

HOUSE BILL 327

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO PUBLIC SCHOOLS; CHANGING THE FORTIETH, EIGHTIETH  
AND ONE HUNDRED TWENTIETH DAY REPORTING DATES TO SPECIFIC DATES  
IN OCTOBER, DECEMBER AND FEBRUARY.

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

Section 1. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CHARTER SCHOOL BUDGETS.--

A. Each state-chartered charter school shall submit  
to the charter schools division of the department a school-  
based budget. For fiscal year 2008, and for the first year of  
operation in any fiscal year thereafter, the budget of every  
state-chartered charter school shall be based on the projected  
number of program units generated by that charter school and  
its students, using the at-risk index and the instructional

.163757.1

underscored material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1 staff training and experience index of the school district in  
2 which it is geographically located. For second and subsequent  
3 fiscal years of operation, the budgets of state-chartered  
4 charter schools shall be based on the number of program units  
5 generated using the average of the [~~eightieth and one hundred~~  
6 ~~twentieth day~~] MEM reported on the second Monday in December  
7 and the third Tuesday in February of the prior year and its  
8 instructional staff training and experience index and the at-  
9 risk index of the school district in which the state-chartered  
10 charter school is geographically located. The budget shall be  
11 submitted to the division for approval or amendment pursuant to  
12 the Public School Finance Act and the Charter Schools Act.

13 B. Each locally chartered charter school shall  
14 submit to the local school board a school-based budget. For  
15 fiscal year 2008, and for the first year of operation in any  
16 fiscal year thereafter, the budget of every locally chartered  
17 charter school shall be based on the projected number of  
18 program units generated using the average of the [~~eightieth and~~  
19 ~~one hundred twentieth day~~] MEM reported on the second Monday in  
20 December and the third Tuesday in February of the prior year,  
21 using the at-risk index and the instructional staff training  
22 and experience index of the school district in which it is  
23 geographically located. For second and subsequent fiscal years  
24 of operation, the budgets of locally chartered charter schools  
25 shall be based on the prior year program units generated by

.163757.1

underscored material = new  
[bracketed material] = delete

1 that locally chartered charter school and its students and its  
2 instructional staff training and experience index and the at-  
3 risk index of the school district in which the locally  
4 chartered charter school is geographically located. The budget  
5 shall be submitted to the local school board for approval or  
6 amendment. The approval or amendment authority of the local  
7 school board relative to the charter school budget is limited  
8 to ensuring that sound fiscal practices are followed in the  
9 development of the budget and that the charter school budget is  
10 within the allotted resources. The local school board shall  
11 have no veto authority over individual line items within the  
12 charter school's proposed budget, but shall approve or  
13 disapprove the budget in its entirety. Upon final approval of  
14 the local budget by the local school board, the individual  
15 charter school budget shall be included separately in the  
16 budget submission to the department required pursuant to the  
17 Public School Finance Act and the Charter Schools Act."

18 Section 2. Section 22-8-23.1 NMSA 1978 (being Laws 1990  
19 (1st S.S.), Chapter 3, Section 7, as amended) is amended to  
20 read:

21 "22-8-23.1. ENROLLMENT GROWTH PROGRAM UNITS.--

22 A. A school district or charter school with an  
23 increase in MEM equal to or greater than one percent, when  
24 compared with the immediately preceding year, is eligible for  
25 additional program units. The increase in MEM shall be

.163757.1

underscored material = new  
[bracketed material] = delete

1 calculated as follows:

2 
$$\frac{(\text{Current Year MEM} - \text{Previous Year MEM})}{\text{Previous Year MEM}} \times 100 = \text{Percent Increase.}$$

3

4 The number of additional program units shall be calculated as  
5 follows:

6 
$$((\text{Current Year MEM} - \text{Previous Year MEM}) - (\text{Current Year MEM} \times .01)) \times 1.5 = \text{Units.}$$

7  
8 B. In addition to the units calculated in  
9 Subsection A of this section, a school district or charter  
10 school with an increase in MEM equal to or greater than one  
11 percent, when compared with the immediately preceding year, is  
12 eligible for additional program units. The increase in MEM  
13 shall be calculated in the following manner:

14 
$$\frac{(\text{Current Year MEM} - \text{Previous Year MEM})}{\text{Previous Year MEM}} \times 100 = \text{Percent Increase.}$$

15

16 The number of additional program units to which an eligible  
17 school district or charter school is entitled under this  
18 subsection is the number of units computed in the following  
19 manner:

20 
$$(\text{Current Year MEM} - \text{Previous Year MEM}) \times .50 = \text{Units.}$$

21 C. As used in this section:

22 (1) "current year MEM" means MEM on the  
23 [~~fortieth day~~] third Monday in October of the current year;

24 (2) "MEM" means the total school district or  
25 charter school membership, including early childhood education

underscored material = new  
[bracketed material] = delete

1 full-time-equivalent membership and special education  
2 membership, but excluding full-day kindergarten membership for  
3 the first year that full-day kindergarten is implemented in a  
4 school pursuant to Subsection D of Section 22-13-3.2 NMSA 1978;  
5 and

6 (3) "previous year MEM" means MEM on the  
7 [~~fortieth day~~] third Monday in October of the previous year."

8 Section 3. Section 22-8-23.4 NMSA 1978 (being Laws 2003,  
9 Chapter 144, Section 2 and Laws 2003, Chapter 152, Section 9,  
10 as amended) is amended to read:

11 "22-8-23.4. NATIONAL BOARD FOR PROFESSIONAL TEACHING  
12 STANDARDS--CERTIFIED TEACHERS PROGRAM UNITS.--The number of  
13 program units for teachers certified by the national board for  
14 professional teaching standards is determined by multiplying by  
15 one and one-half the number of teachers certified by the  
16 national board for professional teaching standards employed by  
17 the school district or charter school on or before the  
18 [~~fortieth day of the school year~~] third Monday in October and  
19 verified by the department. Department approval of these units  
20 shall be contingent on verification by the school district or  
21 charter school that these teachers are receiving a one-time  
22 salary differential equal to or greater than the amount  
23 generated by the units multiplied by the program unit value  
24 during the fiscal year in which the school district or charter  
25 school will receive these units."

.163757.1

underscored material = new  
[bracketed material] = delete

1           Section 4. Section 22-8-25 NMSA 1978 (being Laws 1981,  
2 Chapter 176, Section 5, as amended) is amended to read:

3           "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--  
4 DEFINITIONS--DETERMINATION OF AMOUNT.--

5           A. The state equalization guarantee distribution is  
6 that amount of money distributed to each school district to  
7 ensure that its operating revenue, including its local and  
8 federal revenues as defined in this section, is at least equal  
9 to the school district's program cost. For state-chartered  
10 charter schools, the state equalization guarantee distribution  
11 is the difference between the state-chartered charter school's  
12 program cost and the two percent withheld by the department for  
13 administrative services.

14           B. "Local revenue", as used in this section, means  
15 seventy-five percent of receipts to the school district derived  
16 from that amount produced by a school district property tax  
17 applied at the rate of fifty cents (\$.50) to each one thousand  
18 dollars (\$1,000) of net taxable value of property allocated to  
19 the school district and to the assessed value of products  
20 severed and sold in the school district as determined under the  
21 Oil and Gas Ad Valorem Production Tax Act and upon the assessed  
22 value of equipment in the school district as determined under  
23 the Oil and Gas Production Equipment Ad Valorem Tax Act.

24           C. "Federal revenue", as used in this section,  
25 means receipts to the school district, excluding amounts that,  
.163757.1

underscored material = new  
[bracketed material] = delete

1 if taken into account in the computation of the state  
2 equalization guarantee distribution, result, under federal law  
3 or regulations, in a reduction in or elimination of federal  
4 school funding otherwise receivable by the school district,  
5 derived from the following:

6 (1) seventy-five percent of the school  
7 district's share of forest reserve funds distributed in  
8 accordance with Section 22-8-33 NMSA 1978; and

9 (2) seventy-five percent of grants from the  
10 federal government as assistance to those areas affected by  
11 federal activity authorized in accordance with Title 20 of the  
12 United States Code, commonly known as "PL 874 funds" or "impact  
13 aid".

14 D. To determine the amount of the state  
15 equalization guarantee distribution, the department shall:

16 (1) calculate the number of program units to  
17 which each school district or charter school is entitled using  
18 an average of the MEM on the [~~eightieth and one hundred~~  
19 ~~twentieth days~~] second Monday in December and the third Tuesday  
20 in February of the prior year; or

21 (2) calculate the number of program units to  
22 which a school district or charter school operating under an  
23 approved year-round school calendar is entitled using an  
24 average of the MEM on appropriate dates established by the  
25 department; or

.163757.1

underscored material = new  
[bracketed material] = delete

1 (3) calculate the number of program units to  
2 which a school district or charter school with a MEM of two  
3 hundred or less is entitled by using an average of the MEM on  
4 the ~~[eightieth and one hundred twentieth days]~~ second Monday in  
5 December and the third Tuesday in February of the prior year or  
6 the ~~[fortieth day]~~ third Monday in October of the current year,  
7 whichever is greater; and

8 (4) using the results of the calculations in  
9 Paragraph (1), (2) or (3) of this subsection and the  
10 instructional staff training and experience index from the  
11 October report of the prior school year, establish a total  
12 program cost of the school district or charter school;

13 (5) for school districts, calculate the local  
14 and federal revenues as defined in this section;

15 (6) deduct the sum of the calculations made in  
16 Paragraph (5) of this subsection from the program cost  
17 established in Paragraph (4) of this subsection;

18 (7) deduct the total amount of guaranteed  
19 energy savings contract payments that the department determines  
20 will be made to the school district from the public school  
21 utility conservation fund during the fiscal year for which the  
22 state equalization guarantee distribution is being computed;  
23 and

24 (8) deduct ninety percent of the amount  
25 certified for the school district by the department pursuant to

.163757.1



underscored material = new  
[bracketed material] = delete

1 the Energy Efficiency and Renewable Energy Bonding Act.

2 E. Reduction of a school district's state  
3 equalization guarantee distribution shall cease when the school  
4 district's cumulative reductions equal its proportional share  
5 of the cumulative debt service payments necessary to service  
6 the bonds issued pursuant to the Energy Efficiency and  
7 Renewable Energy Bonding Act.

8 F. The amount of the state equalization guarantee  
9 distribution to which a school district is entitled is the  
10 balance remaining after the deductions made in Paragraphs (6)  
11 through (8) of Subsection D of this section.

12 G. The state equalization guarantee distribution  
13 shall be distributed prior to June 30 of each fiscal year. The  
14 calculation shall be based on the local and federal revenues  
15 specified in this section received from June 1 of the previous  
16 fiscal year through May 31 of the fiscal year for which the  
17 state equalization guarantee distribution is being computed.  
18 In the event that a school district or charter school has  
19 received more state equalization guarantee funds than its  
20 entitlement, a refund shall be made by the school district or  
21 charter school to the state general fund."

22 Section 5. Section 22-8-29 NMSA 1978 (being Laws 1967,  
23 Chapter 16, Section 78, as amended) is amended to read:

24 "22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--  
25 PAYMENTS.--

.163757.1

underscored material = new  
[bracketed material] = delete

1           A. Prior to November 15 of each year, each local  
2 school board of a school district and governing body of a  
3 state-chartered charter school shall report to the state  
4 transportation director, upon forms furnished by the state  
5 transportation director, the following information concerning  
6 the school district's or state-chartered charter school's  
7 operation on the [~~fortieth day of school~~] third Monday in  
8 October:

9                   (1) the number and designation of school bus  
10 routes in operation in the school district;

11                   (2) the number of miles traveled by each  
12 school bus on each school bus route, showing the route mileage  
13 in accordance with the type of road surface traveled;

14                   (3) the number of students transported on the  
15 [~~fortieth day of school~~] third Monday in October and adjusted  
16 for special education students on December 1;

17                   (4) the projected number of students to be  
18 transported in the next school year;

19                   (5) the seating capacity, age and mileage of  
20 each bus used in the school district for student  
21 transportation; and

22                   (6) the number of total miles traveled for  
23 each school district's or state-chartered charter school's per  
24 capita feeder routes.

25           B. Each local school board of a school district and

underscored material = new  
[bracketed material] = delete

1 governing body of a state-chartered charter school maintaining  
2 a school bus route shall make further reports to the state  
3 transportation director at other times specified by the state  
4 transportation director.

5 C. The state transportation director shall certify  
6 to the secretary that the allocations from the transportation  
7 distributions to each school district and state-chartered  
8 charter school are based upon the transportation distribution  
9 formula established in the Public School Code. The allocations  
10 for the first six months of a school year shall be based upon  
11 the tentative transportation budget of the school district or  
12 state-chartered charter school for the current fiscal year.  
13 Allocations to a school district or state-chartered charter  
14 school for the remainder of the school year shall adjust the  
15 amount received by the school district or state-chartered  
16 charter school so that it equals the amount the school district  
17 or state-chartered charter school is entitled to receive for  
18 the entire school year based upon the November 15 report and  
19 subject to audit and verification.

20 D. The department shall make periodic installment  
21 payments to school districts and state-chartered charter  
22 schools during the school year from the transportation  
23 distributions, based upon the allocations certified by the  
24 state transportation director."

25 Section 6. Section 22-10A-20 NMSA 1978 (being Laws 1986,

.163757.1

underscored material = new  
[bracketed material] = delete

1 Chapter 33, Section 3, as amended) is amended to read:

2 "22-10A-20. STAFFING PATTERNS--CLASS LOAD--TEACHING  
3 LOAD.--

4 A. The individual class load for elementary school  
5 teachers shall not exceed twenty students for kindergarten;  
6 provided that any teacher in kindergarten with a class load of  
7 fifteen to twenty students shall be entitled to the assistance  
8 of an educational assistant.

9 B. The average class load for elementary school  
10 teachers at an individual school shall not exceed twenty-two  
11 students when averaged among grades one, two and three;  
12 provided that any teacher in grade one with a class load of  
13 twenty-one or more shall be entitled to the full-time  
14 assistance of an educational assistant.

15 C. The average class load for an elementary school  
16 teacher at an individual school shall not exceed twenty-four  
17 students when averaged among grades four, five and six.

18 D. The daily teaching load per teacher for grades  
19 seven through twelve shall not exceed one hundred sixty  
20 students, except the daily teaching load for teachers of  
21 required English courses in grades seven and eight shall not  
22 exceed one hundred thirty-five with a maximum of twenty-seven  
23 students per class and the daily teaching load for teachers of  
24 required English courses in grades nine through twelve shall  
25 not exceed one hundred fifty students with a maximum of thirty

.163757.1

underscored material = new  
[bracketed material] = delete

1 students per class.

2 E. Students receiving special education services  
3 integrated into a regular classroom for any part of the day  
4 shall be counted in the calculation of class load averages.  
5 Students receiving special education services not integrated  
6 into the regular classroom shall not be counted in the  
7 calculation of class load averages. Only classroom teachers  
8 charged with responsibility for the regular classroom  
9 instructional program shall be counted in determining average  
10 class loads. In elementary schools offering only one grade  
11 level, average class loads may be calculated by averaging  
12 appropriate grade levels between schools in the school  
13 district.

14 F. Class load limits provided for in this section  
15 do not apply to band or music classes or athletic electives.

16 G. The [~~state superintendent~~] secretary may waive  
17 the individual school class load requirements established in  
18 this section. Waivers shall be applied for annually and a  
19 waiver shall not be granted for more than two consecutive  
20 years. Waivers may only be granted if a school district  
21 demonstrates that:

- 22 (1) no portable classrooms are available;
- 23 (2) no other available sources of funding  
24 exist to meet its need for additional classrooms;
- 25 (3) the school district is planning

.163757.1

underscored material = new  
[bracketed material] = delete

1 alternatives to increase building capacity for implementation  
2 within one year; and

3 (4) the parents of all children affected by  
4 the waiver have been notified in writing:

5 (a) of the statutory class load  
6 requirements;

7 (b) that the school district has made a  
8 decision to deviate from these class load requirements; and

9 (c) of the school district plan to  
10 achieve compliance with the class load requirements.

11 H. If a waiver is granted pursuant to Subsection G  
12 of this section to an individual school, the average class load  
13 for elementary school teachers at that school shall not exceed  
14 twenty students in grade one and shall not exceed twenty-five  
15 students when averaged among grades two, three, four, five and  
16 six.

17 I. Each school district shall report to the  
18 department the size and composition of classes subsequent to  
19 the ~~[fortieth day]~~ third Monday in October and the December 1  
20 count. Failure to meet class load requirements within two  
21 years shall be justification for the disapproval of the school  
22 district's budget by the ~~[state superintendent]~~ department.

23 J. The department shall report to the legislative  
24 education study committee by November 30 of each year regarding  
25 each school district's ability to meet class load requirements

.163757.1

underscored material = new  
[bracketed material] = delete

1 imposed by law.

2 K. Notwithstanding the provisions of Subsection G  
3 of this section, the [~~state board~~] secretary may waive the  
4 individual class load and teaching load requirements  
5 established in this section upon a demonstration of a viable  
6 alternative curricular plan and a finding by the [~~state board~~]  
7 secretary that the plan is in the best interest of the school  
8 district and that, on an annual basis, the plan has been  
9 presented to and is supported by the affected teaching staff.  
10 The department shall evaluate the impact of each alternative  
11 curricular plan annually. Annual reports shall be made to the  
12 legislative education study committee.

13 L. Teachers shall not be required to perform  
14 noninstructional duties except in emergency situations as  
15 defined by the [~~state board~~] department. For purposes of this  
16 subsection, "noninstructional duties" means noon hall duty,  
17 noon ground duty and noon cafeteria duty."

18 Section 7. Section 22-15-2 NMSA 1978 (being Laws 1967,  
19 Chapter 16, Section 206, as amended) is amended to read:

20 "22-15-2. DEFINITIONS.--As used in the Instructional  
21 Material Law:

22 A. "division" or "bureau" means the instructional  
23 material bureau of the department;

24 B. "director" or "chief" means the chief of the  
25 bureau;

.163757.1

underscored material = new  
[bracketed material] = delete

1 C. "instructional material" means school textbooks  
2 and other educational media that are used as the basis for  
3 instruction, including combinations of textbooks, learning  
4 kits, supplementary material and electronic media;

5 D. "multiple list" means a written list of those  
6 instructional materials approved by the department;

7 E. "membership" means the total enrollment of  
8 qualified students on the [~~fortieth day~~] third Monday in  
9 October of the school year entitled to the free use of  
10 instructional material pursuant to the Instructional Material  
11 Law;

12 F. "additional pupil" means a pupil in a school  
13 district's, state institution's or private school's current  
14 year's certified [~~forty day~~] membership on the third Monday in  
15 October above the number certified in the school district's,  
16 state institution's or private school's prior year's [~~forty-~~  
17 ~~day~~] membership on the third Monday in October; and

18 G. "school district" includes state-chartered  
19 charter schools."

20 Section 8. Section 22-15C-2 NMSA 1978 (being Laws 2003,  
21 Chapter 149, Section 2, as amended) is amended to read:

22 "22-15C-2. DEFINITIONS.--As used in the School Library  
23 Material Act:

24 A. "additional student" means a student in the  
25 certified [~~forty day~~] membership on the third Monday in October

.163757.1



underscored material = new  
[bracketed material] = delete

1 of the current year for a school district or state institution  
2 above the number certified in the [~~forty-day~~] membership on the  
3 third Monday in October of the prior year for the school  
4 district or state institution;

5 B. "bureau" means the instructional material bureau  
6 of the department;

7 C. "fund" means the school library material fund;

8 D. "library material processing" means cataloging  
9 of school library material, including in electronic format,  
10 according to nationally accepted standards, and the application  
11 of bar code labels and call-number classification labels to the  
12 material;

13 E. "membership" means the total enrollment of  
14 qualified students on the [~~fortieth-day~~] third Monday in  
15 October of the school year entitled to the free use of school  
16 library material pursuant to the School Library Material Act;

17 F. "qualified student" means a public school  
18 student who:

19 (1) has not graduated from high school;

20 (2) is regularly enrolled in one-half or more  
21 of the minimum course requirements approved by the department  
22 for public school students; and

23 (3) is at least five years of age prior to  
24 12:01 a.m. on September 1 of the school year; or

25 (4) is at least three years of age at any time

.163757.1

underscored material = new  
[bracketed material] = delete

1 during the school year and is receiving special education  
2 services pursuant to regulation of the department;

3 G. "school library material" means books and other  
4 educational media, including online reference and periodical  
5 databases, that are made available in a school library to  
6 students for circulation and use in the library; and

7 H. "school district" includes state-chartered  
8 charter schools."

9 Section 9. Section 22-24-4 NMSA 1978 (being Laws 1975,  
10 Chapter 235, Section 4, as amended) is amended to read:

11 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--  
12 USE.--

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

16 B. Except as provided in Subsections G through L of  
17 this section, money in the fund may be used only for capital  
18 expenditures deemed by the council necessary for an adequate  
19 educational program.

20 C. The council may authorize the purchase by the  
21 public school facilities authority of portable classrooms to be  
22 loaned to school districts to meet a temporary requirement.  
23 Payment for these purchases shall be made from the fund. Title  
24 and custody to the portable classrooms shall rest in the public  
25 school facilities authority. The council shall authorize the

.163757.1

underscoring material = new  
[bracketed material] = delete

1 lending of the portable classrooms to school districts upon  
2 request and upon finding that sufficient need exists.  
3 Application for use or return of state-owned portable classroom  
4 buildings shall be submitted by school districts to the  
5 council. Expenses of maintenance of the portable classrooms  
6 while in the custody of the public school facilities authority  
7 shall be paid from the fund; expenses of maintenance and  
8 insurance of the portable classrooms while in the custody of a  
9 school district shall be the responsibility of the school  
10 district. The council may authorize the permanent disposition  
11 of the portable classrooms by the public school facilities  
12 authority with prior approval of the state board of finance.

13 D. Applications for assistance from the fund shall  
14 be made by school districts to the council in accordance with  
15 requirements of the council. Except as provided in Subsection  
16 K of this section, the council shall require as a condition of  
17 application that a school district have a current five-year  
18 facilities plan, which shall include a current preventive  
19 maintenance plan to which the school adheres for each public  
20 school in the school district.

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

25 F. Money in the fund shall be disbursed by warrant

.163757.1

underscored material = new  
~~[bracketed material] = delete~~

1 of the department of finance and administration on vouchers  
2 signed by the secretary of finance and administration following  
3 certification by the council that an application has been  
4 approved or an expenditure has been ordered by a court pursuant  
5 to Section 22-24-5.4 NMSA 1978. At the discretion of the  
6 council, money for a project shall be distributed as follows:

7 (1) up to ten percent of the portion of the  
8 project cost funded with distributions from the fund or five  
9 percent of the total project cost, whichever is greater, may be  
10 paid to the school district before work commences with the  
11 balance of the grant award made on a cost-reimbursement basis;  
12 or

13 (2) the council may authorize payments  
14 directly to the contractor.

15 G. Balances in the fund may be annually  
16 appropriated for the core administrative functions of the  
17 public school facilities authority pursuant to the Public  
18 School Capital Outlay Act and, in addition, balances in the  
19 fund may be expended by the public school facilities authority,  
20 upon approval of the council, for project management expenses;  
21 provided that:

22 (1) the total annual expenditures from the  
23 fund pursuant to this subsection shall not exceed five percent  
24 of the average annual grant assistance authorized from the fund  
25 during the three previous fiscal years; and

.163757.1

underscored material = new  
[bracketed material] = delete

1                   (2) any unexpended or unencumbered balance  
2 remaining at the end of a fiscal year from the expenditures  
3 authorized in this subsection shall revert to the fund.

4                   H. Up to thirty million dollars (\$30,000,000) of  
5 the fund may be allocated annually by the council in fiscal  
6 years 2006 and 2007 for a roof repair and replacement  
7 initiative with projects to be identified by the council  
8 pursuant to Section 22-24-4.3 NMSA 1978; provided that all  
9 money allocated pursuant to this subsection shall be expended  
10 prior to September 1, 2008.

11                   I. Up to seven million five hundred thousand  
12 dollars (\$7,500,000) from the fund may be expended annually by  
13 the council in fiscal years 2006 through 2010 for grants to  
14 school districts for the purpose of making lease payments for  
15 classroom facilities, including facilities leased by charter  
16 schools. The grants shall be made upon application by the  
17 school districts and pursuant to rules adopted by the council;  
18 provided that, an application on behalf of a charter school  
19 shall be made by the school district but, if the school  
20 district fails to make an application on behalf of a charter  
21 school, the charter school may submit its own application. The  
22 following criteria shall apply to the grants:

23                               (1) the amount of a grant to a school district  
24 shall not exceed:

25                                       (a) the actual annual lease payments

underscored material = new  
[bracketed material] = delete

1 owed for leasing classroom space for schools, including charter  
2 schools, in the district; or

3 (b) six hundred dollars (\$600)  
4 multiplied by the number of MEM using the leased classroom  
5 facilities; provided that, if the total grants awarded pursuant  
6 to this paragraph would exceed the total annual amount  
7 available, the rate specified in this subparagraph shall be  
8 reduced proportionately;

9 (2) a grant received for the lease payments of  
10 a charter school may be used by that charter school as a state  
11 match necessary to obtain federal grants pursuant to the  
12 federal No Child Left Behind Act of 2001;

13 (3) at the end of each fiscal year, any  
14 unexpended or unencumbered balance of the appropriation shall  
15 revert to the fund; and

16 (4) as used in this subsection, "MEM" means:  
17 (a) the average full-time-equivalent  
18 enrollment using leased classroom facilities on the ~~[eightieth~~  
19 ~~and one hundred twentieth days]~~ second Monday in December and  
20 the third Tuesday in February of the prior school year; or

21 (b) in the case of an approved charter  
22 school that has not commenced classroom instruction, the  
23 estimated full-time-equivalent enrollment that will use leased  
24 classroom facilities in the first year of instruction, as shown  
25 in the approved charter school application; provided that,

.163757.1

underscored material = new  
[bracketed material] = delete

1 after the [~~eightieth day~~] second Monday in December of the  
2 current school year, the MEM shall be adjusted to reflect the  
3 full-time-equivalent enrollment on that date.

4 J. In addition to other authorized expenditures  
5 from the fund, up to one percent of the average grant  
6 assistance authorized from the fund during the three previous  
7 fiscal years may be expended in each fiscal year by the public  
8 school facilities authority to reimburse the state fire  
9 marshal, the construction industries division of the regulation  
10 and licensing department and local jurisdictions having  
11 authority from the state to permit and inspect projects for  
12 expenditures made to permit and inspect projects funded in  
13 whole or in part under the Public School Capital Outlay Act.  
14 The authority shall enter into contracts with the state fire  
15 marshal, the construction industries division or the  
16 appropriate local authorities to carry out the provisions of  
17 this subsection.

18 K. Pursuant to guidelines established by the  
19 council, allocations from the fund may be made to assist school  
20 districts in developing and updating five-year facilities plans  
21 required by the Public School Capital Outlay Act; provided  
22 that:

23 (1) no allocation shall be made unless the  
24 council determines that the school district is willing and able  
25 to pay the portion of the total cost of developing or updating

.163757.1

underscored material = new  
[bracketed material] = delete

1 the plan that is not funded with the allocation from the fund.  
2 Except as provided in Paragraph (2) of this subsection, the  
3 portion of the total cost to be paid with the allocation from  
4 the fund shall be determined pursuant to the methodology in  
5 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978; or

6 (2) the allocation from the fund may be used  
7 to pay the total cost of developing or updating the plan if:

8 (a) the school district has fewer than  
9 an average of six hundred full-time-equivalent students on the  
10 [~~eightieth and one hundred twentieth days~~] second Monday in  
11 December and the third Tuesday in February of the prior school  
12 year; or

13 (b) the school district meets all of the  
14 following requirements: 1) the school district has fewer than  
15 an average of one thousand full-time-equivalent students on the  
16 [~~eightieth and one hundred twentieth days~~] second Monday in  
17 December and the third Tuesday in February of the prior school  
18 year; 2) the school district has at least seventy percent of  
19 its students eligible for free or reduced-fee lunch; 3) the  
20 state share of the total cost, if calculated pursuant to the  
21 methodology in Paragraph (5) of Subsection B of Section 22-24-5  
22 NMSA 1978, would be less than fifty percent; and 4) for all  
23 educational purposes, the school district has a residential  
24 property tax rate of at least seven dollars (\$7.00) on each one  
25 thousand dollars (\$1,000) of taxable value, as measured by the

.163757.1



underscored material = new  
[bracketed material] = delete

1 sum of all rates imposed by resolution of the local school  
2 board plus rates set to pay interest and principal on  
3 outstanding school district general obligation bonds.

4 L. Upon application by a school district,  
5 allocations from the fund may be made by the council for the  
6 purpose of demolishing abandoned school district facilities  
7 provided that:

8 (1) the costs of continuing to insure an  
9 abandoned facility outweigh any potential benefit when and if a  
10 new facility is needed by the school district;

11 (2) there is no practical use for the  
12 abandoned facility without the expenditure of substantial  
13 renovation costs; and

14 (3) the council may enter into an agreement  
15 with the school district under which an amount equal to the  
16 savings to the district in lower insurance premiums are used to  
17 fully or partially reimburse the fund for the demolition costs  
18 allocated to the district."

19 Section 10. TEMPORARY PROVISION--DATE CHANGES--FIRST YEAR  
20 IMPLEMENTATION.--

21 A. For reporting MEM and for any other purpose  
22 required by the Public School Code or rule of the public  
23 education department, all public schools shall use the  
24 following dates beginning in the 2007-2008 school year:

25 (1) the third Monday in October replaces the

.163757.1

underscoring material = new  
~~[bracketed material] = delete~~

1 former fortieth-day count;

2 (2) the second Monday in December replaces the  
3 former eightieth-day count; and

4 (3) the third Tuesday in February replaces the  
5 former one-hundred-twentieth-day count.

6 B. For the 2007-2008 school year, "prior school  
7 year" shall be based on the fortieth, eightieth and one hundred  
8 twentieth day of the 2006-2007 school year.

9 Section 11. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is July 1, 2007.