



NEW MEXICO LEGISLATURE

**PUBLIC SCHOOL CAPITAL  
OUTLAY OVERSIGHT  
TASK FORCE**

2024 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE  
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## INTERIM SUMMARY



## **Public School Capital Outlay Oversight Task Force 2024 Interim Summary**

The Public School Capital Outlay Oversight Task Force held one planning meeting and four substantive meetings during the 2024 interim. In accordance with the Public School Capital Outlay Act (PSCOA), the task force:

1. monitored the overall progress of bringing all public schools up to the statewide adequacy standards;
2. monitored the progress and effectiveness of the programs administered pursuant to the PSCOA and the Public School Capital Improvements Act;
3. monitored the existing permanent revenue streams to ensure that they remain adequate long-term funding sources for public school capital outlay projects; and
4. conducted oversight of the Public School Capital Outlay Council (PSCOC), the Public School Facilities Authority (PSFA) and the implementation of the statewide process for making grant awards to fund capital outlay projects.

During the 2024 interim, the task force focused on reviewing the funding formula established in the PSCOA that is used to calculate the state and local shares of the cost of an approved capital outlay project. Particularly, the task force examined how the funding formula affects small, rural school districts and, over several meetings, heard testimony from superintendents from small school districts, analysts from the Legislative Finance Committee and the Legislative Education Study Committee, staff of the PSFA and experts in bonding and public finance. In response to its findings through this examination, the task force proposed and endorsed legislation that amends the PSCOA to:

1. extend through fiscal year 2027 the temporary provision that reduces the local share by one-third for some school districts and one-half for certain small school districts; and
2. eliminate some of the criteria that the PSCOC is required to consider before making an adjustment to a school district's local share.

Additionally, the task force monitored the ongoing litigation in *Board of Education of the Zuni Public School District, et al. v. State of New Mexico and the Public School Capital Outlay Council*, which challenges the constitutionality of the PSCOA based on the "education clause" in Article 12, Section 1 of the Constitution of New Mexico. As of the date of the task force's final meeting, the PSCOA remains in effect as the Supreme Court of New Mexico ruled that the case was moot and ordered a remand to the district court for further proceedings.





## WORK PLAN AND MEETING SCHEDULE



**2024 APPROVED**  
**WORK PLAN AND MEETING SCHEDULE**  
**for the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**Members**

Sen. William P. Soules, Chair	Cindy Montoya
Rep. G. Andrés Romero, Vice Chair	Sen. George K. Muñoz
Sondra Adams	Brandy Murphy
Rep. Eliseo Lee Alcon	Antonio Ortiz (Designee for Secretary of Public Education)
Johnny Benavidez	Sen. Shannon D. Pinto
Rep. Jack Chatfield	Wayne Propst
Scott Elder	Amber L. Romero
LeAnne Gandy	Arsenio Romero
Rep. Tara Jaramillo (Designee for Speaker Javier Martínez)	Stan Rounds
Ashley Leach (Designee for Secretary of Finance and Administration)	Sen. Joshua A. Sanchez
Julie Lucero	Karen Sanchez-Griego
Speaker Javier Martínez	Sen. Benny Shendo, Jr.
Rep. Tanya Mirabal Moya	Rep. Nathan P. Small
	Senate President Pro Tempore Mimi Stewart

**Advisory Members**

Rep. Brian G. Baca	Sen. Leo Jaramillo
Rep. Ambrose Castellano	Sen. Michael Padilla
Rep. Yanira Gurrola	Sen. Cliff R. Pirtle

**Background**

The legislature created the Public School Capital Outlay Oversight Task Force (PSCOOTF) in 2001 and charged it with overseeing the Public School Capital Outlay Council's (PSCOC) and the Public School Facilities Authority's (PSFA) implementation of the Public School Capital Outlay Act (PSCOA). The task force consists of 25 members and includes legislators, appointed state and local officials and members of the public. The task force holds five meetings during the interim and most of its agenda is required by statute; however, as time permits, it will also explore and analyze issues relevant to its statutory obligations. Before the start of each regular legislative session, the task force shall report its findings and recommendations to the governor and the legislature.

**Work Plan**

Pursuant to its statutory obligations, the PSCOOTF will:

A. monitor the overall progress of bringing all schools up to the statewide adequacy standards developed pursuant to the PSCOA;

B. monitor the progress and effectiveness of programs administered pursuant to the PSCOA and the Public School Capital Improvements Act;

C. monitor the existing permanent revenue streams to ensure that they remain adequate long-term funding sources for public school capital outlay projects; and

D. oversee the work of the PSCOC and the PSFA as they perform functions pursuant to the PSCOA, particularly as they implement the statewide-based process for making grant awards.

Additionally, as time permits, the PSCOOTF will:

E. review the history of and receive an update on current developments in the *Zuni* lawsuit;

F. review the changes to public school capital outlay as enacted in House Bill 207 and Senate Bill 76 from the 2024 regular legislative session;

G. examine the impact of inflation on school construction and maintenance costs and the ability of the current funding framework to respond to changing costs;

H. receive the updated forecast of supplemental severance tax bond proceeds and review the long-term trends in severance tax revenue, along with the range of upside and downside risks;

I. review the expenditure of federal funds and possible additional federal funding opportunities; and

J. address other matters within the task force's purview as it deems necessary.

**Public School Capital Outlay Oversight Task Force  
2024 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
May 20	Santa Fe
July 1	Santa Fe
August 14	Santa Fe
September 27	Santa Fe
November 7	Santa Fe



# AGENDAS AND MINUTES





**TENTATIVE AGENDA  
for the  
NINETY-SECOND MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**May 20, 2024  
State Capitol, Room 307  
Santa Fe**

**Monday, May 20**

- 1:30 p.m.           **Call to Order and Introductions**  
—Senator William P. Soules, Chair  
—Representative G. Andrés Romero, Vice Chair
- 1:45 p.m.       (1)   **[Update from the Public School Facilities Authority \(PSFA\)](#)**  
—Iris Romero, Executive Director, PSFA
- 3:00 p.m.       (2)   **[2024 Proposed Work Plan and Meeting Schedule](#)**  
—Simon D. Suzuki, Staff Attorney, Legislative Council Service
- 4:00 p.m.           **Adjourn**



**MINUTES**  
**for the**  
**NINETY-SECOND MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**May 20, 2024**  
**State Capitol, Room 307**  
**Santa Fe**

The ninety-second meeting of the Public School Capital Outlay Oversight Task Force was called to order by Representative William P. Soules, chair, on Monday, May 20, 2024 at 1:30 p.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Sen. William P. Soules, Chair  
Rep. Jack Chatfield  
Ashley Leach, Designee for Secretary of  
Finance and Administration Wayne  
Propst  
Sen. Shannon D. Pinto  
Karen Sanchez-Griego  
Antonio Ortiz, Designee for Secretary of  
Public Education Arsenio Romero

**Absent**

Rep. G. Andrés Romero, Vice Chair  
Sondra Adams  
Rep. Eliseo Lee Alcon  
Johnny Benavidez  
Scott Elder  
LeAnne Gandy  
Rep. Javier Martínez  
Julie Lucero  
Rep. Tanya Mirabal Moya  
Cindy Montoya  
Sen. George K. Muñoz  
Brandy Murphy  
Amber L. Romero  
Stan Rounds  
Sen. Joshua A. Sanchez  
Sen. Benny Shendo, Jr.  
Rep. Nathan P. Small  
Sen. Mimi Stewart

**Advisory Members**

Rep. Ambrose Castellano

Rep. Brian G. Baca  
Rep. Yanira Gurrola  
Sen. Leo Jaramillo  
Sen. Michael Padilla  
Sen. Cliff R. Pirtle

**Staff**

Raúl E. Burciaga, Director, Legislative Council Service (LCS)  
Rebecca Griego, Records Officer, LCS  
Simon D. Suzuki, Staff Attorney, LCS  
Clinton Turner, Research and Fiscal Policy Analyst, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

## **References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the task force meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations and task force discussions for agenda items can be found on the recorded webcast for this meeting.

## **Monday, May 20**

### **Welcome and Introductions (1:53 p.m.)**

Senator Soules welcomed task force members, guests and presenters. Task force members and staff introduced themselves.

### **Update from the Public School Facilities Authority (PSFA) (1:58 p.m.)**

Iris Romero, executive director, PSFA; Ryan Parks, deputy director, PSFA; and Alyce Ramos, programs manager, PSFA, provided an update regarding newly awarded projects, projects completed in fiscal year 2024 and current ongoing projects. They also discussed trends in construction costs and legislative proposals for the task force's consideration. The presentation materials can be found here:

[https://www.nmlegis.gov/Committee/Handouts\\_List?CommitteeCode=PSCO&Date=5/20/2024](https://www.nmlegis.gov/Committee/Handouts_List?CommitteeCode=PSCO&Date=5/20/2024).

### **2024 Proposed Work Plan and Meeting Schedule (2:42 p.m.)**

Mr. Suzuki presented the 2024 proposed work plan and meeting schedule. Task force members discussed the work plan and made suggestions about the content and language of particular items. Upon a motion duly made and seconded, and without any objections, the task force voted to approve the 2024 proposed work plan and meeting schedule to submit to the New Mexico Legislative Council for final approval.

## **Adjournment**

There being no further business before the task force, the meeting adjourned at 2:57 p.m.

Revised: June 27, 2024

**TENTATIVE AGENDA  
for the  
NINETY-THIRD MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**July 1, 2024  
State Capitol, Room 322  
Santa Fe**

**Monday, July 1**

- 10:00 a.m.           **Call to Order and Introductions**  
—Senator William P. Soules, Chair  
—Representative G. Andrés Romero, Vice Chair
- 10:15 a.m.       (1)   **Update from the Public School Capital Outlay Council (PSCOC) and the Public School Facilities Authority (PSFA)**  
—Joe Guillen, Chair, PSCOC  
—Iris Romero, Executive Director, PSFA  
—Gwen Perea Warniment, Chair, Awards Subcommittee, PSCOC  
—Ashley Leach, Chair, Administration, Maintenance and Standards Subcommittee, PSCOC
- 11:00 a.m.       (2)   **2024 Legislative Session Update**  
—Mark A. Montoya, Senior Policy Analyst, Legislative Education Study Committee
- 12:00 noon           **Lunch**
- 1:15 p.m.       (3)   **Public School Capital Outlay Act (PSCOA) Funding Formula Overview**  
—Cally Carswell, Principal Analyst, Capital Outlay, Legislative Finance Committee (LFC)  
—Sunny Liu, Principal Analyst, LFC
- 2:15 p.m.       (4)   **School District Perspectives: The PSCOA Funding Formula — Panel Discussion**  
—Jeff Gephart, Superintendent, Animas Public School District  
—Amy Roble, Superintendent, Maxwell Municipal School District  
—Brian Stacy, Superintendent, Melrose Public School District
- 3:15 p.m.       (5)   **PSFA Perspective: Steps Forward**  
—Alyce Ramos, Programs Manager, PSFA

4:15 p.m.            **Public Comment\***

4:45 p.m.            **Adjourn**

\*Members of the public may make virtual public comments during the public comment period of the meeting by following the instructions under the "Virtual Public Comment" section of the Public School Capital Outlay Oversight Task Force [web page](#).

**MINUTES**  
**of the**  
**NINETY-THIRD MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**July 1, 2024**  
**State Capitol, Room 322**  
**Santa Fe**

The ninety-third meeting of the Public School Capital Outlay Oversight Task Force was called to order by Senator William P. Soules, chair, on Monday, July 1, 2024, at 10:05 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Sen. William P. Soules, Chair  
Rep. Eliseo Lee Alcon  
Rep. Jack Chatfield  
Rep. Tara Jaramillo, Designee for Rep.  
    Javier Martínez  
Ashley Leach, Designee for Secretary of  
    Finance and Administration Wayne  
    Propst  
Amanda Lupardus, Designee for Secretary  
    of Public Education Arsenio Romero  
Rep. Tanya Mirabal Moya  
Cindy Montoya  
Stan Rounds  
Sen. Joshua A. Sanchez

**Advisory Members**

Rep. Brian G. Baca  
Rep. Ambrose Castellano  
Sen. Michael Padilla

**Absent**

Rep. G. Andrés Romero, Vice Chair  
Johnny Benavidez  
LeAnne Gandy  
Julie Lucero  
Sen. George K. Muñoz  
Brandy Murphy  
Sen. Shannon D. Pinto  
Amber L. Romero  
Rep. Nathan P. Small  
Sen. Mimi Stewart

Rep. Yanira Gurrola  
Sen. Leo Jaramillo  
Sen. Cliff R. Pirtle  
Sen. Benny Shendo, Jr.

**Staff**

Rebecca Griego, Records Officer, Legislative Council Service (LCS)  
Simon D. Suzuki, Staff Attorney, LCS  
Clinton Turner, Research and Fiscal Policy Analyst, LCS

**Guests**

The guest list is in the meeting file.

## **Handouts**

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## **References to Webcast**

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## **Monday, July 1**

### **Welcome and Introductions (10:05 a.m.)**

Senator Soules welcomed task force members, guests and presenters to the meeting. Task force members and staff introduced themselves.

### **Update from the Public School Capital Outlay Council (PSCOC) and the Public School Facilities Authority (PSFA) (10:09 a.m.)**

Joe Guillen, chair, PSCOC, and Iris Romero, executive director, PSFA, provided an overview of the capital outlay awards for fiscal year 2024 and discussed new awards, out-of-cycle awards and related information regarding funding. Mr. Guillen and Ms. Romero also provided an outlook for fiscal year 2025, including a discussion about rankings, funding programs and the PSCOC's meeting calendar. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=7/1/2024&ItemNumber=1>.

### **2024 Legislative Session Update (10:42 a.m.)**

Mark A. Montoya, senior policy analyst, Legislative Education Study Committee, presented on House Bill 207 and Senate Bill 76, which were passed during the 2024 regular legislative session and affect the state's public school capital outlay system. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=7/1/2024&ItemNumber=2>.

### **Public School Capital Outlay Act (PSCOA) Funding Formula Overview (11:05 a.m.)**

Mr. Montoya and Cally Carswell, principal analyst, Capital Outlay, Legislative Finance Committee, presented on the formula used to determine the state and local funding shares for public school capital projects. Mr. Montoya and Ms. Carswell provided a brief history of the



funding formula, metrics used for the current calculation, criteria and waivers and policy considerations. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=7/1/2024&ItemNumber=3>.

**PSFA Perspective: Steps Forward (1:15 p.m.)**

PSFA staff presented on "local match reductions", which are waivers of certain criteria for school districts. The presentation covered the need for local match reductions and the statutory basis and potential legislative solutions for current issues. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=7/1/2024&ItemNumber=5>.

**School District Perspectives: The PSCOA Funding Formula — Panel Discussion (2:17 p.m.)**

Jeff Gephart, superintendent, Animas Public School District; Amy Roble, superintendent, Maxwell Municipal School District; and Brian Stacy, superintendent, Melrose Public School District, discussed the PSCOA funding formula and the challenges that their respective school districts face in meeting the criteria for public school capital outlay awards.

**Adjournment**

There being no further business before the task force, the meeting adjourned at 2:51 p.m.



Revised: August 13, 2024

**TENTATIVE AGENDA  
for the  
NINETY-FOURTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**August 14, 2024  
State Capitol, Room 307  
Santa Fe**

**Wednesday, August 14**

- 10:00 a.m.           **Call to Order and Introductions**  
—Senator William P. Soules, Chair  
—Representative G. Andrés Romero, Vice Chair
- 10:15 a.m.       (1)   **[The History and Legal Framework of New Mexico's Public Education System](#)**  
—Simon D. Suzuki, Staff Attorney, Legislative Council Service
- 11:00 a.m.       (2)   **[Public School Financing: Issues and Priorities](#)**  
—Joe Guillen, Executive Director, New Mexico School Boards Association  
—Stan Rounds, Executive Director, New Mexico Coalition of Educational Leaders
- 12:30 p.m.           **Lunch**
- 1:30 p.m.       (3)   **[RBC Capital Markets, LLC \(RBC\): How School Districts Secure Capital](#)**  
—Erik Harrigan, Managing Director, RBC  
—Kaeley Weimerskirch, Investment Banker, RBC
- 2:30 p.m.       (4)   **[New Mexico Finance Authority \(NMFA\): Assisting School Districts and Charter Schools](#)**  
—Lawrence "Chip" Pierce, Chief Financial Strategist, NMFA  
—Ryan Marie Decker, Policy and Capital Strategist, NMFA
- 3:30 p.m.           **Public Comment\***
- 4:00 p.m.           **Adjourn**

\*Members of the public may provide virtual public comments during the public comment period of the meeting by following the instructions under the "Virtual Public Comment" section of the Public School Capital Outlay Oversight Task Force [web page](#).



**MINUTES**  
**for the**  
**NINETY-FOURTH MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**August 14, 2024**  
**State Capitol, Room 307**  
**Santa Fe**

The ninety-fourth meeting of the Public School Capital Outlay Oversight Task Force was called to order by Representative William P. Soules, chair, on Monday, August 14, 2024, at 10:13 a.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Sen. William P. Soules, Chair  
Johnny Benavidez  
Rep. Jack Chatfield  
LeAnne Gandy  
Julie Lucero  
Cindy Montoya  
Sen. George K. Muñoz  
Sen. Shannon D. Pinto  
Antonio Ortiz, Designee for Secretary of  
Public Education Arsenio Romero  
Stan Rounds  
Rep. Nathan P. Small  
Sen. Mimi Stewart

**Advisory Members**

**Absent**

Rep. G. Andrés Romero, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. Javier Martínez  
Rep. Tanya Miral Moya  
Brandy Murphy  
Wayne Propst  
Amber L. Romero  
Sen. Joshua A. Sanchez

Rep. Brian G. Baca  
Rep. Ambrose Castellano  
Rep. Yanira Gurrola  
Sen. Leo Jaramillo  
Sen. Michael Padilla  
Sen. Cliff R. Pirtle  
Sen. Benny Shendo, Jr.

**Guest Members**

Rep. Harry Garcia

**Staff**

Rebecca Griego, Records Officer, Legislative Council Service (LCS)  
Simon D. Suzuki, Staff Attorney, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

**References to Webcast**

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**Wednesday, August 14****Welcome and Introductions (10:13 a.m.)**

Senator Soules welcomed task force members, guests and presenters. Task force members and staff introduced themselves.

**The History and Legal Framework of New Mexico's Public Education System (10:17 a.m.)**

Mr. Suzuki provided a presentation on the history and legal framework of New Mexico's public education system, which included a time line of the development of the common schools in the United States and in New Mexico, an explanation of the provisions of the Constitution of New Mexico that establish the state's education system and related statutes.

**Approval of Minutes (10:40 a.m.)**

On a motion made, seconded and approved, the task force adopted the minutes of the May 20, 2024 meeting, and on a subsequent motion made, seconded and approved, the task force adopted the minutes of the July 1, 2024 meeting.

**Public School Financing: Issues and Priorities (10:42 a.m.)**

Joe Guillen, executive director, New Mexico School Boards Association (NMSBA), and Stan Rounds, executive director, New Mexico Coalition of Educational Leaders, provided a presentation focusing on public school financing. Mr. Guillen discussed the NMSBA's legislative advocacy activities and priorities regarding public school financing issues for the 2025 legislative session. Mr. Rounds discussed particular issues school districts are facing and provided suggestions for potential legislative proposals. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=8/14/2024&ItemNumber=2>.

**Public School Facilities Authority (PSFA) Update (1:14 p.m.)**

In response to questions from task force members during the earlier presentations, Mark A. Montoya, senior policy analyst, Legislative Education Study Committee; Iris Romero, executive director, PSFA; and Alyce Ramos, programs manager, PSFA, provided a brief ad hoc update on research and analysis regarding the public school capital outlay funding formula.

**RBC Capital Markets, LLC (RBC): How School Districts Secure Capital (1:30 p.m.)**

Kaeley Weimerskirch, investment banker, RBC, presented on how school districts secure capital and provided information about the bonding process, including how financial analyses of school districts are conducted.

**New Mexico Finance Authority (NMFA): Assisting School Districts and Charter Schools (2:09 p.m.)**

Lawrence "Chip" Pierce, chief financial strategist, NMFA, and Ryan Marie Decker, policy and capital strategist, NMFA, presented on how the NMFA assists school districts and charter schools and provided information about existing programs as well as a program in development that will provide financial assistance to charter schools. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=8/14/2024&ItemNumber=4>.

**Adjournment**

There being no further business before the task force, the meeting adjourned at 3:16 p.m.





**TENTATIVE AGENDA  
for the  
NINETY-FIFTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**September 25, 2024  
State Capitol, Room 307  
Santa Fe**

**Wednesday, September 25**

- 10:00 a.m.           **Call to Order and Introductions**  
—Senator William P. Soules, Chair  
—Representative G. Andrés Romero, Vice Chair
- 10:15 a.m.       (1)   **Update from the Public School Facilities Authority (PSFA)**  
—Iris Romero, Executive Director, PSFA  
—Larry Tillotson, Deputy Director, Operations, Outreach and Quality Assurance, PSFA
- 11:00 a.m.       (2)   **Board of Education of the Zuni Public School District, et al. v. State of New Mexico and the Public School Capital Outlay Council**  
—Ellen Venegas, Assistant Solicitor General, Civil Appeals, State Department of Justice
- 12:00 noon           **Lunch**
- 1:15 p.m.       (3)   **Upgrading High School Performing Arts Facilities**  
—Terry S. Davis, Co-Executive Director, New Mexico High School Musical Theatre Awards  
—Laura A. Maness, Co-Executive Director, New Mexico High School Musical Theatre Awards
- 2:00 p.m.       (4)   **Funding Formula Follow-Up — Update on Research and Analyses**  
—Cally Carswell, Principal Analyst, Capital Outlay, Legislative Finance Committee  
—Mark A. Montoya, Senior Policy Analyst, Legislative Education Study Committee
- 3:00 p.m.           **Public Comment\***
- 3:30 p.m.           **Adjourn**

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**MINUTES**  
**of the**  
**NINETY-FIFTH MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**September 25, 2024**  
**State Capitol, Room 307**  
**Santa Fe**

The ninety-fifth meeting of the Public School Capital Outlay Task Force was called to order by Senator William P. Soules, chair, on Wednesday, September 25, 2024, at 11:14 a.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Sen. William P. Soules, Chair  
Rep. Eliseo Lee Alcon  
Rep. Tara Jaramillo, Designee for Rep.  
    Javier Martínez  
Ashley Leach, Designee for Secretary of  
    Finance and Administration Wayne  
    Propst  
Amanda Lupardus, Designee for Secretary-  
    Designate of Public Education  
    Mariana Padilla  
Cindy Montoya  
Sen. Mimi Stewart

**Advisory Members**

Sen. Michael Padilla  
Sen. Cliff R. Pirtle

**Guest Legislator**

Rep. Tara L. Lujan

**Staff**

Rebecca Griego, Records Officer, Legislative Council Service (LCS)  
Simon D. Suzuki, Staff Attorney, LCS  
Clinton Turner, Research and Fiscal Policy Analyst, LCS

**Guests**

The guest list is in the meeting file.

**Absent**

Rep. G. Andrés Romero, Vice Chair  
Johnny Benavidez  
Rep. Jack Chatfield  
LeAnne Gandy  
Julie Lucero  
Rep. Tanya Mirabal Moya  
Sen. George K. Muñoz  
Brandy Murphy  
Sen. Shannon D. Pinto  
Amber L. Romero  
Stan Rounds  
Sen. Joshua A. Sanchez  
Rep. Nathan P. Small

Rep. Brian G. Baca  
Rep. Ambrose Castellano  
Rep. Yanira Gurrola  
Sen. Leo Jaramillo  
Sen. Benny Shendo, Jr.

## **Handouts**

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## **References to Webcast**

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## **Wednesday, September 25**

### **Welcome and Introductions (11:14 a.m.)**

Senator Soules welcomed task force members, guests and presenters to the meeting. Task force members and staff introduced themselves.

### ***Board of Education of the Zuni Public School District, et. al. v. State of New Mexico and the Public School Capital Outlay Council (11:19 a.m.)***

Ellen Venegas, assistant solicitor general, Civil Appeals, State Department of Justice, presented an update on the ongoing litigation in *Board of Education of the Zuni Public School District, et. al. v. State of New Mexico and the Public School Capital Outlay Council*. Ms. Venegas provided an overview of the case's history, an explanation of the central issues and an update on the current proceedings before the New Mexico Supreme Court. After Ms. Venegas' presentation, she answered task force members' questions. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=9/25/2024&ItemNumber=2>.

### **Update from the Public School Facilities Authority (PSFA) (11:58 a.m.)**

Iris Romero, executive director, PSFA, and Larry Tillotson, deputy director, Operations, Outreach and Quality Assurance, PSFA, presented on the PSFA's statewide maintenance efforts, the implementation of the PSFA's Facility Maintenance Assessment Report tool and school districts' progress in maintaining public school buildings. After the presentation, Ms. Romero and Mr. Tillotson answered task force members' questions. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=9/25/2024&ItemNumber=1>.

### **Upgrading High School Performing Arts Facilities (1:09 p.m.)**

Terry S. Davis, co-executive director, New Mexico High School Musical Theatre Awards; Reed Meschefske, head of theater and film, Santa Fe High School; and Mandolynn Browning, instructor, Department of Theatre, Aztec High School, presented a proposal for

funding to update high school performing arts facilities. After their presentation, Mr. Davis, Mr. Meschefske and Ms. Browning answered task force members' questions. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=9/25/2024&ItemNumber=3>.

**Funding Formula Follow-Up — Update on Research and Analyses (2:15 p.m.)**

Cally Carswell, principal analyst, Capital Outlay, Legislative Finance Committee (LFC), and Mark A. Montoya, senior policy analyst, Legislative Education Study Committee (LESC), provided an update regarding the LFC's, LESL's and PSFA's research and analyses of the Public School Capital Outlay Act's funding formula. Ms. Carswell and Mr. Montoya discussed their review of the funding formula, presented options to address deficiencies identified and provided recommendations to the task force. After their presentation, Ms. Carswell and Mr. Montoya answered task force members' questions. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=9/25/2024&ItemNumber=4>.

**Adjournment**

There being no further business before the task force, the meeting adjourned at 2:56 p.m.



Revised: December 11, 2024

**TENTATIVE AGENDA  
for the  
NINETY-SIXTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**December 17, 2024  
State Capitol, Room 322  
Santa Fe**

**Tuesday, December 17**

- 12:30 p.m.           **Call to Order and Introductions**  
—Senator William P. Soules, Chair  
—Representative G. Andrés Romero, Vice Chair
- 12:45 p.m.       (1)   ***Developments in Board of Education of the Zuni Public School District, et al. v. State of New Mexico and the Public School Capital Outlay Council***  
—Simon D. Suzuki, Staff Attorney, Legislative Council Service
- 1:15 p.m.       (2)   **Update from the Public School Facilities Authority (PSFA): Statewide Adequacy Standards and PSFA's Operational Budget**  
—Iris Romero, Executive Director, PSFA  
—Ryan Parks, Deputy Director, PSFA
- 2:00 p.m.       (3)   **Severance Tax Bonding Capacity**  
—Ashley Leach, Director, Board of Finance, Department of Finance and Administration
- 2:30 p.m.       (4)   **Update from the Public School Capital Outlay Council (PSCOC)**  
—Joe Guillen, Chair, PSCOC
- 3:00 p.m.       (5)   **Review of Proposed Legislation**  
—Cally Carswell, Principal Analyst, Capital Outlay, Legislative Finance Committee  
—Mark A. Montoya, Senior Policy Analyst, Legislative Education Study Committee  
—Stan Rounds, Public Member, Public School Capital Outlay Oversight Task Force
- 3:30 p.m.           **Public Comment\***
- 4:00 p.m.           **Adjourn**

\*Members of the public may provide virtual public comments during the public comment period of the meeting by following the instructions under the "Virtual Public Comment" section of the Public School Capital Outlay Oversight Task Force [web page](#).





**MINUTES**  
**for the**  
**NINETY-SIXTH MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**December 17, 2024**  
**State Capitol, Room 322**  
**Santa Fe**

The ninety-sixth meeting of the Public School Capital Outlay Oversight Task Force was called to order by Senator William P. Soules, chair, on Tuesday, December 17, 2024, at 12:42 p.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Sen. William P. Soules, Chair  
Rep. Jack Chatfield  
LeAnne Gandy  
Ashley Leach, Designee for Secretary of  
Finance and Administration Wayne  
Propst  
Rep. Tara L. Lujan, Designee for Rep.  
Javier Martínez  
Sen. George K. Muñoz  
Secretary-Designate Mariana Padilla  
Amber L. Romero  
Stan Rounds  
Sen. Mimi Stewart

**Advisory Members**

**Absent**

Rep. G. Andrés Romero, Vice Chair  
Johnny Benavidez  
Julie Lucero  
Rep. Tanya Mirabal Moya  
Cindy Montoya  
Brandy Murphy  
Sen. Shannon D. Pinto  
Sen. Joshua A. Sanchez  
Rep. Nathan P. Small

Rep. Brian G. Baca  
Rep. Ambrose Castellano  
Rep. Yanira Gurrola  
Sen. Leo Jaramillo  
Sen. Michael Padilla  
Sen. Benny Shendo, Jr.

**Staff**

Simon D. Suzuki, Staff Attorney, Legislative Council Service (LCS)  
Clinton Turner, Research and Fiscal Policy Analyst, LCS  
Cristina Vasquez, Staff Attorney, LCS

## **Minutes Approval**

Because the task force will not meet again this year, the minutes for this meeting have not been officially approved by the task force.

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

## **References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the task force meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and task force discussions for agenda items can be found on the recorded webcast for this meeting.

## **Tuesday, December 17**

### **Welcome and Introductions (12:42 p.m.)**

Senator Soules welcomed task force members, guests and presenters to the meeting. Task force members and staff introduced themselves.

### **Developments in *Board of Education of the Zuni Public School District, et al. v. State of New Mexico and the Public School Capital Outlay Council* (12:44 p.m.)**

Mr. Suzuki presented on the December 2, 2024 order issued by the New Mexico Supreme Court (the court) in *Board of Education of the Zuni Public School District, et al. v. State of New Mexico and the Public School Capital Outlay Council*. Mr. Suzuki advised the task force that the court held that the case was moot and ordered a remand to the district court for further proceedings and that this decision effectively upheld the Public School Capital Outlay Act.

### **Update from the Public School Facilities Authority (PSFA) (1:06 p.m.)**

Iris Romero, executive director, PSFA, provided a general update on the PSFA's work. Ms. Romero was joined by Ryan Parks, deputy directory, PSFA, who presented on the proposed changes to the adequacy standard for public school buildings as well as the PSFA's operating budget for fiscal year (FY) 2026. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=12/17/2024&ItemNumber=2>.

### **Severance Tax Bonding Capacity (2:16 p.m.)**

Ms. Leach presented on the estimated severance tax bonding capacity for public school capital projects through FY 2029. The presentation materials can be found here: <https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=12/17/2024&ItemNumber=3>.

### **Update from the Public School Capital Outlay Council (PSCOC) (2:25 p.m.)**

Joe Guillen, chair, PSCOC, provided a general update on the PSCOC's work and discussed the applications that the PSCOC approved for both design-phase and construction-phase projects for the current grant cycle. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=12/17/2024&ItemNumber=4>.

### **Approval of Minutes (2:49 p.m.)**

On a motion made and seconded, and without objection, the task force approved the minutes of the ninety-fourth and ninety-fifth meetings of the task force.

### **Review of Proposed Legislation (2:50 p.m.)**

Cally Carswell, principal analyst, Capital Outlay, Legislative Finance Committee, and Mark A. Montoya, senior policy analyst, Legislative Education Study Committee, proposed on behalf of the task force a bill (228682.1) to amend the Public School Capital Outlay Act that would extend through FY 2027 a provision that temporarily allows for reductions of a school district's share of the total cost of a capital outlay project and would eliminate certain criteria that the PSCOC must consider to adjust a school district's share of a project.

***Motion for endorsement:*** On a motion made and seconded, the task force unanimously voted to endorse 228682.1.

On behalf of the task force, Mr. Rounds proposed a joint resolution (228788.1) to amend Article 8, Section 2 of the Constitution of New Mexico to increase the annual levy on real and personal property to twenty-two mills and mandate an annual statewide tax levy amounting to two mills for distribution for the support of public schools.

***Motion for endorsement:*** A motion for endorsement of 228788.1 was not made.

The presentation materials and proposed legislation can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=PSCO&Date=12/17/2024&ItemNumber=5>.

### **Adjournment**

There being no further business before the task force, the meeting adjourned at 3:38 p.m.



## ENDORSED LEGISLATION



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SENATE BILL  
**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE  
AND THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; EXTENDING THROUGH  
FISCAL YEAR 2027 THE PROVISION THAT REDUCES LOCAL SHARES BY  
ONE-THIRD FOR SOME SCHOOL DISTRICTS AND ONE-HALF FOR CERTAIN  
SMALL SCHOOL DISTRICTS; ELIMINATING SOME OF THE CRITERIA THE  
PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL IS REQUIRED TO CONSIDER  
BEFORE MAKING AN ADJUSTMENT TO A SCHOOL DISTRICT'S LOCAL SHARE;  
MAKING CONFORMING AMENDMENTS.

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

**SECTION 1.** 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. Applications for grant assistance, approval of  
applications, prioritization of projects and grant awards shall

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1 be conducted pursuant to the provisions of this section.

2 B. Except as provided in Sections 22-24-4.3,  
3 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions  
4 govern grant assistance from the fund for a public school  
5 capital outlay project not wholly funded pursuant to Section  
6 22-24-4.1 NMSA 1978:

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

10 (2) priorities for funding shall be determined  
11 by using the statewide adequacy standards developed pursuant to  
12 Subsection C of this section; provided that:

13 (a) the council shall apply the  
14 standards to charter schools to the same extent that they are  
15 applied to other public schools;

16 (b) the council may award grants  
17 annually to school districts for the purpose of repairing,  
18 renovating or replacing public school building systems in  
19 existing buildings as identified in Section 22-24-4.6  
20 NMSA 1978;

21 (c) the council shall adopt and apply  
22 adequacy standards appropriate to the unique needs of the  
23 constitutional special schools; and

24 (d) in an emergency in which the health  
25 or safety of students or school personnel is at immediate risk

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1 or in which there is a threat of significant property damage,  
2 the council may award grant assistance for a project using  
3 criteria other than the statewide adequacy standards;

4 (3) the council shall establish criteria to be  
5 used in public school capital outlay projects that receive  
6 grant assistance pursuant to the Public School Capital  
7 Outlay Act. In establishing the criteria, the council shall  
8 consider:

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

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

15 (c) concepts that promote efficient but  
16 flexible utilization of space; and

17 (d) any other financing or construction  
18 concept that may maximize the dollar effect of the state grant  
19 assistance;

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

23 (5) no later than May 1 of each calendar year,  
24 the phase two formula value shall be calculated for each school  
25 district in accordance with the following procedure:

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1 (a) the sum of the final prior five  
2 years net taxable value for a school district multiplied by  
3 nine ten-thousandths for that school district is calculated for  
4 each school district;

5 (b) the maximum allowable gross square  
6 foot per student multiplied by the replacement cost per square  
7 foot divided by forty-five is calculated for each school  
8 district;

9 (c) the value calculated pursuant to  
10 Subparagraph (a) of this paragraph divided by the value  
11 calculated pursuant to Subparagraph (b) of this paragraph is  
12 calculated for each school district;

13 (d) in those instances in which the  
14 calculation pursuant to Subparagraph (c) of this paragraph  
15 yields a value equal to or greater than one, the phase two  
16 formula value shall be zero for the subject school district;

17 (e) in those instances in which the  
18 calculation pursuant to Subparagraph (c) of this paragraph  
19 yields a value of ninety-hundredths or more but less than one,  
20 the phase two formula value shall be one minus the value  
21 calculated in Subparagraph (c) of this paragraph; and

22 (f) in those instances in which the  
23 calculation pursuant to Subparagraph (c) of this paragraph  
24 yields a value less than ninety-hundredths, the phase two  
25 formula value shall be one minus the value calculated in

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1 Subparagraph (c) of this paragraph plus the school district  
2 population density factor;

3 (6) the state share of a project approved by  
4 the council shall be funded within available resources pursuant  
5 to the provisions of this paragraph. Except as provided in  
6 Section 22-24-5.7 NMSA 1978 and except as adjusted pursuant to  
7 Paragraph (8), (9) or (10) of this subsection, the amount to be  
8 distributed from the fund for an approved project shall equal  
9 the total project cost multiplied by the following percentage,  
10 except that in no case shall the state share be less than six  
11 percent:

12 (a) for fiscal year 2024 through fiscal  
13 year [~~2026~~] 2027, the percentage shall be the phase two formula  
14 value plus a percentage equal to one-third of the difference  
15 between one and the phase two formula value; provided that, for  
16 school districts with fewer than 200 MEM, the percentage shall  
17 be the phase two formula value plus a percentage equal to one-  
18 half of the difference between one and the phase two formula;  
19 and

20 (b) for fiscal year [~~2027~~] 2028 and  
21 thereafter, the percentage shall be the phase two formula  
22 value;

23 (7) as used in this subsection:

24 (a) "governmental entity" includes an  
25 Indian nation, tribe or pueblo;

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1 (b) "phase two formula value" for a  
2 state-chartered charter school means the phase two formula  
3 value calculated pursuant to Paragraph (5) of this subsection  
4 for the school district in which the state-chartered charter  
5 school is physically located;

6 (c) "subject school district" means the  
7 school district that has submitted the application for funding  
8 and in which the approved public school capital outlay project  
9 will be located; and

10 (d) "total project cost" means the total  
11 amount necessary to complete the public school capital outlay  
12 project less any insurance reimbursement received by the school  
13 district for the project;

14 (8) the amount calculated pursuant to  
15 Paragraph (6) of this subsection may be increased by an  
16 additional five percent if the council finds that the subject  
17 school district has been exemplary in implementing and  
18 maintaining a preventive maintenance program. The council  
19 shall adopt such rules as are necessary to implement the  
20 provisions of this paragraph;

21 (9) the council may adjust the amount of a  
22 school district's local share otherwise required if it  
23 determines that [~~a~~] the school district has made a good-faith  
24 effort to use all of its local resources. Before making any  
25 adjustment to the local share, the council shall consider

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1 whether:

2 (a) the school district has insufficient  
3 bonding capacity over the next four years to provide the local  
4 match necessary to complete the project and, for all  
5 educational purposes, has a residential property tax rate of at  
6 least ten dollars (\$10.00) on each one thousand dollars  
7 (\$1,000) of taxable value, as measured by the sum of all rates  
8 imposed by resolution of the local school board plus rates set  
9 to pay interest and principal on outstanding school district  
10 general obligation bonds; or

11 (b) the school district [~~1~~] has fewer  
12 than an average of eight hundred full-time-equivalent students  
13 on the second and third reporting dates of the prior school  
14 year [~~2~~] ~~has at least seventy percent of its students eligible~~  
15 ~~for free or reduced-fee lunch; 3) has a phase two formula value~~  
16 ~~calculated pursuant to Paragraph (5) of this subsection that~~  
17 ~~would be greater than fifty percent; and 4)] and, for all  
18 educational purposes, has a residential property tax rate of at  
19 least seven dollars (\$7.00) on each one thousand dollars  
20 (\$1,000) of taxable value, as measured by the sum of all rates  
21 imposed by resolution of the local school board plus rates set  
22 to pay interest and principal on outstanding school district  
23 general obligation bonds; [~~or~~~~

24 ~~(c) the school district: 1) has an~~  
25 ~~enrollment growth rate over the previous school year of at~~

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1 ~~least two and one-half percent; 2) pursuant to its five-year~~  
2 ~~facilities plan, will be building a new school within the next~~  
3 ~~two years; and 3) for all educational purposes, has a~~  
4 ~~residential property tax rate of at least ten dollars (\$10.00)~~  
5 ~~on each one thousand dollars (\$1,000) of taxable value, as~~  
6 ~~measured by the sum of all rates imposed by resolution of the~~  
7 ~~local school board plus rates set to pay interest and principal~~  
8 ~~on outstanding school district general obligation bonds]~~

9 (10) the local match for the constitutional  
10 special schools shall be set at fifty percent for projects that  
11 qualify under the educational adequacy category and one hundred  
12 percent for projects that qualify in the support spaces  
13 category; provided that the council may adjust or waive the  
14 amount of any direct appropriation offset to or local share  
15 required for the constitutional special schools if an applicant  
16 constitutional special school has insufficient or no local  
17 resources available; and

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

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

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

25 (c) the school district has provided

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1 insurance for buildings of the school district in accordance  
2 with the provisions of Section 13-5-3 NMSA 1978;

3 (d) the school district has submitted a  
4 five-year facilities plan that includes: 1) enrollment  
5 projections; 2) a current preventive maintenance plan that has  
6 been approved by the council pursuant to Section 22-24-5.3 NMSA  
7 1978 and that is followed by each public school in the  
8 district; 3) the capital needs of charter schools located in  
9 the school district; and 4) projections for the facilities  
10 needed in order to maintain a full-day kindergarten program;

11 (e) the school district is willing and  
12 able to pay any portion of the total cost of the public school  
13 capital outlay project that, according to Paragraph (6), (8) or  
14 (9) of this subsection, is not funded with grant assistance  
15 from the fund;

16 (f) the application includes the capital  
17 needs of any charter school located in the school district or  
18 the school district has shown that the facilities of the  
19 charter school have a smaller deviation from the statewide  
20 adequacy standards than other district facilities included in  
21 the application; and

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

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1           C. After consulting with the public school capital  
2 outlay oversight task force and other experts, the council  
3 shall regularly review and update statewide adequacy standards  
4 applicable to all school districts. The standards shall  
5 establish the acceptable level for the physical condition and  
6 capacity of buildings, the educational suitability of  
7 facilities, the need for career-technical education facilities  
8 or classrooms and the need for education technology  
9 infrastructure. Except as otherwise provided in the Public  
10 School Capital Outlay Act, the amount of outstanding deviation  
11 from the standards shall be used by the council in evaluating  
12 and prioritizing public school capital outlay projects.

13           D. The acquisition of a facility by a school  
14 district or charter school pursuant to a financing agreement  
15 that provides for lease payments with an option to purchase for  
16 a price that is reduced according to lease payments made may be  
17 considered a public school capital outlay project and eligible  
18 for grant assistance under this section pursuant to the  
19 following criteria:

20                   (1) no grant shall be awarded unless the  
21 council determines that, at the time of exercising the option  
22 to purchase the facility by the school district or charter  
23 school, the facility will equal or exceed the statewide  
24 adequacy standards and the building standards for public school  
25 facilities;

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1 (2) no grant shall be awarded unless the  
2 school district and the need for the facility meet all of the  
3 requirements for grant assistance pursuant to the Public School  
4 Capital Outlay Act;

5 (3) the total project cost shall equal the  
6 total payments that would be due under the agreement if the  
7 school district or charter school would eventually acquire  
8 title to the facility;

9 (4) the portion of the total project cost to  
10 be paid from the fund may be awarded as one grant, but  
11 disbursements from the fund shall be made from time to time as  
12 lease payments become due;

13 (5) the portion of the total project cost to  
14 be paid by the school district or charter school may be paid  
15 from time to time as lease payments become due; and

16 (6) neither a grant award nor any provision of  
17 the Public School Capital Outlay Act creates a legal obligation  
18 for the school district or charter school to continue the lease  
19 from year to year or to purchase the facility.

20 E. In order to encourage private capital investment  
21 in the construction of public school facilities, the purchase  
22 of a privately owned school facility that is, at the time of  
23 application, in use by a school district may be considered a  
24 public school capital outlay project and eligible for grant  
25 assistance pursuant to this section if the council finds that:

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1 (1) at the time of the initial use by the  
2 school district, the facility to be purchased equaled or  
3 exceeded the statewide adequacy standards and the building  
4 standards for public school facilities;

5 (2) at the time of application, attendance at  
6 the facility to be purchased is at seventy-five percent or  
7 greater of design capacity and the attendance at other schools  
8 in the school district that the students at the facility would  
9 otherwise attend is at eighty-five percent or greater of design  
10 capacity; and

11 (3) the school district and the capital outlay  
12 project meet all of the requirements for grant assistance  
13 pursuant to the Public School Capital Outlay Act; provided  
14 that, when determining the deviation from the statewide  
15 adequacy standards for the purposes of evaluating and  
16 prioritizing the project, the students using the facility shall  
17 be deemed to be attending other schools in the school district.

18 F. It is the intent of the legislature that grant  
19 assistance made pursuant to this section allows every school  
20 district to meet the standards developed pursuant to Subsection  
21 C of this section; provided, however, that nothing in the  
22 Public School Capital Outlay Act or the development of  
23 standards pursuant to that act prohibits a school district from  
24 using other funds available to the district to exceed the  
25 statewide adequacy standards.

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1           G. Upon request, the council shall work with, and  
2 provide assistance and information to, the public school  
3 capital outlay oversight task force.

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

12           I. Upon the recommendation of the authority, the  
13 council shall develop building standards for public school  
14 facilities and shall promulgate other such rules as are  
15 necessary to carry out the provisions of the Public School  
16 Capital Outlay Act.

17           J. No later than December 15 of each year, the  
18 council shall prepare a report summarizing its activities  
19 during the previous fiscal year. The report shall describe in  
20 detail all projects funded, the progress of projects previously  
21 funded but not completed, the criteria used to prioritize and  
22 fund projects and all other council actions. The report shall  
23 be submitted to the public education commission, the governor,  
24 the legislative finance committee, the legislative education  
25 study committee and the legislature.

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1           K. For any school district that received a  
2 standards- or systems-based award from the council in fiscal  
3 year 2023, the state share for any future phase of the project  
4 for which funding has not yet been awarded shall be the amount  
5 calculated pursuant to Subsection B of this section for fiscal  
6 year 2024, regardless of the state share at the time of the  
7 initial award.

8           L. As used in this section:

- 9                   (1) "MEM" means membership; and
- 10                   (2) "membership" means the total enrollment of
- 11 qualified students on the current roll of a class or school on
- 12 a specified day. The current roll is established by the
- 13 addition of original entries and reentries minus withdrawals.
- 14 Withdrawals of students, in addition to students formally
- 15 withdrawn from the public school, include students absent from
- 16 the public school for as many as ten consecutive school days;
- 17 provided that withdrawals do not include students in need of
- 18 early intervention and habitual truants the school district is
- 19 required to intervene with and keep in an educational setting."





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