school district or the school district has shown that the facilities of the charter schools in the district meet the statewide adequacy standards; and

(g) the school district has agreed, in writing, to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978.

D. After consulting with the public school capital outlay task force and other experts, no later than September 1, 2002, the council shall develop statewide adequacy standards applicable to all school districts. The standards shall establish the minimum acceptable level for the physical condition and capacity of buildings, the educational suitability of facilities and the need for technological infrastructure. The amount of outstanding deviation from the standards shall be used by the council after September 1, 2003 in evaluating and prioritizing public school capital outlay projects.

E. It is the intent of the legislature that grant assistance made pursuant to this section allow every school district to meet the standards developed pursuant to Subsection D of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district

from using local funds to exceed the statewide adequacy standards.

F. Upon request, the council shall work with, and provide assistance and information to, the public school capital outlay task force.

G. The council may establish committees or task forces, not necessarily consisting of council members, and may use the committees or task forces, as well as existing agencies or organizations, to conduct studies, conduct surveys, submit recommendations or otherwise contribute expertise from the public schools, programs, interest groups and segments of society most concerned with a particular aspect of the council's work.

H. The council shall promulgate such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act.

I. No later than December 1 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the state board, the governor, the legislative finance committee, the legislative education study committee and each member of the

legislature."

Section 9. A new section of the Public School Capital Outlay Act, Section 22-24-5.1 NMSA 1978, is enacted to read:

"22-24-5.1. COUNCIL ASSISTANCE AND OVERSIGHT.--In providing grant assistance pursuant to Section 22-24-5 NMSA 1978, the council shall:

A. assist school districts in identifying critical capital outlay needs and in preparing grant applications;

B. take such actions as are necessary to assist school districts in implementing the projects for which grants are made, including assistance with the preparation of requests for bids or proposals, contract negotiations and contract implementation;

C. take such actions as are necessary to ensure cost savings and efficiencies for those school districts that are not large enough to maintain their own construction management staff; and

D. include such reporting requirements and conditions and take such actions as are necessary to ensure that the grants are expended in the most prudent manner possible and consistent with the original purpose for which they were made. In order to ensure compliance with the intent of this subsection, the council may:

(1) access the premises of a project and review any documentation relating to a project;

(2) withhold all or part of the amount of grant assistance available for a project for grounds established by rule of the council; and

(3) if it determines that a project is repeatedly in substantial noncompliance with any reporting requirement or condition, take over the direct administration of the project until the project is completed."

Section 10. Section 22-25-9 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 9, as amended by Laws 1988, Chapter 64, Section 44 and also by Laws 1988, Chapter 66, Section 2) is amended to read:

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

A. Except as provided in Subsection C of this section, the state superintendent 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, 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 rate, is less than an amount calculated by multiplying the school district's first forty-days' total program units by the dollar 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) fifty dollars (\$50.00) per program unit;

and

(2) for fiscal year 2005 and thereafter, an additional amount certified to the state superintendent by the public school capital outlay council. No later than June 1, 2004 and each June 1 thereafter, 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.

~~C. Notwithstanding the amount calculated to be distributed pursuant to Subsections A and B of this section, no school district, the voters of which have approved a tax pursuant to Section 22-25-3 NMSA 1978, shall receive a distribution less than an amount equal to five dollars (\$5.00) multiplied by the school district's first forty days' total program units and further multiplying the product obtained by the approved tax rate.~~

D. In making distributions pursuant to this section, the state superintendent 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 consistent with the original

purpose as specified in the authorizing resolution. Copies of reports or other information received by the state superintendent in response to the requirements and conditions shall be forwarded to the council."

Section 11. Laws 1999 (1st S.S.), Chapter 6, Section 19 is amended to read:

"Section 19. SUPPLEMENTAL SEVERANCE TAX BONDS--PURPOSE FOR WHICH ISSUED--APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act in the following amounts for the following purposes upon the following certification:

(1) an amount not exceeding one hundred million dollars (\$100,000,000) when the public school capital outlay council certifies by resolution the need for the issuance of the bonds for public school critical capital outlay projects pursuant to the Public School Capital Outlay Act; and

(2) an amount not exceeding twenty-five million dollars (\$25,000,000) when the commission on higher education certifies by resolution the need for the issuance of the bonds for infrastructure renovation and expansion at the state's public post-secondary educational institutions or other educational institutions confirmed in Article 12, Section 11 of the constitution of New Mexico pursuant to a plan developed and approved by the commission on higher

education to fund the highest priority significant needs identified by the commission.

B. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the projects have been developed sufficiently to justify the issuance and that the projects can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended.

C. The proceeds from the sale of the bonds pursuant to Paragraph (1) of Subsection A of this section are appropriated to the public school capital outlay fund to carry out the provisions of the Public School Capital Outlay Act. If the public school capital outlay council has not certified the need for the issuance of the bonds by January 31, 2001, authorization provided in this section shall expire. Any unexpended or unencumbered balance remaining from the proceeds of bonds issued pursuant to Paragraph (1) of Subsection A of this section at the end of fiscal year 2006 shall revert to the severance tax bonding fund.

D. The proceeds from the sale of the bonds in Paragraph (2) of Subsection A of this section are appropriated to the commission on higher education for

distribution to the governing bodies of the educational institutions who have certified projects for funding with the bond proceeds. If the commission on higher education has not certified the need for the issuance of the bonds by the end of fiscal year 2004, authorization provided in this section shall expire. Any unexpended or unencumbered balance remaining from the proceeds of bonds issued pursuant to Paragraph (2) of Subsection A of this section at the end of fiscal year 2006 shall revert to the severance tax bonding fund."

Section 12. PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE--  
CREATION--STAFF.--

A. The "public school capital outlay task force" is created. The task force consists of twenty-one members as follows:

(1) the dean of the university of New Mexico school of law, or his designee;

(2) the dean of the New Mexico state university college of engineering or his designee;

(3) the secretary of finance and administration or his designee;

(4) the state investment officer or his designee;

(5) the superintendent of public instruction or his designee;

(6) the chairmen of the house appropriations and finance committee, the senate finance committee, the senate education committee and the house education committee or their designees;

(7) a minority party member of the house of representatives, appointed by the New Mexico legislative council;

(8) a minority party member of the senate, appointed by the New Mexico legislative council;

(9) two public members who have expertise in education and finance appointed by the speaker of the house of representatives;

(10) two public members who have expertise in education and finance appointed by the president pro tempore of the senate;

(11) three public members who have expertise in education and finance appointed by the governor; and

(12) three superintendents of school districts or their designees that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, appointed by the New Mexico legislative council in consultation with the governor.

B. The chair of the task force shall be elected by the task force. The public school capital outlay task force

shall meet at the call of the chair.

C. The public members of the public school capital outlay task force shall receive per diem and mileage pursuant to the Per Diem and Mileage Act.

D. The legislative council service, with assistance from the department of finance and administration, the investment office, the state department of public education, the legislative education study committee and the legislative finance committee, shall provide staff for the public school capital outlay task force.

Section 13. PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE--  
DUTIES.--The public school capital outlay task force shall:

A. study and evaluate the progress and effectiveness of programs administered pursuant to the Public School Capital Outlay Act and the Public School Capital Improvements Act;

B. evaluate the existing permanent revenue streams and other potential revenues as adequate long-term funding sources for public school capital outlay projects and recommend any changes that may be more cost-effective or appropriate;

C. evaluate the effectiveness and fairness of the formula used in determining the amount of grant assistance that an approved public school capital outlay project may receive from the public school capital outlay fund and recommended any proposed changes to the legislature;

D. monitor and assist the public school capital outlay council as it:

(1) defines outstanding public school capital outlay deficiencies pursuant to Section 22-24-4.1 NMSA 1978;

(2) works with school districts in conducting a self-assessment of the projects needed to correct the outstanding deficiencies and establishes criteria for addressing those needs;

(3) develops statewide adequacy standards that establish the minimum acceptable level for the physical condition and capacity of public school buildings, the educational suitability of educational facilities and the need for technological infrastructure; and

(4) develops guidelines and procedures for reporting requirements and conditions to ensure that the grants are expended in the most prudent manner possible and consistent with the original purpose for which they were made; and

E. no later than December 1 of each year, report the results of its analyses and its findings and recommendations to the governor and the legislature.

Section 14. SEVERANCE TAX BONDS--PURPOSE--APPROPRIATION OF PROCEEDS.--The state board of finance may issue and sell severance tax bonds in fiscal years 2002 and 2003 in

compliance with the Severance Tax Bonding Act in an amount not exceeding a total of one hundred million dollars (\$100,000,000) when the public school capital outlay council certifies the need for the issuance of the bonds. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible. The proceeds from the sale of the bonds are appropriated to the public school capital outlay fund for the purpose of providing grant assistance for public school capital outlay projects that are needed to correct outstanding deficiencies pursuant to Sections 22-24-4.1 and 22-24-4.2 NMSA 1978. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall revert to the severance tax bonding fund. If the public school capital outlay council has not certified the need for the issuance of the bonds by the end of fiscal year 2003, the authorization provided in this section shall expire.

Section 15. APPROPRIATIONS.--

A. Two million three hundred thousand dollars (\$2,300,000) is appropriated from the general fund to the state department of public education for expenditure in fiscal years 2001 through 2003 for the purpose of completing a statewide needs and cost assessment of all school districts in order to identify all needed public school capital outlay projects. Any unexpended or unencumbered balance remaining

at the end of fiscal year 2003 shall revert to the general fund.

B. Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the state department of public education for expenditure in fiscal year 2002 for the purpose of assisting the public school capital outlay council in performing those duties required of it pursuant to the Public School Capital Outlay Act. The appropriation may be expended by the department in the manner deemed by the department and council to be the most expedient and cost effective, including expenditures for employees and for contractual services. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

C. One million one hundred thousand dollars (\$1,100,000) is appropriated from the general fund to the deficiencies correction unit of the public school capital outlay council for expenditure in fiscal years 2001 and 2002 for the purpose of carrying out its duties pursuant to the Public School Capital Outlay Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

D. Fifty million dollars (\$50,000,000) is appropriated from the general fund to the public school capital outlay fund for expenditure in fiscal years 2002

through 2004 for the purpose of correcting outstanding deficiencies pursuant to Sections 22-24-4.1 and 22-24-4.2 NMSA 1978. The appropriation is contingent upon the secretary of general services and the secretary of finance and administration certifying that the public school capital outlay council has, by rule, adopted a project management system to ensure that the projects will be constructed in the most cost-effective and efficient manner. Any unexpended or unencumbered balance remaining at the end of fiscal year 2004 shall not revert but shall be used for the purpose of providing grant assistance pursuant to Section 22-24-5 NMSA 1978.

~~E. Twenty thousand dollars (\$20,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2001 and 2002 for the purpose of paying per diem and mileage for public members of the public school capital outlay task force. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.~~

Section 16. KINDERGARTEN CAPITAL FUNDING.--

A. Five million dollars (\$5,000,000) is appropriated from the general fund to the state department of public education for expenditure in fiscal years 2001 through 2003 to purchase portable classrooms or to build classrooms for full-day kindergarten throughout New Mexico. Any

unexpended or unencumbered balance remaining at the end of fiscal year 2003 shall revert to the general fund.

B. The state department of public education shall adopt an application process for school districts that wish to purchase portable classrooms or to build classrooms for full-day kindergarten. The school districts shall submit applications to the state department of public education by July 1, 2001. School districts shall provide the following information in the application to the state department of public education:

(1) district enrollment by school in half-day and full-day kindergarten for the 2000-2001 school year;

(2) the number of full-day kindergarten classrooms to be constructed or purchased at each elementary school in the district;

(3) whether the district is requesting brick and mortar or portable full-day kindergarten classrooms;

(4) the signature of the district superintendent approving the application; and

(5) verification from the superintendent of public instruction that the need exists for portable classrooms or built classrooms for full-day kindergarten.

C. When providing distributions to local school districts pursuant to Subsections A and B of this section, the state department of public education shall give priority

to those school districts that serve children in schools with the highest proportion of students most in need based upon indicators in the at-risk factor and those that do not qualify for funding under the Public School Capital Outlay Act. The state department of public education shall also consider the local resources available to build full-day kindergarten classrooms and the possibility of converting existing classrooms to full-day kindergarten classrooms.

Section 17. REPEAL.--Laws 2000, Chapter 95, Section 2 and Laws 2000 (2nd S.S.), Chapter 11, Section 3 are repealed.

Section 18. DELAYED REPEAL.--Sections 12 and 13 of this act are repealed effective January 1, 2004.

Section 19. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. \_\_\_\_\_