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AN ACT

RELATING TO PUBLIC SCHOOL FACILITIES; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO ALLOW THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL TO PROVIDE TEMPORARY ANNUAL ALLOCATIONS TO SCHOOL DISTRICTS TO ADDRESS BUILDING SYSTEMS NEEDS IN EXISTING BUILDINGS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

SECTION 1. Section 22-24-3 NMSA 1978 (being Laws 1975, Chapter 235, Section 3, as amended) is amended to read:

"22-24-3. DEFINITIONS.--As used in the Public School Capital Outlay Act:

A. "building system" means a set of interacting parts that makes up a single, nonportable or fixed component of a facility and that, together with other building systems, makes up an entire integrated facility or property, including, but not limited to, roofing, electrical distribution, electronic communication, plumbing, lighting, mechanical, fire prevention, facility shell, interior finishes and heating, ventilation and air conditioning systems, as defined by the council;

B. "constitutional special schools" means the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf;

1 C. "constitutional special schools support spaces"
2 means all facilities necessary to support the constitutional
3 special schools' educational mission that are not included in
4 the constitutional special schools' educational adequacy
5 standards, including, but not limited to, performing arts
6 centers, facilities for athletic competition, school district
7 administration and facility and vehicle maintenance;

8 D. "council" means the public school capital
9 outlay council;

10 E. "education technology infrastructure" means the
11 physical hardware used to interconnect education technology
12 equipment for school districts and school buildings necessary
13 to support broadband connectivity as determined by the
14 council;

15 F. "fund" means the public school capital outlay
16 fund; and

17 G. "school district" includes state-chartered
18 charter schools and the constitutional special schools."

19 SECTION 2. Section 22-24-4 NMSA 1978 (being Laws 1975,
20 Chapter 235, Section 4, as amended) is amended to read:

21 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--
22 USE.--

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

1 B. Except as provided in Subsections G and I
2 through M of this section, money in the fund may be used only
3 for capital expenditures deemed necessary by the council for
4 an adequate educational program.

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

24 D. Applications for assistance from the fund shall
25 be made by school districts to the council in accordance with

1 requirements of the council. Except as provided in
2 Subsection K of this section, the council shall require as a
3 condition of application that a school district have a
4 current five-year facilities plan, which shall include a
5 current preventive maintenance plan to which the school
6 adheres for each public school in the school district.

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

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

19 (1) up to ten percent of the portion of the
20 project cost funded with distributions from the fund or five
21 percent of the total project cost, whichever is greater, may
22 be paid to the school district before work commences with the
23 balance of the grant award made on a cost-reimbursement
24 basis; or

25 (2) the council may authorize payments

1 directly to the contractor.

2 G. Balances in the fund may be annually
3 appropriated for the core administrative functions of the
4 public school facilities authority pursuant to the Public
5 School Capital Outlay Act, and, in addition, balances in the
6 fund may be expended by the public school facilities
7 authority, upon approval of the council, for project
8 management expenses; provided that:

9 (1) the total annual expenditures from the
10 fund for the core administrative functions pursuant to this
11 subsection shall not exceed five percent of the average
12 annual grant assistance authorized from the fund during the
13 three previous fiscal years; and

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

17 H. Up to fifteen million dollars (\$15,000,000) of
18 the fund may be expended annually by the council for
19 expenditure in fiscal years 2016 through 2020 for a building
20 system repair, renovation or replacement initiative with
21 projects to be identified by the council pursuant to Section
22 3 of this 2015 act; provided that money allocated pursuant to
23 this subsection shall be expended within three years of the
24 allocation.

25 I. The fund may be expended annually by the

1 council for grants to school districts for the purpose of
2 making lease payments for classroom facilities, including
3 facilities leased by charter schools. The grants shall be
4 made upon application by the school districts and pursuant to
5 rules adopted by the council; provided that an application on
6 behalf of a charter school shall be made by the school
7 district, but, if the school district fails to make an
8 application on behalf of a charter school, the charter school
9 may submit its own application. The following criteria shall
10 apply to the grants:

11 (1) the amount of a grant to a school
12 district shall not exceed:

13 (a) the actual annual lease payments
14 owed for leasing classroom space for schools, including
15 charter schools, in the district; or

16 (b) seven hundred dollars (\$700)
17 multiplied by the number of MEM using the leased classroom
18 facilities; provided that in fiscal year 2009 and in each
19 subsequent fiscal year, this amount shall be adjusted by the
20 percentage change between the penultimate calendar year and
21 the immediately preceding calendar year of the consumer price
22 index for the United States, all items, as published by the
23 United States department of labor;

24 (2) a grant received for the lease payments
25 of a charter school may be used by that charter school as a

1 state match necessary to obtain federal grants pursuant to
2 the federal No Child Left Behind Act of 2001;

3 (3) at the end of each fiscal year, any
4 unexpended or unencumbered balance of the appropriation shall
5 revert to the fund;

6 (4) no grant shall be made for lease
7 payments due pursuant to a financing agreement under which
8 the facilities may be purchased for a price that is reduced
9 according to the lease payments made unless:

10 (a) the agreement has been approved
11 pursuant to the provisions of the Public School Lease
12 Purchase Act; and

13 (b) the facilities are leased by a
14 charter school;

15 (5) if the lease payments are made pursuant
16 to a financing agreement under which the facilities may be
17 purchased for a price that is reduced according to the lease
18 payments made, neither a grant nor any provision of the
19 Public School Capital Outlay Act creates a legal obligation
20 for the school district or charter school to continue the
21 lease from year to year or to purchase the facilities nor
22 does it create a legal obligation for the state to make
23 subsequent grants pursuant to the provisions of this
24 subsection; and

25 (6) as used in this subsection:

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

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

16 J. In addition to other authorized expenditures
17 from the fund, up to one percent of the average grant
18 assistance authorized from the fund during the three previous
19 fiscal years may be expended in each fiscal year by the
20 public school facilities authority to pay the state fire
21 marshal, the construction industries division of the
22 regulation and licensing department and local jurisdictions
23 having authority from the state to permit and inspect
24 projects for expenditures made to permit and inspect projects
25 funded in whole or in part under the Public School Capital

1 Outlay Act. The public school facilities authority may enter
2 into contracts with the state fire marshal, the construction
3 industries division or the appropriate local authorities to
4 carry out the provisions of this subsection. Such a contract
5 may provide for initial estimated payments from the fund
6 prior to the expenditures if the contract also provides for
7 additional payments from the fund if the actual expenditures
8 exceed the initial payments and for repayments back to the
9 fund if the initial payments exceed the actual expenditures.
10 Money distributed from the fund to the state fire marshal or
11 the construction industries division pursuant to this
12 subsection shall be used to supplement, rather than supplant,
13 appropriations to those entities.

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

19 (1) no allocation shall be made unless the
20 council determines that the school district is willing and
21 able to pay the portion of the total cost of developing or
22 updating the plan that is not funded with the allocation from
23 the fund. Except as provided in Paragraph (2) of this
24 subsection, the portion of the total cost to be paid with the
25 allocation from the fund shall be determined pursuant to the

1 methodology in Paragraph (5) of Subsection B of Section
2 22-24-5 NMSA 1978; or

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

5 (a) the school district has fewer than
6 an average of six hundred full-time-equivalent students on
7 the eightieth and one hundred twentieth days of the prior
8 school year; or

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

25 L. Upon application by a school district,

1 allocations from the fund may be made by the council for the
2 purpose of demolishing abandoned school district facilities,
3 provided that:

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

7 (2) there is no practical use for the
8 abandoned facility without the expenditure of substantial
9 renovation costs; and

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

15 M. Up to ten million dollars (\$10,000,000) of the
16 fund may be expended each year in fiscal years 2014 through
17 2019 for an education technology infrastructure deficiency
18 corrections initiative pursuant to Section 22-24-4.5
19 NMSA 1978; provided that funding allocated pursuant to this
20 section shall be expended within three years of its
21 allocation."

22 SECTION 3. A new section of the Public School Capital
23 Outlay Act is enacted to read:

24 "BUILDING SYSTEM REPAIR, RENOVATION OR REPLACEMENT.--

25 A. The council shall develop guidelines for a

1 building system repair, renovation or replacement initiative
2 pursuant to the provisions of this section.

3 B. A school district desiring a grant award
4 pursuant to this section shall submit an application to the
5 council. The application shall include an assessment of the
6 building system that, in the opinion of the school district,
7 the repair, renovation or replacement of which would extend
8 the useful life of the building itself.

9 C. The public school facilities authority shall
10 verify the assessment made by the school district and rank
11 the application with similar applications pursuant to a
12 methodology adopted by the council.

13 D. After a public hearing and to the extent that
14 money is available in the fund for such purposes, the council
15 shall approve building system repair, renovation or
16 replacement projects on the established priority basis;
17 provided that no project shall be approved unless the council
18 determines that the school district is willing and able to
19 pay the portion of the total cost of the project that is not
20 funded with grant assistance from the fund.

21 E. The state share of the cost of an approved
22 building system repair, renovation or replacement project
23 shall be calculated pursuant to the methodology in Paragraph
24 (5) of Subsection B of Section 22-24-5 NMSA 1978.

25 F. A grant made pursuant to this section shall be

1 expended by the school district within three years of the
2 grant allocation."

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

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

7 A. Applications for grant assistance, approval of
8 applications, prioritization of projects and grant awards
9 shall be conducted pursuant to the provisions of this
10 section.

11 B. Except as provided in Sections 22-24-4.3,
12 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions
13 govern grant assistance from the fund for a public school
14 capital outlay project not wholly funded pursuant to Section
15 22-24-4.1 NMSA 1978:

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

19 (2) priorities for funding shall be
20 determined by using the statewide adequacy standards
21 developed pursuant to Subsection C of this section; provided
22 that:

23 (a) the council shall apply the
24 standards to charter schools to the same extent that they are
25 applied to other public schools;

1 (b) the council may award grants
2 annually to school districts for the purpose of repairing,
3 renovating or replacing public school building systems in
4 existing buildings as identified in Section 3 of this 2015
5 act;

6 (c) the council shall adopt and apply
7 adequacy standards appropriate to the unique needs of the
8 constitutional special schools; and

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

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

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

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

25 (c) concepts that promote efficient but

1 flexible utilization of space; and

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

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

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

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

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

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

1 calculated pursuant to Subparagraph (a) of this paragraph are
2 listed from highest to lowest;

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

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

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

13 (g) the sum of the property tax mill
14 levies for the prior tax year imposed by each school district
15 on residential property pursuant to Chapter 22, Article 18
16 NMSA 1978, the Public School Capital Improvements Act, the
17 Public School Buildings Act, the Education Technology
18 Equipment Act and Paragraph (2) of Subsection B of Section
19 7-37-7 NMSA 1978 is calculated for each school district;

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

24 (i) the lowest value calculated
25 pursuant to Subparagraph (g) of this paragraph is subtracted

1 from the value calculated pursuant to that subparagraph for
2 the subject school district;

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

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

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

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

24 (n) in those instances in which the
25 calculation pursuant to Subparagraph (k) or (m) of this

1 paragraph yields a value less than one-tenth, one-tenth shall
2 be used as the value for the subject school district;

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

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

16 (q) as used in this paragraph:

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

1 the "value calculated for the subject school district" means
2 the value calculated for the school district in which the
3 state-chartered charter school is physically located;

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

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

1 one-half of the amount of any appropriation made or
2 reauthorized after January 1, 2007 if the purpose of the
3 appropriation or reauthorization is to fund, in whole or in
4 part, a capital outlay project that, when prioritized by the
5 council pursuant to this section either in the immediately
6 preceding funding cycle or in the current funding cycle,
7 ranked in the top one hundred fifty projects statewide; 5)
8 the total shall exclude the proportionate share of any
9 appropriation made or reauthorized after January 1, 2008 for
10 a capital project that will be jointly used by a governmental
11 entity other than the subject school district. Pursuant to
12 criteria adopted by rule of the council and based upon the
13 proposed use of the capital project, the council shall
14 determine the proportionate share to be used by the
15 governmental entity and excluded from the total; and 6)
16 unless the grant award is made to the state-chartered charter
17 school or unless the appropriation was previously used to
18 calculate a reduction pursuant to this paragraph, the total
19 shall exclude appropriations made after January 1, 2007 for
20 nonoperating purposes of a specific state-chartered
21 charter school, regardless of whether the charter school
22 is a state-chartered charter school at the time of the
23 appropriation or later opts to become a state-chartered
24 charter school;

25 (b) the applicable fraction used for

1 the subject school district and the current calendar year for
2 the calculation in Subparagraph (p) of Paragraph (5) of this
3 subsection is subtracted from one;

4 (c) the value calculated pursuant to
5 Subparagraph (a) of this paragraph for the subject school
6 district is multiplied by the amount calculated pursuant to
7 Subparagraph (b) of this paragraph for that school district;

8 (d) the total amount of reductions for
9 the subject school district previously made pursuant to
10 Subparagraph (e) of this paragraph for other approved public
11 school capital outlay projects is subtracted from the amount
12 calculated pursuant to Subparagraph (c) of this paragraph;

13 and

14 (e) the amount calculated pursuant to
15 Subparagraph (p) of Paragraph (5) of this subsection shall be
16 reduced by the amount calculated pursuant to Subparagraph (d)
17 of this paragraph;

18 (7) as used in this subsection:

19 (a) "governmental entity" includes an
20 Indian nation, tribe or pueblo; and

21 (b) "subject school district" means the
22 school district that has submitted the application for
23 funding and in which the approved public school capital
24 outlay project will be located;

25 (8) the amount calculated pursuant to

1 Subparagraph (p) of Paragraph (5) of this subsection, after
2 any reduction pursuant to Paragraph (6) of this subsection,
3 may be increased by an additional five percent if the council
4 finds that the subject school district has been exemplary in
5 implementing and maintaining a preventive maintenance
6 program. The council shall adopt such rules as are necessary
7 to implement the provisions of this paragraph;

8 (9) the council may adjust the amount of
9 local share otherwise required if it determines that a school
10 district has made a good-faith effort to use all of its local
11 resources. Before making any adjustment to the local share,
12 the council shall consider whether:

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

22 (b) the school district: 1) has fewer
23 than an average of eight hundred full-time-equivalent
24 students on the eightieth and one hundred twentieth days of
25 the prior school year; 2) has at least seventy percent of its

1 students eligible for free or reduced-fee lunch; 3) has a
2 share of the total project cost, as calculated pursuant to
3 provisions of this section, that would be greater than fifty
4 percent; and 4) for all educational purposes, has a
5 residential property tax rate of at least seven dollars
6 (\$7.00) on each one thousand dollars (\$1,000) of taxable
7 value, as measured by the sum of all rates imposed by
8 resolution of the local school board plus rates set to pay
9 interest and principal on outstanding school district general
10 obligation bonds; or

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

22 (10) the local match for the constitutional
23 special schools shall be set at fifty percent for projects
24 that qualify under the educational adequacy category and one
25 hundred percent for projects that qualify in the support

1 spaces category; provided that the council may adjust or
2 waive the amount of any direct appropriation offset to or
3 local share required for the constitutional special schools
4 if an applicant constitutional special school has
5 insufficient or no local resources available; and

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

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

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

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

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

1 (e) the school district is willing and
2 able to pay any portion of the total cost of the public
3 school capital outlay project that, according to Paragraph
4 (5), (6), (8) or (9) of this subsection, is not funded with
5 grant assistance from the fund; provided that school
6 district funds used for a project that was initiated after
7 September 1, 2002 when the statewide adequacy standards were
8 adopted, but before September 1, 2004 when the standards were
9 first used as the basis for determining the state and school
10 district share of a project, may be applied to the school
11 district portion required for that project;

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

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

22 C. After consulting with the public school capital
23 outlay oversight task force and other experts, the council
24 shall regularly review and update statewide adequacy
25 standards applicable to all school districts. The standards

1 shall establish the acceptable level for the physical
2 condition and capacity of buildings, the educational
3 suitability of facilities and the need for education
4 technology infrastructure. Except as otherwise provided in
5 the Public School Capital Outlay Act, the amount of
6 outstanding deviation from the standards shall be used by the
7 council in evaluating and prioritizing public school capital
8 outlay projects.

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

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

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

1 (3) the total project cost shall equal the
2 total payments that would be due under the agreement if the
3 school district or charter school would eventually acquire
4 title to the facility;

5 (4) the portion of the total project cost to
6 be paid from the fund may be awarded as one grant, but
7 disbursements from the fund shall be made from time to time
8 as lease payments become due;

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

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

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

24 (1) at the time of the initial use by the
25 school district, the facility to be purchased equaled or

1 exceeded the statewide adequacy standards and the building
2 standards for public school facilities;

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

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

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

25 G. Upon request, the council shall work with, and

1 provide assistance and information to, the public school
2 capital outlay oversight task force.

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

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

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

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SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.=====