

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

HB 328/a

March 15, 2007

Madam President:

Your **FINANCE COMMITTEE**, to whom has been referred

HOUSE BILL 328, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Senate Education Committee Amendment 12.

2. On page 34, between lines 11 and 12, insert the following new sections:

"Section 8. A new section of the Public School Capital Outlay Act, Section 22-24-12 NMSA 1978, is enacted to read:

"22-24-12. [NEW MATERIAL] PUBLIC SCHOOL FACILITY OPPORTUNITY FUND--PURPOSE--GRANTS FROM THE FUND.--

A. The legislature finds that for many years, until relatively recently, educational facilities in a few school districts in New Mexico were so inadequate because of a lack of local resources and little support from the state that the quality of education offered to students in those school districts was extremely substandard. The legislature further finds that, even under the current program to bring all public school facilities up to a minimum statewide adequacy standard, because of a continuing shortage in available local resources, some school districts will not be able to exceed that minimum in the foreseeable future and, therefore, will not have the opportunity to provide their students with the same quality of educational facilities as students in school districts that have sufficient local resources to surpass the minimum standards. The purpose of this section is to partially correct those past inequities by providing a program of state support for qualifying school districts so that minimum statewide adequacy standards may be exceeded on stand-alone projects on existing facilities.

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B. The "public school facility opportunity fund" is created in the state treasury. The fund shall consist of transfers, appropriations, reversions, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the council for the purposes of making grants so that the facilities of qualifying school districts may, pursuant to the requirements of this section, exceed statewide adequacy standards. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the public school facilities authority.

C. A school district may apply for a grant from the public school facility opportunity fund if the council determines that:

(1) the project is included in the school district's five-year facilities plan and the school district meets all qualifications to apply for a grant pursuant to Section 22-24-5 NMSA 1978 and meets the requirements of Subparagraphs (b), (c), (d) and (g) of Paragraph (9) of Subsection B of that section;

(2) the value calculated for the school district pursuant to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is equal to or greater than seven-tenths;

(3) averaged over the previous four property tax years, the school district had a residential property tax rate of at least nine dollars (\$9.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(4) at least seventy percent of the students in the school district are eligible for free or reduced-fee lunch; and

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(5) for the next four years, the school district will not have sufficient local resources to expend on school district facilities for the purpose of exceeding the statewide adequacy standards.

D. Applications for grant assistance from the public school facility opportunity fund shall be made by school districts to the council in accordance with the requirements of the council. The council shall, pursuant to criteria adopted by rule, evaluate applications and prioritize those applications most in need of a grant from the fund and, to the extent that money in the fund is available, may award grants for those prioritized applications. The evaluation criteria for school district applications shall be primarily based upon the school district's detailed description of how the proposed facilities or improvements play an essential role in the district's programmatic priorities and how they contribute to meeting goals and objectives in the school district or the school educational plan for student success.

E. All provisions of the Public School Capital Outlay Act relating to the expenditure of grants awarded from the public school capital outlay fund, including those relating to reporting, oversight, project access and accountability, apply to the use and expenditure of grants made pursuant to this section. In addition, in awarding grants pursuant to this section, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner."

Section 9. Section 6-5-10 NMSA 1978 (being Laws 1994, Chapter 11, Section 1, as amended) is amended to read:

"6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--COMPLIANCE WITH FEDERAL RULES.--

A. Except as provided in Subsections B and C of this section, all unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting

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and accounting system as of June 30 shall revert by September 30 to the general fund. The division may adjust the reversion within forty-five days of release of the audit report for that fiscal year.

B. The director of the division may modify a reversion required pursuant to Subsection A of this section if the reversion would violate federal law or rules pertaining to supplanting of state funds with federal funds or other applicable federal provisions.

C. Ten percent of all unreserved undesignated balances in reverting funds and accounts as of the end of each fiscal year from fiscal year 2009 through fiscal year 2013 shall not revert to the general fund but shall be transferred to the public school facility opportunity fund to be used for grants to school districts pursuant to Section 22-24-12 NMSA 1978."

Section 10. [NEW MATERIAL] PUBLIC SCHOOL APPROPRIATIONS FOR NONOPERATING PURPOSES--SET ASIDE FOR PUBLIC SCHOOL FACILITY OPPORTUNITY FUND.--Except for appropriations to or from the public school capital outlay fund, three percent of each appropriation made by the legislature on or after July 1, 2007 for nonoperating purposes, either directly to a school district or a public school or to another governmental entity for the purpose of passing the money through directly to a school district or a public school, shall be set aside and transferred to the public school facility opportunity fund, provided that the amount set aside and transferred pursuant to this section shall not be included in a reduction in the amount of a state grant calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978. The amount shall be set aside and transferred by the secretary of finance and administration:

A. if the appropriation is from severance tax bond proceeds, at the time the severance tax bonds are issued by the state board of finance; or

B. if the appropriation is from the general fund, at such

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time during the first fiscal year that the appropriation may be expended as deemed appropriate by the secretary.

Section 11. Section 22-24-7 NMSA 1978 (being Laws 2001, Chapter 338, Section 12, as amended) is amended to read:

"22-24-7. PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE--
CREATION--STAFF.--

A. The "public school capital outlay oversight task force" is created. The task force consists of [~~twenty-four~~] twenty-six members as follows:

(1) the secretary of finance and administration or the secretary's designee;

(2) the secretary of public education or the secretary's designee;

(3) the state investment officer or the state investment officer's designee;

(4) the speaker of the house of representatives or the speaker's designee;

(5) the president pro tempore of the senate or the president pro tempore's designee;

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

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

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

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(9) a member of the interim legislative committee charged with the oversight of Indian affairs, appointed by the New Mexico legislative council, provided that the member shall rotate annually between a senate member and a member of the house of representatives;

(10) a member of the house of representatives and a member of the senate who represent districts with school districts receiving federal funds commonly known as "PL 874" funds or "impact aid", appointed by the New Mexico legislative council;

~~(10)~~ (11) two public members who have expertise in education and finance appointed by the speaker of the house of representatives;

~~(11)~~ (12) two public members who have expertise in education and finance appointed by the president pro tempore of the senate;

~~(12)~~ (13) three public members, two of whom are residents of school districts that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, appointed by the governor; and

~~(13)~~ (14) three superintendents of school districts or their designees, two of whom are from school districts that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, appointed by the New Mexico legislative council in consultation with the governor.

B. The chair of the public school capital outlay oversight task force shall be elected by the task force. The task force shall meet at the call of the chair, but no more than four times per calendar year.

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C. Non-ex-officio members of the task force shall serve at the pleasure of their appointing authorities.

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

E. The legislative council service, with assistance from the public school facilities authority, the department of finance and administration, the public education department, the legislative education study committee and the legislative finance committee, shall provide staff for the public school capital outlay oversight task force."".

3. On page 56, between lines 12 and 13, insert the following new section:

"Section 26. DELAYED REPEAL--REVERSION OF FUND BALANCE.--

A. On July 1, 2013, Sections 22-24-5.8 and 22-24-12 NMSA 1978, as enacted by Sections 7 and 8 of this act, and Section 10 of this act are repealed.

B. Upon the repeal of Section 22-24-12 NMSA 1978, the proportion of the unencumbered balance of the public school facility opportunity fund that is attributable to proceeds of severance tax bonds shall revert to the severance tax bonding fund and the remaining unencumbered balance shall revert to the general fund.".

4. Renumber all sections in accordance with this amendment.

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Respectfully submitted,

John Arthur Smith, Co-Chair
Timothy Z. Jennings, Co-Chair

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against
Yes: 7
No: 0
Excused: Carraro, Rodriguez, Sanchez, B.
Absent: None

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