

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 245

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING NOTIFICATION TO CHARTER
SCHOOLS OF PROPERTY AVAILABLE FOR THEIR EDUCATIONAL OPERATIONS;
ALLOWING SCHOOL DISTRICTS TO DEVELOP FACILITY PRIORITIZATION
PLANS; CREATING A CHARTER FACILITY FUND; REQUIRING POLICIES FOR
LOANS FROM THE PUBLIC PROJECT REVOLVING FUND OR THE CHARTER
FACILITY FUND; MODIFYING THE TERMS APPLICABLE TO GRANTS FROM
THE PUBLIC SCHOOL CAPITAL OUTLAY FUND FOR LEASED FACILITIES;
SPECIFYING THE DATE BY WHICH CHARTER SCHOOLS MUST PROVIDE
INFORMATION ON CAPITAL IMPROVEMENT PROJECTS PROPOSED FOR
FUNDING THROUGH PROPERTY TAX IMPOSITION; MAKING AN
APPROPRIATION.

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

SECTION 1. Section 22-8B-4 NMSA 1978 (being Laws 1999,
Chapter 281, Section 4, as amended) is amended to read:

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1 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
2 OPERATION.--

3 A. A charter school shall be subject to all federal
4 and state laws and constitutional provisions prohibiting
5 discrimination on the basis of disability, physical or mental
6 handicap, serious medical condition, race, creed, color, sex,
7 gender identity, sexual orientation, spousal affiliation,
8 national origin, religion, ancestry or need for special
9 education services.

10 B. A charter school shall be governed by a
11 governing body in the manner set forth in the charter contract;
12 provided that a governing body shall have at least five
13 members; and provided further that no member of a governing
14 body for a charter school that is initially approved on or
15 after July 1, 2005 or whose charter is renewed on or after July
16 1, 2005 shall serve on the governing body of another charter
17 school. No member of a local school board shall be a member of
18 a governing body for a charter school or employed in any
19 capacity by a locally chartered charter school located within
20 the local school board's school district during the term of
21 office for which the member was elected or appointed.

22 C. A charter school shall be responsible for:

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

25 (2) contracting for services and personnel

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1 matters.

2 D. A charter school may contract with a school
3 district, a university or college, the state, another political
4 subdivision of the state, the federal government or one of its
5 agencies, a tribal government or any other third party for the
6 use of a facility, its operation and maintenance and the
7 provision of any service or activity that the charter school is
8 required to perform in order to carry out the educational
9 program described in its charter contract. Facilities used by
10 a charter school shall meet the standards required pursuant to
11 Section 22-8B-4.2 NMSA 1978.

12 E. A conversion school chartered before July 1,
13 2007 may choose to continue using the school district
14 facilities and equipment it had been using prior to conversion,
15 subject to the provisions of Subsection F of this section.

16 F. ~~[The]~~ A school district ~~[in which a charter~~
17 ~~school is geographically located shall provide a charter school~~
18 ~~with]~~ that has available land or one or more available
19 facilities [for] not currently used for other educational
20 purposes shall make facilities and may make land available for
21 lease, lease-purchase or purchase to the [school's] charter
22 schools located in the school district for their operations
23 ~~[unless the facilities are currently used for other educational~~
24 ~~purposes]~~ and shall notify them of that availability no later
25 than May 1 of each year. The public school facilities

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1 authority shall annually ensure that each school district with
2 available land or one or more available facilities has provided
3 that notification. A school district may develop a facility
4 prioritization plan that identifies which charter schools may
5 lease, lease-purchase or purchase available school district
6 facilities. School district-owned land shall not be considered
7 available to a charter school if the school district has
8 justified future use of that land through its five-year
9 facilities master plan. An agreement for the use of school
10 district facilities by a charter school may provide for
11 reasonable lease payments; provided that the payments do not
12 exceed the sum of the lease reimbursement rate provided in
13 [~~Subparagraph (b) of~~] Paragraph (1) of Subsection I of Section
14 22-24-4 NMSA 1978 plus any reimbursement for actual direct
15 costs incurred by the school district in providing the
16 facilities; and provided further that any lease payments
17 received by a school district may be retained by the school
18 district and shall not be considered to be cash balances in any
19 calculation pursuant to Section 22-8-41 NMSA 1978. The
20 available facilities provided by a school district to a charter
21 school shall meet all occupancy standards as specified by the
22 public school capital outlay council. As used in this
23 subsection, "other educational purposes" includes health
24 clinics, daycare centers, teacher training centers, school
25 district administration functions and other ancillary services

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1 related to a school district's 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 operation
5 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, a
22 single charter school may maintain separate facilities at two
23 or more locations within the same school district; but, for
24 purposes of calculating program units pursuant to the Public
25 School Finance Act, the separate facilities shall be treated

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1 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 local
14 school board.

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

25 Q. A charter school shall comply with all state and

1 federal health and safety requirements applicable to public
2 schools, including those health and safety codes relating to
3 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 of
6 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 the
17 federal Individuals with Disabilities Education Act and its
18 implementing state and federal rules. Each charter school is
19 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

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1 subsection."

2 SECTION 2. Section 22-24-4 NMSA 1978 (being Laws 1975,
3 Chapter 235, Section 4, as amended by Laws 2017, Chapter 142,
4 Section 1 and by Laws 2018, Chapter 71, Section 3) is amended
5 to read:

6 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--
7 USE.--

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

11 B. Except as provided in Subsections G and I
12 through O of this section, money in the fund may be used only
13 for capital expenditures deemed necessary by the council for an
14 adequate educational program.

15 C. The council may authorize the purchase by the
16 [~~public school facilities~~] authority of portable classrooms to
17 be loaned to school districts to meet a temporary requirement.
18 Payment for these purchases shall be made from the fund. Title
19 to and custody of the portable classrooms shall rest in the
20 [~~public school facilities~~] authority. The council shall
21 authorize the lending of the portable classrooms to school
22 districts upon request and upon finding that sufficient need
23 exists. Application for use or return of state-owned portable
24 classroom buildings shall be submitted by school districts to
25 the council. Expenses of maintenance of the portable

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1 classrooms while in the custody of the [~~public school~~
2 ~~facilities~~] authority shall be paid from the fund; expenses of
3 maintenance and insurance of the portable classrooms while in
4 the custody of a school district shall be the responsibility of
5 the school district. The council may authorize the permanent
6 disposition of the portable classrooms by the [~~public school~~
7 ~~facilities~~] authority with prior approval of the state board of
8 finance.

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

17 E. The council shall review all requests for
18 assistance from the fund and shall allocate funds only for
19 those capital outlay projects that meet the criteria of the
20 Public School Capital Outlay Act.

21 F. Money in the fund shall be disbursed by warrant
22 of the department of finance and administration on vouchers
23 signed by the secretary of finance and administration following
24 certification by the council that an application has been
25 approved or an expenditure has been ordered by a court pursuant

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1 to Section 22-24-5.4 NMSA 1978. At the discretion of the
2 council, money for a project shall be distributed as follows:

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

9 (2) the council may authorize payments
10 directly to the contractor.

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

18 (1) the total annual expenditures from the
19 fund for the core administrative functions pursuant to this
20 subsection shall not exceed five percent of the average annual
21 grant assistance authorized from the fund during the three
22 previous fiscal years; and

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

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1 H. The fund may be expended by the council for
2 building system repair, renovation or replacement initiatives
3 with projects to be identified by the council pursuant to
4 Section 22-24-4.6 NMSA 1978; provided that money allocated
5 pursuant to this subsection shall be expended within three
6 years of the allocation.

7 I. The fund may be expended annually by the council
8 for grants to school districts for the purpose of making lease
9 payments for [~~classroom~~] facilities, including facilities
10 leased by charter schools. The grants shall be made upon
11 application by the school districts and pursuant to rules
12 adopted by the council; provided that an application on behalf
13 of a charter school shall be made by the school district, but,
14 if the school district fails to make an application on behalf
15 of a charter school, the charter school may submit its own
16 application. The following criteria shall apply to the grants:

17 (1) the amount of a grant to a school district
18 or charter school shall not exceed:

19 (a) the actual annual lease payments
20 owed for leasing [~~classroom space for schools, including~~
21 ~~charter schools, in the school district~~] a facility; or

22 (b) seven hundred dollars (\$700)
23 multiplied by the MEM using the leased [~~classroom~~] facilities;
24 provided that in fiscal year 2009 and in each subsequent fiscal
25 year, this amount shall be adjusted by the percentage change

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1 between the penultimate calendar year and the immediately
2 preceding calendar year of the consumer price index for the
3 United States, all items, as published by the United States
4 department of labor;

5 (2) a grant received for the lease payments of
6 a charter school may be used by that charter school as a state
7 match necessary to obtain federal grants pursuant to the
8 federal [~~No Child Left Behind Act of 2001~~] Every Student
9 Succeeds Act;

10 (3) at the end of each fiscal year, any
11 unexpended or unencumbered balance of the [~~appropriation~~] grant
12 shall revert to the fund;

13 (4) no grant shall be made for lease payments
14 due pursuant to a financing agreement under which the
15 facilities may be purchased for a price that is reduced
16 according to the lease payments made unless:

17 (a) the agreement has been approved
18 pursuant to the provisions of the Public School Lease Purchase
19 Act; and

20 (b) the facilities are leased by a
21 charter school;

22 (5) if the lease payments are made pursuant to
23 a financing agreement under which the facilities may be
24 purchased for a price that is reduced according to the lease
25 payments made, neither a grant nor any provision of the Public

1 School Capital Outlay Act creates a legal obligation for the
 2 school district or charter school to continue the lease from
 3 year to year or to purchase the facilities nor does it create a
 4 legal obligation for the state to make subsequent grants
 5 pursuant to the provisions of this subsection; and

6 (6) as used in this subsection:

7 (a) "MEM" means: 1) the average
 8 full-time-equivalent enrollment using leased [~~classroom~~]
 9 facilities on the second and third reporting dates of the prior
 10 school year; or 2) in the case of an approved charter school
 11 that has not commenced classroom instruction, the estimated
 12 full-time-equivalent enrollment that will use leased
 13 [~~classroom~~] facilities in the first year of instruction, as
 14 shown in the approved charter school application; provided
 15 that, after the [~~eightieth day~~] second reporting date of the
 16 current school year, the MEM shall be adjusted to reflect the
 17 full-time-equivalent enrollment on that date; and

18 (b) "[~~classroom~~] facilities" [~~or~~
 19 "~~classroom space~~"] includes the space needed, as determined by
 20 the [~~minimum required under the~~] five-year facilities master
 21 plan aligned with statewide adequacy standards, for [~~the direct~~
 22 ~~administration of~~] school activities.

23 J. In addition to other authorized expenditures
 24 from the fund, up to one percent of the average grant
 25 assistance authorized from the fund during the three previous

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1 fiscal years may be expended in each fiscal year by the [~~public~~
2 ~~school facilities~~] authority to pay the state fire marshal, the
3 construction industries division of the regulation and
4 licensing department and local jurisdictions having authority
5 from the state to permit and inspect projects for expenditures
6 made to permit and inspect projects funded in whole or in part
7 under the Public School Capital Outlay Act. The [~~public school~~
8 ~~facilities~~] authority may enter into contracts with the state
9 fire marshal, the construction industries division or the
10 appropriate local authorities to carry out the provisions of
11 this subsection. Such a contract may provide for initial
12 estimated payments from the fund prior to the expenditures if
13 the contract also provides for additional payments from the
14 fund if the actual expenditures exceed the initial payments and
15 for repayments back to the fund if the initial payments exceed
16 the actual expenditures. Money distributed from the fund to
17 the state fire marshal or the construction industries division
18 pursuant to this subsection shall be used to supplement, rather
19 than supplant, appropriations to those entities.

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

- 25 (1) no allocation shall be made unless the

1 council determines that the school district is willing and able
2 to pay the portion of the total cost of developing or updating
3 the plan that is not funded with the allocation from the fund.
4 Except as provided in Paragraph (2) of this subsection, the
5 portion of the total cost to be paid with the allocation from
6 the fund shall be determined pursuant to the methodology in
7 [~~Paragraph (5) of~~] Subsection B of Section 22-24-5 NMSA 1978;
8 or

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

11 (a) the school district has fewer than
12 an average of six hundred full-time-equivalent students on the
13 second and third reporting dates of the prior school year; or

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

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

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

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

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

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

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

25 N. For each fiscal year from 2018 through 2022,

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1 twenty-five million dollars (\$25,000,000) of the public school
 2 capital outlay fund is reserved for appropriation by the
 3 legislature to the instructional material fund or to the
 4 transportation distribution of the public school fund. The
 5 secretary shall certify the need for the issuance of
 6 supplemental severance tax bonds to meet an appropriation from
 7 the public school capital outlay fund to the instructional
 8 material fund or to the transportation distribution of the
 9 public school fund. Any portion of an amount of the public
 10 school capital outlay fund that is reserved for appropriation
 11 by the legislature for a fiscal year, but that is not
 12 appropriated before the first day of that fiscal year, may be
 13 expended by the council as provided in this section.

14 O. Up to ten million dollars (\$10,000,000) of the
 15 fund may be expended in each of fiscal years 2019 through 2022
 16 for school security system project grants made in accordance
 17 with Section 22-24-4.7 NMSA 1978."

18 **SECTION 3.** A new section of the Public School Capital
 19 Outlay Act is enacted to read:

20 "[NEW MATERIAL] CHARTER FACILITY FUND.--

21 A. The "charter facility fund" is created as a
 22 nonreverting fund in the state treasury. The fund consists of
 23 appropriations, gifts, grants and donations. The fund shall be
 24 administered by the authority, and money in the fund shall be
 25 expended by the authority on authorization by the council.

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1 Expenditures shall be by warrant of the secretary of finance
2 and administration pursuant to vouchers signed by the director
3 of the authority or the director's designated representative.

4 B. The charter facility fund shall be used to pay
5 off charter school lease-purchase agreements.

6 C. The council shall adopt rules to provide loans
7 to charter schools for the purchase, construction, expansion or
8 renovation of facilities that include:

9 (1) evidence that any lease-purchase
10 agreements are in accordance with the Public School Lease
11 Purchase Act;

12 (2) evidence that a charter school's charter
13 has been renewed at least once; and

14 (3) review of the last two audits of the
15 charter school."

16 SECTION 4. Section 22-25-3 NMSA 1978 (being Laws 1975
17 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

18 "22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT
19 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

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

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1 improvements in the school district. The resolution shall:

- 2 (1) identify the capital improvements for
3 which the revenue proposed to be produced will be used;
- 4 (2) specify the rate of the proposed tax,
5 which shall not exceed two dollars (\$2.00) on each one thousand
6 dollars (\$1,000) of net taxable value of property allocated to
7 the school district under the Property Tax Code;
- 8 (3) specify the date an election will be held
9 to submit the question of imposition of the tax to the
10 qualified electors of the district; and
- 11 (4) limit the imposition of the proposed tax
12 to no more than six property tax years.

13 B. A school district that has one or more locally
14 chartered or state-chartered charter schools located within the
15 school district boundaries shall collaborate with the charter
16 schools to establish a process through which the charter
17 schools submit necessary information to the school district for
18 inclusion in the resolution. This process shall include:

19 (1) identification of the capital improvements
20 of the charter school for which the revenue proposed to be
21 produced will be used;

22 (2) a requirement that necessary information
23 be submitted to the school district no later than June 1 of the
24 calendar year in which the local school board will consider the
25 resolution; and

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1 (3) the point of contact in the school
2 district to which the charter school is to submit the
3 information.

4 [B.] C. On or after July 1, 2009, a resolution
5 submitted to the qualified electors pursuant to Subsection A of
6 this section shall include capital improvements funding for a
7 locally chartered or state-chartered charter school located
8 within the school district if the charter school [~~timely~~
9 ~~provides the necessary information to the school district for~~
10 ~~inclusion in the resolution that identifies the capital~~
11 ~~improvements of the charter school for which the revenue~~
12 ~~proposed to be produced will be used]~~ has complied with the
13 process outlined in Subsection B of this section."

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

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

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

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1 (1) identify the capital improvements for
2 which the revenue proposed to be produced will be used;

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

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

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

12 B. A school district that has one or more locally
13 chartered or state-chartered charter schools located within the
14 school district boundaries shall collaborate with the charter
15 schools to establish a process through which the charter
16 schools submit necessary information to the school district for
17 inclusion in the resolution. This process shall include:

18 (1) identification of the capital improvements
19 of the charter school for which the revenue proposed to be
20 produced will be used;

21 (2) a requirement that necessary information
22 be submitted to the school district no later than June 1 of the
23 calendar year in which the local school board will consider the
24 resolution; and

25 (3) the point of contact in the school

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1 district to which the charter school is to submit the
2 information.

3 [B-] C. After July 1, 2007, a resolution submitted
4 to the qualified electors pursuant to Subsection A of this
5 section shall include capital improvements funding for a
6 locally chartered or state-chartered charter school located
7 within the school district if:

8 (1) the charter school [~~timely provides the~~
9 ~~necessary information to the school district for inclusion on~~
10 ~~the resolution that identifies the capital improvements of the~~
11 ~~charter school for which the revenue proposed to be produced~~
12 ~~will be used] has complied with the process outlined in
13 Subsection B of this section; and~~

14 (2) the capital improvements are included in
15 the five-year facilities plan:

16 (a) of the school district, if the
17 charter school is a locally chartered charter school; or

18 (b) of the charter school, if the
19 charter school is a state-chartered charter school."

20 SECTION 6. A new section of the New Mexico Finance
21 Authority Act is enacted to read:

22 "[NEW MATERIAL] PUBLIC PROJECT REVOLVING FUND--LOANS TO
23 CHARTER SCHOOLS--POLICIES.--The authority shall adopt policies
24 for the public project revolving fund to provide loans to
25 charter schools for the purchase, construction, expansion or

1 renovation of facilities or to pay off lease-purchase
2 agreements that include:

3 A. evidence that any lease-purchase agreements are
4 in accord with the Public School Lease Purchase Act;

5 B. evidence that a charter school's charter has
6 been renewed at least once; and

7 C. review of the last two audits of the charter
8 school."

9 SECTION 7. APPROPRIATIONS.--

10 A. Twenty million dollars (\$20,000,000) is
11 appropriated from the general fund operating reserve to the
12 public project revolving fund for expenditure in fiscal year
13 2019 and subsequent fiscal years to provide loans to charter
14 schools for the renovation, construction, purchase or expansion
15 of a charter school facility or to pay off charter school
16 lease-purchase agreements as provided in Section 6 of this 2019
17 act. Any unexpended or unencumbered balance remaining at the
18 end of a fiscal year shall not revert to any other fund.

19 B. Thirty million dollars (\$30,000,000) is
20 appropriated from the general fund operating reserve to the
21 charter facility fund for expenditure in fiscal year 2019 and
22 subsequent fiscal years to pay off charter school lease-
23 purchase agreements. Any unexpended or unencumbered balance
24 remaining at the end of a fiscal year shall not revert to any
25 other fund.

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