

1 AN ACT

2 RELATING TO PUBLIC SCHOOL FACILITIES; PROVIDING THAT CERTAIN
3 SCHOOL CONSTRUCTION PROJECTS MAY BE EXEMPTED FROM SOME STATE
4 OVERSIGHT; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO
5 CHANGE THE CRITERIA FOR OFFSETTING AMOUNTS FROM STATE GRANTS,
6 TO REQUIRE SPACE UTILIZATION TO BE CONSIDERED, TO ALLOW
7 ADDITIONAL GRANTS TO CERTAIN SCHOOL DISTRICTS, TO INCREASE
8 GRANTS TO SCHOOLS FOR LEASE PAYMENTS, TO ALLOW CERTAIN
9 FACILITIES TO BE PURCHASED WITH STATE GRANTS AND TO EXTEND
10 THE TIME FOR WHICH CERTAIN EXPENDITURES MAY BE MADE; AMENDING
11 THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT TO INCREASE THE
12 STATE DISTRIBUTION; AMENDING THE PUBLIC SCHOOL BUILDINGS ACT
13 TO ALLOW REVENUE TO BE USED FOR PROJECT MANAGEMENT, TO
14 INCREASE THE PERIOD FOR WHICH A TAX MAY BE IMPOSED AND TO
15 AUTHORIZE DIRECT PAYMENT OF REVENUE TO CHARTER SCHOOLS;
16 ALLOWING CHARTER SCHOOLS AND SCHOOL DISTRICTS TO ENTER INTO
17 LEASE AGREEMENTS; ALLOWING CERTAIN TYPES OF LEASE-PURCHASE
18 ARRANGEMENTS TO BE FUNDED WITH CERTAIN STATE GRANTS AND
19 CERTAIN TAX REVENUES; CREATING THE PUBLIC SCHOOL FACILITY
20 OPPORTUNITY FUND; AUTHORIZING GRANTS FROM THE FUND TO CERTAIN
21 SCHOOL DISTRICTS FOR CERTAIN PURPOSES; PROVIDING THAT A
22 PORTION OF THE UNENCUMBERED BALANCE OF CERTAIN GENERAL FUND
23 APPROPRIATIONS SHALL REVERT TO THE FUND; PROVIDING THAT A
24 PORTION OF EACH SPECIAL APPROPRIATION FOR A PUBLIC SCHOOL
25 SHALL BE SET ASIDE AND TRANSFERRED TO THE FUND; PROVIDING

1 THAT CERTAIN COMPONENTS MAY BE SEPARATELY PRICED IN SCHOOL
2 CONSTRUCTION CONTRACTS; RECOMPILING A CERTAIN SECTION OF THE
3 PUBLIC SCHOOL CODE; RECONCILING MULTIPLE AMENDMENTS TO THE
4 SAME SECTION OF LAW IN LAWS 2006; MAKING APPROPRIATIONS.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 22-20-1 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 270, as amended by Laws 2006, Chapter 94,
9 Section 54 and by Laws 2006, Chapter 95, Section 1) is
10 amended to read:

11 "22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC
12 SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE
13 ADEQUACY STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS
14 APPLICABLE.--

15 A. Except as provided in Subsection D of this
16 section, each local school board or governing body of a
17 charter school shall secure the approval of the director of
18 the public school facilities authority or the director's
19 designee prior to the construction or letting of contracts
20 for construction of any school building or related school
21 structure or before reopening an existing structure that was
22 formerly used as a school building but that has not been used
23 for that purpose during the previous year. A written
24 application shall be submitted to the director requesting
25 approval of the construction, and, upon receipt, the director

1 shall forward a copy of the application to the secretary.

2 The director shall prescribe the form of the application,

3 which shall include the following:

4 (1) a statement of need;

5 (2) the anticipated number of students
6 affected by the construction;

7 (3) the estimated cost;

8 (4) a description of the proposed
9 construction project;

10 (5) a map of the area showing existing
11 school attendance centers within a five-mile radius and any
12 obstructions to attending the attendance centers, such as
13 railroad tracks, rivers and limited-access highways; and

14 (6) other information as may be required by
15 the director.

16 B. The director or the director's designee shall
17 give approval to an application if the director or designee
18 reasonably determines that:

19 (1) the construction will not cause an
20 unnecessary proliferation of school construction;

21 (2) the construction is needed in the school
22 district or by the charter school;

23 (3) the construction is feasible;

24 (4) the cost of the construction is
25 reasonable;

1 (5) the school district or charter school
2 has submitted a five-year facilities plan that includes:

3 (a) enrollment projections;
4 (b) a current preventive maintenance
5 plan;

6 (c) the capital needs of charter
7 schools chartered by the school district, if applicable, or
8 the capital needs of the charter school if it is
9 state-chartered; and

10 (d) projections for the facilities
11 needed in order to maintain a full-day kindergarten program;

12 (6) the construction project:

13 (a) is in compliance with the statewide
14 adequacy standards adopted pursuant to the Public School
15 Capital Outlay Act; and

16 (b) is appropriately integrated into
17 the school district or charter school five-year facilities
18 plan;

19 (7) the school district or charter school is
20 financially able to pay for the construction; and

21 (8) the secretary has certified that the
22 construction will support the educational program of the
23 school district or charter school.

24 C. Within thirty days after the receipt of an
25 application filed pursuant to this section, the director or

1 the director's designee shall in writing notify the local
2 school board or governing body of a charter school making the
3 application and the department of approval or disapproval of
4 the application.

5 D. By rule, the public school capital outlay
6 council may:

7 (1) exempt classes or types of construction
8 from the application and approval requirements of this
9 section; or

10 (2) exempt classes or types of construction
11 from the requirement of approval but, if the council
12 determines that information concerning the construction is
13 necessary for the maintenance of the facilities assessment
14 database, require a description of the proposed construction
15 project and related information to be submitted to the public
16 school facilities authority.

17 E. A local school board or governing body of a
18 charter school shall not enter into a contract for the
19 construction of a public school facility, including contracts
20 funded with insurance proceeds, unless the contract contains
21 provisions requiring the construction to be in compliance
22 with the statewide adequacy standards adopted pursuant to the
23 Public School Capital Outlay Act, provided that, for a
24 contract funded in whole or in part with insurance proceeds:

25 (1) the cost of settlement of any insurance

1 claim shall not be increased by inclusion of the insurance
2 proceeds in the construction contract; and

3 (2) insurance claims settlements shall
4 continue to be governed by insurance policies, memoranda of
5 coverage and rules related to them.

6 F. Public school facilities shall be constructed
7 pursuant to state standards or codes promulgated pursuant to
8 the Construction Industries Licensing Act and rules adopted
9 pursuant to Section 59A-52-15 NMSA 1978 for the prevention
10 and control of fires in public occupancies. Building
11 standards or codes adopted by a municipality or county do not
12 apply to the construction of public school facilities, except
13 those structures constructed as a part of an educational
14 program of a school district or charter school.

15 G. The provisions of Subsection F of this section
16 relating to fire protection shall not be effective until the
17 public regulation commission has adopted the International
18 Fire Code and all standards related to that code.

19 H. As used in this section, "construction" means
20 any project for which the construction industries division of
21 the regulation and licensing department requires permitting
22 and for which the estimated total cost exceeds two hundred
23 thousand dollars (\$200,000)."

24 Section 2. A new section of the Procurement Code is
25 enacted to read:

1 "SCHOOL CONSTRUCTION PROJECTS--SEPARATE PRICING REQUIRED
2 IN CERTAIN CIRCUMSTANCES.--Prior to submitting a bid or
3 proposal for a state or local public works project for the
4 construction of a public school facility, if the central
5 purchasing office or a responsible bidder or responsible
6 offeror determines that there is only one source for a
7 specific service, construction or item of tangible personal
8 property that is required in the specifications, then the
9 central purchasing office, responsible bidder or responsible
10 offeror may require any bid or offer submitted by a
11 subcontractor or supplier to separately price the specific
12 service, construction or item of tangible personal property."

13 Section 3. Section 22-24-4 NMSA 1978 (being Laws 1975,
14 Chapter 235, Section 4, as amended) is amended to read:

15 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--
16 USE.--

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

20 B. Except as provided in Section 22-24-5.8 NMSA
21 1978 and in Subsections G through L of this section, money in
22 the fund may be used only for capital expenditures deemed by
23 the council necessary for an adequate educational program.

24 C. The council may authorize the purchase by the
25 public school facilities authority of portable classrooms to

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

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

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

5 F. Money in the fund shall be disbursed by warrant
6 of the department of finance and administration on vouchers
7 signed by the secretary of finance and administration
8 following certification by the council that an application
9 has been approved or an expenditure has been ordered by a
10 court pursuant to Section 22-24-5.4 NMSA 1978. At the
11 discretion of the council, money for a project shall be
12 distributed as follows:

13 (1) up to ten percent of the portion of the
14 project cost funded with distributions from the fund or five
15 percent of the total project cost, whichever is greater, may
16 be paid to the school district before work commences with the
17 balance of the grant award made on a cost-reimbursement
18 basis; or

19 (2) the council may authorize payments
20 directly to the contractor.

21 G. Balances in the fund may be annually
22 appropriated for the core administrative functions of the
23 public school facilities authority pursuant to the Public
24 School Capital Outlay Act and, in addition, balances in the
25 fund may be expended by the public school facilities

1 authority, upon approval of the council, for project
2 management expenses; provided that:

3 (1) the total annual expenditures from the
4 fund pursuant to this subsection shall not exceed five
5 percent of the average annual grant assistance authorized
6 from the fund during the three previous fiscal years; and

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

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

17 I. The fund may be expended annually by the
18 council in fiscal years 2006 through 2020 for grants to
19 school districts for the purpose of making lease payments for
20 classroom facilities, including facilities leased by charter
21 schools. The grants shall be made upon application by the
22 school districts and pursuant to rules adopted by the
23 council; provided that an application on behalf of a charter
24 school shall be made by the school district but, if the
25 school district fails to make an application on behalf of a

1 charter school, the charter school may submit its own
2 application. The following criteria shall apply to the
3 grants:

4 (1) the amount of a grant to a school
5 district shall not exceed:

6 (a) the actual annual lease payments
7 owed for leasing classroom space for schools, including
8 charter schools, in the district; or

9 (b) seven hundred dollars (\$700)
10 multiplied by the number of MEM using the leased classroom
11 facilities; provided that in fiscal year 2009 and in each
12 subsequent fiscal year, this amount shall be adjusted by the
13 percentage increase between the penultimate calendar year and
14 the immediately preceding calendar year of the consumer price
15 index for the United States, all items, as published by the
16 United States department of labor; and provided further that
17 if the total grants awarded pursuant to this paragraph would
18 exceed the total annual amount available, the rate specified
19 in this subparagraph shall be reduced proportionately;

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

24 (3) at the end of each fiscal year, any
25 unexpended or unencumbered balance of the appropriation shall

1 revert to the fund;

2 (4) if the lease payments are made pursuant
3 to a financing agreement under which the facilities may be
4 purchased for a price that is reduced according to the lease
5 payments made:

6 (a) a grant shall not be made unless
7 the council determines that the leased facilities meet the
8 statewide adequacy standards; and

9 (b) neither a grant nor any provision
10 of the Public School Capital Outlay Act creates a legal
11 obligation for the school district or charter school to
12 continue the lease from year to year or to purchase the
13 facilities nor does it create a legal obligation for the
14 state to make subsequent grants pursuant to the provisions of
15 this subsection;

16 (5) the total amount expended from the fund
17 pursuant to this subsection shall not exceed:

18 (a) seven million five hundred thousand
19 dollars (\$7,500,000) in fiscal year 2007; and

20 (b) in fiscal year 2008 and each
21 subsequent fiscal year, the maximum amount for the previous
22 fiscal year adjusted by the percentage increase between the
23 penultimate calendar year and the immediately preceding
24 calendar year of the consumer price index for the United
25 States, all items, as published by the United States

1 department of labor; and

2 (6) as used in this subsection:

3 (a) "MEM" means: 1) the average
4 full-time-equivalent enrollment using leased classroom
5 facilities on the eightieth and one hundred twentieth days of
6 the prior school year; or 2) in the case of an approved
7 charter school that has not commenced classroom instruction,
8 the estimated full-time-equivalent enrollment that will use
9 leased classroom facilities in the first year of instruction,
10 as shown in the approved charter school application; provided
11 that, after the eightieth day of the school year, the MEM
12 shall be adjusted to reflect the full-time-equivalent
13 enrollment on that date; and

14 (b) "classroom facilities" or
15 "classroom space" includes the space needed, as determined by
16 the minimum required under the statewide adequacy standards,
17 for the direct administration of school activities.

18 J. In addition to other authorized expenditures
19 from the fund, up to one percent of the average grant
20 assistance authorized from the fund during the three previous
21 fiscal years may be expended in each fiscal year by the
22 public school facilities authority to reimburse the state
23 fire marshal, the construction industries division of the
24 regulation and licensing department and local jurisdictions
25 having authority from the state to permit and inspect

1 projects for expenditures made to permit and inspect projects
2 funded in whole or in part under the Public School Capital
3 Outlay Act. The authority shall enter into contracts with
4 the state fire marshal, the construction industries division
5 or the appropriate local authorities to carry out the
6 provisions of this subsection.

7 K. Pursuant to guidelines established by the
8 council, allocations from the fund may be made to assist
9 school districts in developing and updating five-year
10 facilities plans required by the Public School Capital Outlay
11 Act; provided that:

12 (1) no allocation shall be made unless the
13 council determines that the school district is willing and
14 able to pay the portion of the total cost of developing or
15 updating the plan that is not funded with the allocation from
16 the fund. Except as provided in Paragraph (2) of this
17 subsection, the portion of the total cost to be paid with the
18 allocation from the fund shall be determined pursuant to the
19 methodology in Paragraph (5) of Subsection B of Section
20 22-24-5 NMSA 1978; or

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

23 (a) the school district has fewer than
24 an average of six hundred full-time-equivalent students on
25 the eightieth and one hundred twentieth days of the prior

1 school year; or

2 (b) the school district meets all of
3 the following requirements: 1) the school district has fewer
4 than an average of one thousand full-time-equivalent students
5 on the eightieth and one hundred twentieth days of the prior
6 school year; 2) the school district has at least seventy
7 percent of its students eligible for free or reduced-fee
8 lunch; 3) the state share of the total cost, if calculated
9 pursuant to the methodology in Paragraph (5) of Subsection B
10 of Section 22-24-5 NMSA 1978, would be less than fifty
11 percent; and 4) for all educational purposes, the school
12 district has a residential property tax rate of at least
13 seven dollars (\$7.00) on each one thousand dollars (\$1,000)
14 of taxable value, as measured by the sum of all rates imposed
15 by resolution of the local school board plus rates set to pay
16 interest and principal on outstanding school district general
17 obligation bonds.

18 L. Upon application by a school district,
19 allocations from the fund may be made by the council for the
20 purpose of demolishing abandoned school district facilities,
21 provided that:

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

25 (2) there is no practical use for the

1 abandoned facility without the expenditure of substantial
2 renovation costs; and

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

8 Section 4. Section 22-24-4.1 NMSA 1978 (being Laws
9 2001, Chapter 338, Section 6, as amended) is amended to read:

10 "22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--
11 CORRECTION.--

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

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

25 C. The council shall develop a methodology for

1 prioritizing projects that will correct the deficiencies.

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

8 E. In entering into construction contracts to
9 correct deficiencies pursuant to this section, the council
10 shall include such terms and conditions as necessary to
11 ensure that the state money is expended in the most prudent
12 manner possible and consistent with the original purpose.

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

17 G. It is the intent of the legislature that all
18 outstanding deficiencies in public schools and grounds that
19 may adversely affect the health or safety of students and
20 school personnel be identified and awards made pursuant to
21 this section no later than June 30, 2005, and that funds be
22 expended no later than June 30, 2007, provided that the
23 council may extend the expenditure period upon a
24 determination that a project requires the additional time
25 because existing buildings need to be demolished or because

1 of other extenuating circumstances."

2 Section 5. Section 22-24-4.4 NMSA 1978 (being Laws
3 2005, Chapter 274, Section 7) is amended to read:

4 "22-24-4.4. SERIOUS ROOF DEFICIENCIES--CORRECTION.--

5 A. To complete the program to correct outstanding
6 deficiencies, those serious deficiencies in the roofs of
7 public school facilities identified pursuant to Section
8 22-24-4.1 NMSA 1978 as adversely affecting the health or
9 safety of students and school personnel shall be corrected
10 pursuant to this section, regardless of the local effort or
11 percentage of indebtedness of the school district, subject to
12 the following provisions:

13 (1) if the council determines that the
14 school district has excess capital improvement funds received
15 pursuant to the Public School Capital Improvements Act, the
16 cost of correcting the deficiencies shall first come from the
17 school district's excess funds, and if the excess funds are
18 insufficient to correct the deficiencies, the difference
19 shall be paid from the public school capital outlay fund; and

20 (2) if the school district refuses to pay
21 its share of the cost of correcting deficiencies as
22 determined pursuant to Paragraph (1) of this subsection,
23 future distributions from the public school capital
24 improvements fund pursuant to Section 22-25-9 NMSA 1978 shall
25 not be made to the school district but shall be made to the

1 public school capital outlay fund until the public school
2 capital outlay fund is reimbursed in full for the school
3 district's share.

4 B. It is the intent of the legislature that all
5 awards for correcting outstanding deficiencies in public
6 school roofs that may adversely affect the health and safety
7 of students and school personnel be made pursuant to this
8 section no later than September 30, 2005 and that funds be
9 expended no later than September 30, 2008."

10 Section 6. Section 22-24-5 NMSA 1978 (being Laws 1975,
11 Chapter 235, Section 5, as amended) is amended to read:

12 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
13 APPLICATION--GRANT ASSISTANCE.--

14 A. Applications for grant assistance, the approval
15 of applications, the prioritization of projects and grant
16 awards shall be conducted pursuant to the provisions of this
17 section.

18 B. Except as provided in Sections 22-24-4.3,
19 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions
20 govern grant assistance from the fund for a public school
21 capital outlay project not wholly funded pursuant to Section
22 22-24-4.1 NMSA 1978:

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

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

5 (a) the council shall apply the
6 standards to charter schools to the same extent that they are
7 applied to other public schools; and

8 (b) in an emergency in which the health
9 or safety of students or school personnel is at immediate
10 risk or in which there is a threat of significant property
11 damage, the council may award grant assistance for a project
12 using criteria other than the statewide adequacy standards;

13 (3) the council shall establish criteria to
14 be used in public school capital outlay projects that receive
15 grant assistance pursuant to the Public School Capital Outlay
16 Act. In establishing the criteria, the council shall
17 consider:

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

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

24 (c) concepts that promote efficient but
25 flexible utilization of space; and

1 (d) any other financing or construction
2 concept that may maximize the dollar effect of the state
3 grant assistance;

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

8 (5) except as provided in Paragraph (6) or
9 (8) of this subsection, the state share of a project approved
10 and ranked by the council shall be funded within available
11 resources pursuant to the provisions of this paragraph. No
12 later than May 1 of each calendar year, a value shall be
13 calculated for each school district in accordance with the
14 following procedure:

15 (a) the final prior year net taxable
16 value for a school district divided by the MEM for that
17 school district is calculated for each school district;

18 (b) the final prior year net taxable
19 value for the whole state divided by the MEM for the state is
20 calculated;

21 (c) excluding any school district for
22 which the result calculated pursuant to Subparagraph (a) of
23 this paragraph is more than twice the result calculated
24 pursuant to Subparagraph (b) of this paragraph, the results
25 calculated pursuant to Subparagraph (a) of this paragraph are

1 listed from highest to lowest;

2 (d) the lowest value listed pursuant to
3 Subparagraph (c) of this paragraph is subtracted from the
4 highest value listed pursuant to that subparagraph;

5 (e) the value calculated pursuant to
6 Subparagraph (a) of this paragraph for the subject school
7 district is subtracted from the highest value listed in
8 Subparagraph (c) of this paragraph;

9 (f) the result calculated pursuant to
10 Subparagraph (e) of this paragraph is divided by the result
11 calculated pursuant to Subparagraph (d) of this paragraph;

12 (g) the sum of the property tax mill
13 levies for the prior tax year imposed by each school district
14 on residential property pursuant to Chapter 22, Article 18
15 NMSA 1978, the Public School Capital Improvements Act, the
16 Public School Buildings Act, the Education Technology
17 Equipment Act and Paragraph (2) of Subsection B of Section
18 7-37-7 NMSA 1978 is calculated for each school district;

19 (h) the lowest value calculated
20 pursuant to Subparagraph (g) of this paragraph is subtracted
21 from the highest value calculated pursuant to that
22 subparagraph;

23 (i) the lowest value calculated
24 pursuant to Subparagraph (g) of this paragraph is subtracted
25 from the value calculated pursuant to that subparagraph for

1 the subject school district;

2 (j) the value calculated pursuant to
3 Subparagraph (i) of this paragraph is divided by the value
4 calculated pursuant to Subparagraph (h) of this paragraph;

5 (k) if the value calculated for a
6 subject school district pursuant to Subparagraph (j) of this
7 paragraph is less than five-tenths, then, except as provided
8 in Subparagraph (n) or (o) of this paragraph, the value for
9 that school district equals the value calculated pursuant to
10 Subparagraph (f) of this paragraph;

11 (l) if the value calculated for a
12 subject school district pursuant to Subparagraph (j) of this
13 paragraph is five-tenths or greater, then that value is
14 multiplied by five-hundredths;

15 (m) if the value calculated for a
16 subject school district pursuant to Subparagraph (j) of this
17 paragraph is five-tenths or greater, then the value
18 calculated pursuant to Subparagraph (l) of this paragraph is
19 added to the value calculated pursuant to Subparagraph (f) of
20 this paragraph. Except as provided in Subparagraph (n) or
21 (o) of this paragraph, the sum equals the value for that
22 school district;

23 (n) in those instances in which the
24 calculation pursuant to Subparagraph (k) or (m) of this
25 paragraph yields a value less than one-tenth, one-tenth shall

1 be used as the value for the subject school district;

2 (o) in those instances in which the
3 calculation pursuant to Subparagraph (k) or (m) of this
4 paragraph yields a value greater than one, one shall be used
5 as the value for the subject school district;

6 (p) except as provided in Section
7 22-24-5.7 or 22-24-5.8 NMSA 1978 and except as adjusted
8 pursuant to Paragraph (6) or (8) of this subsection, the
9 amount to be distributed from the fund for an approved
10 project shall equal the total project cost multiplied by a
11 fraction the numerator of which is the value calculated for
12 the subject school district in the current year plus the
13 value calculated for that school district in each of the two
14 preceding years and the denominator of which is three; and

15 (q) as used in this paragraph: 1) "MEM"
16 means the average full-time-equivalent enrollment of students
17 attending public school in a school district on the eightieth
18 and one hundred twentieth days of the prior school year; 2)
19 "total project cost" means the total amount necessary to
20 complete the public school capital outlay project less any
21 insurance reimbursement received by the school district for
22 the project; and 3) in the case of a state-chartered charter
23 school that has submitted an application for grant assistance
24 pursuant to this section, the "value calculated for the
25 subject school district" means the value calculated for the

1 school district in which the state-chartered charter school
2 is physically located;

3 (6) the amount calculated pursuant to
4 Subparagraph (p) of Paragraph (5) of this subsection shall be
5 reduced by the following procedure:

6 (a) the total of all legislative
7 appropriations made after January 1, 2003 for nonoperating
8 purposes either directly to the subject school district or to
9 another governmental entity for the purpose of passing the
10 money through directly to the subject school district, and
11 not rejected by the subject school district, is calculated;
12 provided that: 1) an appropriation made in a fiscal year
13 shall be deemed to be accepted by a school district unless,
14 prior to June 1 of that fiscal year, the school district
15 notifies the department of finance and administration and the
16 public education department that the district is rejecting
17 the appropriation; 2) the total shall exclude any educational
18 technology appropriation made prior to January 1, 2005 unless
19 the appropriation was on or after January 1, 2003 and not
20 previously used to offset distributions pursuant to the
21 Technology for Education Act; 3) the total shall exclude any
22 appropriation previously made to the subject school district
23 that is reauthorized for expenditure by another recipient; 4)
24 the total shall exclude one-half of the amount of any
25 appropriation made or reauthorized after January 1, 2007 if

1 the purpose of the appropriation or reauthorization is to
2 fund, in whole or in part, a capital outlay project that,
3 when prioritized by the council pursuant to this section
4 either in the immediately preceding funding cycle or in the
5 current funding cycle, ranked in the top one hundred fifty
6 projects statewide; and 5) unless the grant award is made to
7 the state-chartered charter school or unless the
8 appropriation was previously used to calculate a reduction
9 pursuant to this paragraph, the total shall exclude
10 appropriations made after January 1, 2007 for nonoperating
11 purposes of a specific state-chartered charter school,
12 regardless of whether the charter school is a state-chartered
13 charter school at the time of the appropriation or later opts
14 to become a state-chartered charter school;

15 (b) the applicable fraction used for
16 the subject school district and the current calendar year for
17 the calculation in Subparagraph (p) of Paragraph (5) of this
18 subsection is subtracted from one;

19 (c) the value calculated pursuant to
20 Subparagraph (a) of this paragraph for the subject school
21 district is multiplied by the amount calculated pursuant to
22 Subparagraph (b) of this paragraph for that school district;

23 (d) the total amount of reductions for
24 the subject school district previously made pursuant to
25 Subparagraph (e) of this paragraph for other approved public

1 school capital outlay projects is subtracted from the amount
2 calculated pursuant to Subparagraph (c) of this paragraph;
3 and

4 (e) the amount calculated pursuant to
5 Subparagraph (p) of Paragraph (5) of this subsection shall be
6 reduced by the amount calculated pursuant to Subparagraph (d)
7 of this paragraph;

8 (7) as used in Paragraphs (5) and (6) of
9 this subsection, "subject school district" means the school
10 district that has submitted the application for funding and
11 in which the approved public school capital outlay project
12 will be located;

13 (8) the council may adjust the amount of
14 local share otherwise required if it determines that a school
15 district has used all of its local resources. Before making
16 any adjustment to the local share, the council shall consider
17 whether:

18 (a) the school district has
19 insufficient bonding capacity over the next four years to
20 provide the local match necessary to complete the project
21 and, for all educational purposes, has a residential property
22 tax rate of at least ten dollars (\$10.00) on each one
23 thousand dollars (\$1,000) of taxable value, as measured by
24 the sum of all rates imposed by resolution of the local
25 school board plus rates set to pay interest and principal on

1 outstanding school district general obligation bonds;

2 (b) the school district: 1) has fewer
3 than an average of eight hundred full-time-equivalent
4 students on the eightieth and one hundred twentieth days of
5 the prior school year; 2) has at least seventy percent of its
6 students eligible for free or reduced-fee lunch; 3) has a
7 share of the total project cost, as calculated pursuant to
8 provisions of this section, that would be greater than fifty
9 percent; and 4) for all educational purposes, has a
10 residential property tax rate of at least seven dollars
11 (\$7.00) on each one thousand dollars (\$1,000) of taxable
12 value, as measured by the sum of all rates imposed by
13 resolution of the local school board plus rates set to pay
14 interest and principal on outstanding school district general
15 obligation bonds; or

16 (c) the school district has: 1) an
17 enrollment growth rate over the previous school year of at
18 least two and one-half percent; 2) pursuant to its five-year
19 facilities plan, will be building a new school within the
20 next two years; and 3) for all educational purposes, has a
21 residential property tax rate of at least ten dollars
22 (\$10.00) on each one thousand dollars (\$1,000) of taxable
23 value, as measured by the sum of all rates imposed by
24 resolution of the local school board plus rates set to pay
25 interest and principal on outstanding school district general

1 obligation bonds; and

2 (9) no application for grant assistance from
3 the fund shall be approved unless the council determines
4 that:

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

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

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

13 (d) the school district has submitted a
14 five-year facilities plan that includes: 1) enrollment
15 projections; 2) a current preventive maintenance plan that
16 has been approved by the council pursuant to Section
17 22-24-5.3 NMSA 1978 and that is followed by each public
18 school in the district; 3) the capital needs of charter
19 schools located in the school district; and 4) projections
20 for the facilities needed in order to maintain a full-day
21 kindergarten program;

22 (e) the school district is willing and
23 able to pay any portion of the total cost of the public
24 school capital outlay project that, according to Paragraph
25 (5), (6) or (8) of this subsection, is not funded with grant

1 assistance from the fund; provided that school district funds
2 used for a project that was initiated after September 1, 2002
3 when the statewide adequacy standards were adopted, but
4 before September 1, 2004 when the standards were first used
5 as the basis for determining the state and school district
6 share of a project, may be applied to the school district
7 portion required for that project;

8 (f) the application includes the
9 capital needs of any charter school located in the school
10 district or the school district has shown that the facilities
11 of the charter school have a smaller deviation from the
12 statewide adequacy standards than other district facilities
13 included in the application; and

14 (g) the school district has agreed, in
15 writing, to comply with any reporting requirements or
16 conditions imposed by the council pursuant to Section
17 22-24-5.1 NMSA 1978.

18 C. After consulting with the public school capital
19 outlay oversight task force and other experts, the council
20 shall regularly review and update statewide adequacy
21 standards applicable to all school districts. The standards
22 shall establish the acceptable level for the physical
23 condition and capacity of buildings, the educational
24 suitability of facilities and the need for technological
25 infrastructure. Except as otherwise provided in the Public

1 School Capital Outlay Act, the amount of outstanding
2 deviation from the standards shall be used by the council in
3 evaluating and prioritizing public school capital outlay
4 projects.

5 D. The acquisition of a facility by a school
6 district or charter school pursuant to a financing agreement
7 that provides for lease payments with an option to purchase
8 for a price that is reduced according to lease payments made
9 may be considered a public school capital outlay project and
10 eligible for grant assistance under this section pursuant to
11 the following criteria:

12 (1) no grant shall be awarded unless the
13 council finds that, prior to the purchase of the facility by
14 the school district or charter school, the facility will
15 equal or exceed the statewide adequacy standards and the
16 building standards for public school facilities;

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

21 (3) the total project cost shall equal the
22 total payments that would be due under the agreement if the
23 school district or charter school would eventually acquire
24 title to the facility;

25 (4) the portion of the total project cost to

1 be paid from the fund may be awarded as one grant, but
2 disbursements from the fund shall be made from time to time
3 as lease payments become due;

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

7 (6) neither a grant award nor any provision
8 of the Public School Capital Outlay Act creates a legal
9 obligation for the school district or charter school to
10 continue the lease from year to year or to purchase the
11 facility.

12 E. In order to encourage private capital
13 investment in the construction of public school facilities,
14 the purchase of a privately owned school facility that is, at
15 the time of application, in use by a school district may be
16 considered a public school capital outlay project and
17 eligible for grant assistance pursuant to this section if the
18 council finds that:

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

23 (2) at the time of application, attendance
24 at the facility to be purchased is at seventy-five percent or
25 greater of design capacity and the attendance at other

1 schools in the school district that the students at the
2 facility would otherwise attend is at eighty-five percent or
3 greater of design capacity; and

4 (3) the school district and the capital
5 outlay project meet all of the requirements for grant
6 assistance pursuant to the Public School Capital Outlay Act;
7 provided that, when determining the deviation from the
8 statewide adequacy standards for the purposes of evaluating
9 and prioritizing the project, the students using the facility
10 shall be deemed to be attending other schools in the school
11 district.

12 F. It is the intent of the legislature that grant
13 assistance made pursuant to this section allows every school
14 district to meet the standards developed pursuant to
15 Subsection C of this section; provided, however, that nothing
16 in the Public School Capital Outlay Act or the development of
17 standards pursuant to that act prohibits a school district
18 from using local funds to exceed the statewide adequacy
19 standards.

20 G. Upon request, the council shall work with, and
21 provide assistance and information to, the public school
22 capital outlay oversight task force.

23 H. The council may establish committees or task
24 forces, not necessarily consisting of council members, and
25 may use the committees or task forces, as well as existing

1 agencies or organizations, to conduct studies, conduct
2 surveys, submit recommendations or otherwise contribute
3 expertise from the public schools, programs, interest groups
4 and segments of society most concerned with a particular
5 aspect of the council's work.

6 I. Upon the recommendation of the public school
7 facilities authority, the council shall develop building
8 standards for public school facilities and shall promulgate
9 other such rules as are necessary to carry out the provisions
10 of the Public School Capital Outlay Act.

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

21 ~~Section 7. A new section of the Public School Capital~~
22 ~~Outlay Act, Section 22-24-5.8 NMSA 1978, is enacted to read:~~

23 ~~"22-24-5.8. SUPPLEMENTAL FUNDING FOR PROJECTS IN~~
24 ~~CERTAIN SCHOOL DISTRICTS.--~~

25 ~~A. A school district receiving grant assistance~~

1 from the fund pursuant to Section 22-24-5 NMSA 1978 for a
2 public school capital outlay project shall receive an
3 additional grant from the fund in order for the project to
4 exceed the statewide adequacy standards if the school
5 district and proposed use of the additional grant qualify
6 pursuant to the provisions of Subsection B of this section.

7 B. A school district shall receive the additional
8 grant if the council determines that:

9 (1) in calculating the grant assistance from
10 the fund for the project pursuant to Section 22-24-5 NMSA
11 1978, the value calculated for the school district pursuant
12 to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of
13 Subsection B of that section is equal to or greater than
14 seven-tenths;

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

22 (3) at least seventy percent of the students
23 in the school district are eligible for free or reduced-fee
24 lunch;

25 (4) for the next four years, the school

1 ~~district will not have sufficient local resources to expend~~
2 ~~on the project so it is unlikely that the project will ever~~
3 ~~exceed the statewide adequacy standards; and~~

4 ~~(5) the planned use of the additional grant~~
5 ~~to exceed the statewide adequacy standards will enhance~~
6 ~~public school education in the school district, will further~~
7 ~~the school district's educational plan for student success~~
8 ~~and is a prudent use of state money.~~

9 ~~C. The amount of an additional grant awarded~~
10 ~~pursuant to this section shall equal the total project cost~~
11 ~~multiplied by the lesser of:~~

12 ~~(1) the value calculated for the school~~
13 ~~district pursuant to Subparagraph (k), (m), (n) or (o) of~~
14 ~~Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978~~
15 ~~minus six-tenths; or~~

16 ~~(2) twenty-five hundredths.~~

17 ~~D. All provisions of the Public School Capital~~
18 ~~Outlay Act relating to the expenditure of other grants~~
19 ~~awarded from the fund, including those provisions relating to~~
20 ~~reporting, oversight, project access and accountability,~~
21 ~~apply to the use and expenditure of additional grants made~~
22 ~~pursuant to this section."~~

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

25 ~~"22-24-12. PUBLIC SCHOOL FACILITY OPPORTUNITY FUND--~~

1 ~~PURPOSE--GRANTS FROM THE FUND.--~~

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

21 ~~B. The "public school facility opportunity fund"~~
22 ~~is created in the state treasury. The fund shall consist of~~
23 ~~transfers, appropriations, reversions, gifts, grants,~~
24 ~~donations and bequests made to the fund. Income from the~~
25 ~~fund shall be credited to the fund, and money in the fund~~

1 shall not revert or be transferred to any other fund at the
2 end of a fiscal year. Money in the fund is appropriated to
3 the council for the purposes of making grants so that the
4 facilities of qualifying school districts may, pursuant to
5 the requirements of this section, exceed statewide adequacy
6 standards. Expenditures from the fund shall be made on
7 warrant of the secretary of finance and administration
8 pursuant to vouchers signed by the director of the public
9 school facilities authority.

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

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

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

23 (3) averaged over the previous four property
24 tax years, the school district had a residential property tax
25 rate of at least nine dollars (\$9.00) on each one thousand

~~1 dollars (\$1,000) of taxable value, as measured by the sum of
2 all rates imposed by resolution of the local school board
3 plus rates set to pay interest and principal on outstanding
4 school district general obligation bonds;~~

~~5 (4) at least seventy percent of the students
6 in the school district are eligible for free or reduced-fee
7 lunch; and~~

~~8 (5) for the next four years, the school
9 district will not have sufficient local resources to expend
10 on school district facilities for the purpose of exceeding
11 the statewide adequacy standards.~~

~~12 D. Applications for grant assistance from the
13 public school facility opportunity fund shall be made by
14 school districts to the council in accordance with the
15 requirements of the council. The council shall, pursuant to
16 criteria adopted by rule, evaluate applications and
17 prioritize those applications most in need of a grant from
18 the fund and, to the extent that money in the fund is
19 available, may award grants for those prioritized
20 applications. The evaluation criteria for school district
21 applications shall be primarily based upon the school
22 district's detailed description of how the proposed
23 facilities or improvements play an essential role in the
24 district's programmatic priorities and how they contribute to
25 meeting goals and objectives in the school district or the~~

1 ~~school educational plan for student success.~~

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

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

13 ~~"6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--~~
14 ~~COMPLIANCE WITH FEDERAL RULES.--~~

15 ~~A. Except as provided in Subsections B and C of~~
16 ~~this section, all unreserved undesignated fund balances in~~
17 ~~reverting funds and accounts as reflected in the central~~
18 ~~financial reporting and accounting system as of June 30 shall~~
19 ~~revert by September 30 to the general fund. The division may~~
20 ~~adjust the reversion within forty-five days of release of the~~
21 ~~audit report for that fiscal year.~~

22 ~~B. The director of the division may modify a~~
23 ~~reversion required pursuant to Subsection A of this section~~
24 ~~if the reversion would violate federal law or rules~~
25 ~~pertaining to supplanting of state funds with federal funds~~

1 ~~or other applicable federal provisions.~~

2 ~~C. Ten percent of all unreserved undesignated~~
3 ~~balances in reverting funds and accounts as of the end of~~
4 ~~each fiscal year from fiscal year 2009 through fiscal year~~
5 ~~2013 shall not revert to the general fund but shall be~~
6 ~~transferred to the public school facility opportunity fund to~~
7 ~~be used for grants to school districts pursuant to Section~~
8 ~~22-24-12 NMSA 1978."~~

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

25 ~~A. if the appropriation is from severance tax bond~~

1 ~~proceeds, at the time the severance tax bonds are issued by~~
2 ~~the state board of finance; or~~

3 ~~B. if the appropriation is from the general fund,~~
4 ~~at such time during the first fiscal year that the~~
5 ~~appropriation may be expended as deemed appropriate by the~~
6 ~~secretary.~~

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

9 "22-24-7. PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK
10 FORCE--CREATION--STAFF.--

11 A. The "public school capital outlay oversight
12 task force" is created. The task force consists of
13 twenty-six members as follows:

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

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

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

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

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

24 (6) the chairs of the house appropriations
25 and finance committee, the senate finance committee, the

1 senate education committee and the house education committee
2 or their designees;

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

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

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

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

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

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

24 (13) three public members, two of whom are
25 residents of school districts that receive grants from the

1 federal government as assistance to areas affected by federal
2 activity authorized in accordance with Title 20 of the United
3 States Code, appointed by the governor; and

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

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

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

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

20 E. The legislative council service, with
21 assistance from the public school facilities authority, the
22 department of finance and administration, the public
23 education department, the legislative education study
24 committee and the legislative finance committee, shall
25 provide staff for the public school capital outlay oversight

1 task force."

2 Section 12. Section 22-25-1 NMSA 1978 (being Laws 1975
3 (S.S.), Chapter 5, Section 1) is amended to read:

4 "22-25-1. SHORT TITLE.-- Chapter 22, Article 25 NMSA
5 1978 may be cited as the "Public School Capital Improvements
6 Act"."

7 Section 13. Section 22-25-2 NMSA 1978 (being Laws 1975
8 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

9 "22-25-2. DEFINITIONS.--As used in the Public School
10 Capital Improvements Act:

11 A. "program unit" means the product of the program
12 element multiplied by the applicable cost differential
13 factor, as defined in Section 22-8-2 NMSA 1978; and

14 B. "capital improvements" means expenditures,
15 including payments made with respect to lease-purchase
16 arrangements as defined in the Education Technology Equipment
17 Act but excluding any other debt service expenses, for:

18 (1) erecting, remodeling, making additions
19 to, providing equipment for or furnishing public school
20 buildings;

21 (2) payments made pursuant to a financing
22 agreement entered into by a school district or a charter
23 school for the leasing of a building or other real property
24 with an option to purchase for a price that is reduced
25 according to payments made;

1 (3) purchasing or improving public school
2 grounds;

3 (4) maintenance of public school buildings
4 or public school grounds, including payments under contracts
5 for maintenance support services and expenditures for
6 technical training and certification for maintenance and
7 facilities management personnel, but excluding salary
8 expenses of school district employees;

9 (5) purchasing activity vehicles for
10 transporting students to extracurricular school activities;
11 or

12 (6) purchasing computer software and
13 hardware for student use in public school classrooms."

14 Section 14. Section 22-25-9 NMSA 1978 (being Laws 1975
15 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

16 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT
17 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

18 A. Except as provided in Subsection C or G of this
19 section, the secretary shall distribute to any school
20 district that has imposed a tax under the Public School
21 Capital Improvements Act an amount from the public school
22 capital improvements fund that is equal to the amount by
23 which the revenue estimated to be received from the imposed
24 tax, at the rate certified by the department of finance and
25 administration in accordance with Section 22-25-7 NMSA 1978,

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

17 B. In calculating the state distribution pursuant
18 to Subsection A of this section, the following amounts shall
19 be used:

20 (1) the amount calculated pursuant to
21 Subsection D of this subsection per program unit; and

22 (2) an additional amount certified to the
23 secretary by the public school capital outlay council. No
24 later than June 1 of each year, the council shall determine
25 the amount needed in the next fiscal year for public school

1 capital outlay projects pursuant to the Public School Capital
2 Outlay Act and the amount of revenue, from all sources,
3 available for the projects. If, in the sole discretion of
4 the council, the amount available exceeds the amount needed,
5 the council may certify an additional amount pursuant to this
6 paragraph; provided that the sum of the amount calculated
7 pursuant to this paragraph plus the amount in Paragraph (1)
8 of this subsection shall not result in a total statewide
9 distribution that, in the opinion of the council, exceeds
10 one-half of the total revenue estimated to be received from
11 taxes imposed pursuant to the Public School Capital
12 Improvements Act.

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

23 D. For purposes of calculating the distribution
24 pursuant to Subsection B of this section, the amount used in
25 Paragraph (1) of that subsection shall equal seventy dollars

1 (\$70.00) in fiscal year 2008 and in each subsequent fiscal
2 year shall equal the amount for the previous fiscal year
3 adjusted by the percentage increase between the next
4 preceding calendar year and the preceding calendar year of
5 the consumer price index for the United States, all items, as
6 published by the United States department of labor.

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

16 F. In expending distributions made pursuant to
17 this section, school districts shall give priority to
18 maintenance projects, including payments under contracts for
19 maintenance support services. In addition, distributions
20 made pursuant to this section may be expended by school
21 districts for the school district portion of:

22 (1) the total project cost for roof repair
23 or replacement required by Section 22-24-4.3 NMSA 1978; or

24 (2) payments made under a financing
25 agreement entered into by a school district or a charter

1 school for the leasing of a building or other real property
2 with an option to purchase for a price that is reduced
3 according to the payments made, if the school district has
4 received a grant for the state share of the payments pursuant
5 to Subsection D of Section 22-24-5 NMSA 1978.

6 G. If a serious deficiency in a roof of a public
7 school facility has been corrected pursuant to Section
8 22-24-4.4 NMSA 1978 and the school district has refused to
9 pay its share of the cost as determined by that section,
10 until the public school capital outlay fund is reimbursed in
11 full for the share attributed to the district, the
12 distribution calculated pursuant to this section shall not be
13 made to the school district but shall be made to the public
14 school capital outlay fund.

15 H. In making distributions pursuant to this
16 section, the secretary shall include such reporting
17 requirements and conditions as are required by rule of the
18 public school capital outlay council. The council shall
19 adopt such requirements and conditions as are necessary to
20 ensure that the distributions are expended in the most
21 prudent manner possible and are consistent with the original
22 purpose as specified in the authorizing resolution. Copies
23 of reports or other information received by the secretary in
24 response to the requirements and conditions shall be
25 forwarded to the council."

1 Section 15. Section 7-38-38.1 NMSA 1978 (being Laws
2 1986, Chapter 20, Section 116, as amended) is amended to
3 read:

4 "7-38-38.1. RECIPIENTS OF REVENUE PRODUCED THROUGH AD
5 VALOREM LEVIES REQUIRED TO PAY COUNTIES ADMINISTRATIVE CHARGE
6 TO OFFSET COLLECTION COSTS.--

7 A. As used in this section:

8 (1) "revenue" means money for which a county
9 treasurer has the legal responsibility for collection and
10 which is owed to a revenue recipient as a result of an
11 imposition authorized by law of a rate expressed in mills per
12 dollar or dollars per thousands of dollars of net taxable
13 value of property, assessed value of property or a similar
14 term, including but not limited to money resulting from the
15 authorization of rates and impositions under Subsection B and
16 Paragraphs (1) and (2) of Subsection C of Section 7-37-7 NMSA
17 1978, special levies for special purposes and benefit
18 assessments, but the term does not include any money
19 resulting from the imposition of taxes imposed under the
20 provisions of the Oil and Gas Ad Valorem Production Tax Act,
21 the Oil and Gas Production Equipment Ad Valorem Tax Act or
22 the Copper Production Ad Valorem Tax Act or money resulting
23 from impositions under Paragraph (3) of Subsection C of
24 Section 7-37-7 NMSA 1978; and

25 (2) "revenue recipient" means the state and

1 any of its political subdivisions, including charter schools,
2 but excluding institutions of higher education located in
3 class A counties and class B counties having more than three
4 hundred million dollars (\$300,000,000) valuation, that are
5 authorized by law to receive revenue.

6 B. Prior to the distribution to a revenue
7 recipient of revenue received by a county treasurer, the
8 treasurer shall deduct as an administrative charge an amount
9 equal to one percent of the revenue received.

10 C. The "county property valuation fund" is
11 created. All administrative charges deducted by the county
12 treasurer shall be distributed to the county property
13 valuation fund.

14 D. Expenditures from the county property valuation
15 fund shall be made pursuant to a property valuation program
16 presented by the county assessor and approved by the majority
17 of the county commissioners."

18 Section 16. Section 22-8B-4 NMSA 1978 (being Laws 1999,
19 Chapter 281, Section 4, as amended) is amended to read:

20 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
21 OPERATION.--

22 A. A charter school shall be subject to all
23 federal and state laws and constitutional provisions
24 prohibiting discrimination on the basis of disability, race,
25 creed, color, gender, national origin, religion, ancestry or

1 need for special education services.

2 B. A charter school shall be governed by a
3 governing body in the manner set forth in the charter;
4 provided that a governing body shall have at least five
5 members; and provided further that no member of a governing
6 body for a charter school that is initially approved on or
7 after July 1, 2005 or whose charter is renewed on or after
8 July 1, 2005 shall serve on the governing body of another
9 charter school.

10 C. A charter school shall be responsible for:

11 (1) its own operation, including preparation
12 of a budget, subject to audits pursuant to the Audit Act; and

13 (2) contracting for services and personnel
14 matters.

15 D. A charter school may contract with a school
16 district, a university or college, the state, another
17 political subdivision of the state, the federal government or
18 one of its agencies, a tribal government or any other third
19 party for the use of a facility, its operation and maintenance
20 and the provision of any service or activity that the charter
21 school is required to perform in order to carry out the
22 educational program described in its charter. Facilities used
23 by a charter school shall meet the standards required pursuant
24 to Section 22-8B-4.2 NMSA 1978.

25 E. A conversion school chartered before July 1,

1 2007 may choose to continue using the school district
2 facilities and equipment it had been using prior to
3 conversion, subject to the provisions of Subsection F of this
4 section.

5 F. The school district in which a charter school
6 is geographically located shall provide a charter school with
7 available facilities for the school's operations unless the
8 facilities are currently used for other educational purposes.
9 An agreement for the use of school district facilities by a
10 charter school may provide for reasonable lease payments;
11 provided that the payments do not exceed the sum of the lease
12 reimbursement rate provided in Subparagraph (b) of Paragraph
13 (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any
14 reimbursement for actual direct costs incurred by the school
15 district in providing the facilities; and, provided further,
16 that any lease payments received by a school district may be
17 retained by the school district and shall not be considered to
18 be cash balances in any calculation pursuant to Section 22-8-
19 41 NMSA 1978. The available facilities provided by a school
20 district to a charter school shall meet all occupancy
21 standards as specified by the public school capital outlay
22 council. As used in this subsection, "other educational
23 purposes" includes health clinics, daycare centers, teacher
24 training centers, school district administration functions and
25 other ancillary services related to a school district's

1 functions and operations.

2 G. A locally chartered charter school may pay the
3 costs of operation and maintenance of its facilities or may
4 contract with the school district to provide facility
5 operation and maintenance services.

6 H. Locally chartered charter school facilities are
7 eligible for state and local capital outlay funds and shall be
8 included in the school district's five-year facilities plan.

9 I. A locally chartered charter school shall
10 negotiate with a school district to provide transportation to
11 students eligible for transportation under the provisions of
12 the Public School Code. The school district, in conjunction
13 with the charter school, may establish a limit for student
14 transportation to and from the charter school site not to
15 extend beyond the school district boundary.

16 J. A charter school shall be a nonsectarian,
17 nonreligious and non-home-based public school.

18 K. Except as otherwise provided in the Public
19 School Code, a charter school shall not charge tuition or have
20 admission requirements.

21 L. With the approval of the chartering authority,
22 a single charter school may maintain separate facilities at
23 two or more locations within the same school district; but,
24 for purposes of calculating program units pursuant to the
25 Public School Finance Act, the separate facilities shall be

1 treated together as one school.

2 M. A charter school shall be subject to the
3 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
4 Accountability Act.

5 N. Within constitutional and statutory limits, a
6 charter school may acquire and dispose of property; provided
7 that, upon termination of the charter, all assets of the
8 locally chartered charter school shall revert to the local
9 school board and all assets of the state-chartered charter
10 school shall revert to the state, except that, if all or any
11 portion of a state-chartered charter school facility is
12 financed with the proceeds of general obligation bonds issued
13 by a local school board, the facility shall revert to the
14 local school board.

15 O. The governing body of a charter school may
16 accept or reject any charitable gift, grant, devise or
17 bequest; provided that no such gift, grant, devise or bequest
18 shall be accepted if subject to any condition contrary to law
19 or to the terms of the charter. The particular gift, grant,
20 devise or bequest shall be considered an asset of the charter
21 school to which it is given.

22 P. The governing body may contract and sue and be
23 sued. A local school board shall not be liable for any acts
24 or omissions of the charter school.

25 Q. A charter school shall comply with all state

1 and federal health and safety requirements applicable to
2 public schools, including those health and safety codes
3 relating to educational building occupancy.

4 R. A charter school is a public school that may
5 contract with a school district or other party for provision
6 of financial management, food services, transportation,
7 facilities, education-related services or other services. The
8 governing body shall not contract with a for-profit entity for
9 the management of the charter school.

10 S. To enable state-chartered charter schools to
11 submit required data to the department, an accountability data
12 system shall be maintained by the department.

13 T. A charter school shall comply with all
14 applicable state and federal laws and rules related to
15 providing special education services. Charter school students
16 with disabilities and their parents retain all rights under
17 the federal Individuals with Disabilities Education Act and
18 its implementing state and federal rules. Each charter school
19 is responsible for identifying, evaluating and offering a free
20 appropriate public education to all eligible children who are
21 accepted for enrollment in that charter school. The state-
22 chartered charter school, as a local educational agency, shall
23 assume responsibility for determining students' needs for
24 special education and related services. The division may
25 promulgate rules to implement the requirements of this

1 subsection."

2 Section 17. Section 22-8B-4.2 NMSA 1978 (being Laws
3 2005, Chapter 221, Section 3 and Laws 2005, Chapter 274,
4 Section 2) is amended to read:

5 "22-8B-4.2. CHARTER SCHOOL FACILITIES--STANDARDS.--

6 A. The facilities of a charter school that is
7 approved on or after July 1, 2005 and before July 1, 2010
8 shall meet educational occupancy standards required by
9 applicable New Mexico construction codes.

10 B. The facilities of a charter school that is in
11 existence, or has been approved, prior to July 1, 2005 shall
12 be evaluated, prioritized and eligible for grants pursuant to
13 the Public School Capital Outlay Act in the same manner as all
14 other public schools in the state; provided that for charter
15 school facilities in leased facilities, grants may be used as
16 additional lease payments for leasehold improvements.

17 C. On or after July 1, 2010, an application for a
18 charter shall not be approved and an existing charter shall
19 not be renewed unless the charter school:

20 (1) is housed in a public building that is:

21 (a) owned by the charter school, the
22 school district, the state, an institution of the state,
23 another political subdivision of the state, the federal
24 government or one of its agencies or a tribal government; and

25 (b) subject to evaluation and

1 prioritization and eligible for grants pursuant to the Public
2 School Capital Outlay Act in the same manner as all other
3 public schools in the state;

4 (2) is housed in a building that meets the
5 statewide adequacy standards developed pursuant to the Public
6 School Capital Outlay Act and that is being leased by the
7 charter school pursuant to a financing agreement that contains
8 an option to purchase for a price that is reduced according to
9 the lease payments made; or

10 (3) if it is not housed in a building
11 described in Paragraph (1) or (2) of this subsection,
12 demonstrates that:

13 (a) the facility in which the charter
14 school is housed meets the statewide adequacy standards
15 developed pursuant to the Public School Capital Outlay Act and
16 the owner of the facility is contractually obligated to
17 maintain those standards at no additional cost to the charter
18 school or the state; and

19 (b) either: 1) public buildings are
20 not available or adequate for the educational program of the
21 charter school; or 2) the owner of the facility is a nonprofit
22 entity specifically organized for the purpose of providing the
23 facility for the charter school.

24 D. The public school capital outlay council:

25 (1) shall determine whether facilities of a

1 charter school meet the educational occupancy standards
2 pursuant to the requirements of Subsection A of this section;

3 (2) shall determine whether facilities of a
4 charter school meet the requirements of Subsections B and C of
5 this section; and

6 (3) upon a determination that specific
7 requirements are not appropriate or reasonable for a charter
8 school, may grant a variance from those requirements for that
9 charter school."

10 Section 18. Section 22-26-1 NMSA 1978 (being Laws 1983,
11 Chapter 163, Section 1) is amended to read:

12 "22-26-1. SHORT TITLE.-- Chapter 22, Article 26 NMSA
13 1978 may be cited as the "Public School Buildings Act"."

14 Section 19. Section 22-26-2 NMSA 1978 (being Laws 1983,
15 Chapter 163, Section 2, as amended) is amended to read:

16 "22-26-2. DEFINITION.--As used in the Public School
17 Buildings Act, "capital improvements" means expenditures,
18 including payments made with respect to lease-purchase
19 arrangements as defined in the Education Technology Equipment
20 Act but excluding any other debt service expenses, for:

21 A. erecting, remodeling, making additions to,
22 providing equipment for or furnishing public school buildings;

23 B. payments made pursuant to a financing agreement
24 entered into by a school district or a charter school for the
25 leasing of a building or other real property with an option to

1 purchase for a price that is reduced according to payments
2 made;

3 C. purchasing or improving public school grounds;
4 or

5 D. administering the projects undertaken pursuant
6 to Subsections A and C of this section, including expenditures
7 for facility maintenance software, project management
8 software, project oversight and district personnel
9 specifically related to administration of projects funded by
10 the Public School Buildings Act; provided that expenditures
11 pursuant to this subsection shall not exceed five percent of
12 the total project costs."

13 Section 20. Section 22-26-3 NMSA 1978 (being Laws 1983,
14 Chapter 163, Section 3, as amended) is amended to read:

15 "22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT
16 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

17 A. A local school board may adopt a resolution to
18 submit to the qualified electors of the school district the
19 question of whether a property tax at a rate not to exceed the
20 rate specified in the resolution should be imposed upon the
21 net taxable value of property allocated to the school district
22 under the Property Tax Code for the purpose of capital
23 improvements to public schools in the school district. The
24 resolution shall:

25 (1) identify the capital improvements for

1 which the revenue proposed to be produced will be used;

2 (2) specify the rate of the proposed tax,
3 which shall not exceed ten dollars (\$10.00) on each one
4 thousand dollars (\$1,000) of net taxable value of property
5 allocated to the school district under the Property Tax Code;

6 (3) specify the date an election will be held
7 to submit the question of imposition of the tax to the
8 qualified electors of the district; and

9 (4) limit the imposition of the proposed tax
10 to no more than six property tax years.

11 B. After July 1, 2007, a resolution submitted to
12 the qualified electors pursuant to Subsection A of this
13 section shall include capital improvements funding for a
14 locally chartered or state-chartered charter school located
15 within the school district if:

16 (1) the charter school timely provides the
17 necessary information to the school district for inclusion on
18 the resolution that identifies the capital improvements of the
19 charter school for which the revenue proposed to be produced
20 will be used; and

21 (2) the capital improvements are included in
22 the five-year facilities plan:

23 (a) of the school district, if the
24 charter school is a locally chartered charter school; or

25 (b) of the charter school, if the

1 charter school is a state-chartered charter school."

2 Section 21. Section 22-26-5 NMSA 1978 (being Laws 1983,
3 Chapter 163, Section 5, as amended) is amended to read:

4 "22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

5 A. An election on the question of imposing a tax
6 under the Public School Buildings Act may be held in
7 conjunction with a regular school district election or may be
8 conducted as or held in conjunction with a special school
9 district election, but the election shall be held prior to
10 July 1 of the property tax year in which the tax is proposed
11 to be imposed. Conduct of the election shall be as prescribed
12 in the School Election Law for regular and special school
13 district elections.

14 B. The resolution required to be published as
15 notice of the election under Section 1-22-4 or 1-22-5 NMSA
16 1978 shall include as the question to be submitted to the
17 voters whether a property tax at a rate not to exceed the rate
18 specified in the authorizing resolution should be imposed for
19 the specified number of property tax years not exceeding six
20 years upon the net taxable value of all property allocated to
21 the school district for capital improvements.

22 C. The ballot shall include the information
23 specified in Subsection B of this section and shall present
24 the voter the choice of voting "for the public school
25 buildings tax" or "against the public school buildings tax".

1 Section 22. Section 22-26-8 NMSA 1978 (being Laws 1983,
2 Chapter 163, Section 8, as amended) is amended to read:

3 "22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX
4 YEARS.--A tax imposed in a school district as a result of an
5 election under the Public School Buildings Act shall be
6 imposed for one, two, three, four, five or six years
7 commencing with the property tax year in which the election
8 was held. The local school board may direct that such levy be
9 decreased or not made for any year if, in its judgment, the
10 total levy is not necessary for such year and shall direct
11 that the levy be decreased by the amount required if a
12 decrease is required by operation of the rate limitation
13 provisions of Section 7-37-7.1 NMSA 1978."

14 Section 23. A new section of the Public School Buildings
15 Act is enacted to read:

16 "CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX
17 REVENUE.--If, in an election held after July 1, 2007, the
18 qualified electors of a school district have voted in favor of
19 the imposition of a property tax as provided in Section
20 22-26-3 NMSA 1978, the amount of tax revenue to be distributed
21 to each charter school that was included in the resolution
22 shall be determined each year and shall be in the same
23 proportion as the average full-time-equivalent enrollment of
24 the charter school on the fortieth day of the prior school
25 year is to the total such enrollment in the district; provided

1 that, in the case of an approved charter school that had not
2 commenced classroom instruction in the prior school year, the
3 estimated full-time-equivalent enrollment in the first year of
4 instruction, as shown in the approved charter school
5 application, shall be used, subject to adjustment after the
6 fortieth day. Each year, the department shall certify to the
7 county treasurer of the county in which the eligible charter
8 schools in the school district are located the percentage of
9 the revenue to be distributed to each charter school. The
10 county treasurer shall distribute the charter school's share
11 of the property tax revenue directly to the charter school."

12 Section 24. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL
13 OUTLAY OVERSIGHT TASK FORCE.--During the 2007 interim, the
14 public school capital outlay oversight task force shall
15 continue to work toward an equitable and fair system that
16 addresses the inequities between public school facilities
17 among various school districts in this state. Toward that
18 end, the task force shall assess the current statewide
19 adequacy standards, the need for changing those standards and
20 the effect upon school districts of any proposed change in the
21 standards.

22 Section 25. TEMPORARY PROVISION--RECOMPILATION
23 INSTRUCTIONS.--The compiler shall recompile Section 22-24-11
24 NMSA 1978 (being Laws 2006, Chapter 95, Section 3) as part of
25 the Public School Finance Act.

1 ~~Section 26. DELAYED REPEAL--REVERSION OF FUND BALANCE.--~~

2 ~~A. On July 1, 2013, Sections 22-24-5.8 and~~
3 ~~22-24-12 NMSA 1978, as enacted by Sections 7 and 8 of this~~
4 ~~act, and Section 10 of this act are repealed.~~

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

11 Section 27. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2007.

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