

**REPORT OF THE
PUBLIC SCHOOL CAPITAL OUTLAY
TASK FORCE**

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REPORT
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

Introduction

This is the fourth interim report of the public school capital outlay task force that was originally created by Laws 2001, Chapter 338. The task force was re-created by Laws 2004, Chapter 125 following the statutory expiration of the previous task force. Similar to the previous task force, the current task force consists of 20 members, including members of the legislature and the executive, certain designated public members who have expertise in finance and education, and superintendents of school districts or their designees from districts that receive federal impact aid grants. The statutory authority for the current task force expires on July 1, 2005.

Previous reports of the task force discuss in more detail the background and development of the new, statewide standards-based public school capital outlay process that is now in its pilot year. This report focuses on the work of the task force during the 2004 interim. However, the following background information is provided for perspective on the issues before the task force.

Background

The current public school capital outlay task force builds on the work of previous task forces that addressed the need for a statewide public school capital outlay program¹. The earliest work was performed under the guidance of the state department of public education in 1998, which conducted a comprehensive review of issues concerning New Mexico public school capital outlay and commissioned the MGT study. The first task force was created by Senate Joint

¹The creation of the various public school capital outlay task forces was partially in response to the *Zuni* lawsuit, filed in January 1998, which challenged the constitutionality of the state's process for funding public school capital outlay that was then in effect. In 1999, Judge Rich of the eleventh judicial district court found that the state was in violation of the uniformity clause of the New Mexico constitution (Article XII, Section 1) in the manner in which it funded capital outlay for schools. The state was given until July 28, 2000 to correct past inequities and to establish and implement a uniform system of funding for future capital improvements.

Memorial 21 enacted by the forty-fourth legislature, second special session. That task force issued its report in December 2000 and many of its recommendations were adopted in Laws 2001, Chapter 338, including the creation of the second task force.

Laws 2001, Chapter 338 enacted many of the recommendations of the 2000 task force. The legislation established a new three-pronged framework for public school capital outlay that: 1) provided 100 percent state funding to immediately remedy health and safety deficiencies identified in a one-time initial assessment of every public school throughout the state; 2) continued to fund the substantial backlog of critical capital outlay needs of school districts that had substantially used up their own resources for public school capital improvements and implemented a long-term public school capital improvement process based on adequacy standards; and increased the SB 9 guarantee from \$35.00 per mill per unit to \$50.00 per mill per unit. It also established a permanent revenue source for public school capital outlay using supplemental severance tax bonds.

In April 2001, the court appointed the Honorable Dan McKinnon as a special master to review the progress the state had made in correcting past inequities and in developing and implementing the new capital outlay process. Justice McKinnon concluded "that since 1998 the state has made a substantial effort to rectify the disparities..." in funding for school facilities and that "... at this time the state is in good faith and with substantial resources attempting to comply with the requirements of Judge Rich's previous directions". The report of the special master was adopted by the court in May 2002. However, Judge Rich reserved the right to hold status conferences to monitor and review progress of the state.

One of the issues raised in the special master's report was the disequalizing effect of direct legislative appropriations to individual schools for capital outlay purposes. The report directed that these appropriations be taken into account in the funding formula that went into effect after September 1, 2003. In response to this directive, the funding formula was amended in Laws 2003, Chapter 147 to provide an offset against state grant awards for public school capital outlay equal to a percentage of any funds received by a school district as a direct legislative

appropriation. The percentage of the offset is determined using the state-share formula. This offset provision also applies to legislative appropriations for educational technology, with the reduction credited against the school district's annual distribution under the Educational Technology Equipment Act.

Laws 2004, Chapter 125 made a number of additional improvements to the capital outlay process and provided \$57 million of additional funding for deficiency correction and continuation projects. It enacted many of the recommendations of the task force from the 2003 interim, including a recommendation to extend the life of the task force for one additional year and provisions relating to what are called "recalcitrant districts". These provisions would allow the public school capital outlay council to bring a court action against a school district if it determines that a school district's facilities are below the minimum standard required by the constitution and that the district has failed to take action. The court action could result in the imposition of a property tax in the school district to pay the district's required share of the costs of bringing the school facilities up to the adequacy standards. The task force considered the enactment of the recalcitrant district provisions another important step for ensuring that the new process will comply with the directives of the court.

The recommendations contained in this report conclude the policy development work of the task force and provide for ongoing monitoring of the program to ensure success toward the goal of bringing all schools up to the adequacy standards.

Statutory Duties of the Task Force

The task force had the following statutory duties during the 2004 interim:

1. study and evaluate the progress and effectiveness of programs administered pursuant to the Public School Capital Outlay Act and the Public School Capital Improvements Act;
2. review the condition index and the methodology used for ranking projects;
3. evaluate the existing permanent revenue streams as adequate long-term funding sources for public school capital outlay projects; and
4. monitor and assist the public school capital outlay council and the public school facilities

authority as they perform functions pursuant to the Public School Capital Outlay Act, particularly as they implement the statewide standards-based process for making grant awards.

Membership

The task force consisted of 20 members, including members of the legislature, certain designated public officials, public members who have expertise in finance and education and superintendents of school districts that receive federal impact aid grants. Individuals serving as members of the current task force included the following:

Co-chairs

Robert J. Desiderio, designee of the dean of the university of New Mexico law school
Senator Cynthia Nava, chair of the senate education committee

Legislative Members and Other Designated Public Officials

Senator Ben D. Altamirano, chair of the senate finance committee
Representative Larry A. Larranaga, minority member of the house of representatives
Senator Carroll H. Leavell, minority member of the senate
Representative Rick Miera, chair of the house education committee
Representative Henry Kiki Saavedra, deputy chair of the house appropriations and finance committee
Gary Bland, state investment officer
Veronica Garcia, secretary, public education department
James Jimenez, secretary, department of finance and administration

Public Members

Odis Echols, businessman and former legislator with experience in education
Pancho Guardiola, superintendent, Cuba public schools, representing an "impact aid" district
Leonard Haskie, assistant superintendent for support services, Gallup-McKinley county schools
Robert G. Heyman, attorney, with substantial bond and finance expertise
Kilino Marquez, superintendent of Grants-Cibola county schools, representing an

"impact aid" district

Rey S. Medina, former legislator with experience in educational finance

Tony Monfiletto, former staff member of the legislative education study committee and founder and principal of a charter school

James "Bud" Mulcock, former business executive and current education lobbyist

Norman Suazo, architect with expertise in school construction and division chief with the bureau of Indian affairs

Advisory Member

Representative Ben Lujan, speaker of the house of representatives

Work During the 2004 Interim

The task force held five meetings during the 2004 interim and the funding and maintenance subcommittees also met. 2004 was the pilot year for development and implementation of the standards-based public school capital outlay process. Accordingly, the task force received testimony about the statewide assessment of school facilities prepared by 3D/International, the adoption of rules by the public school capital outlay council (PSCOC), the timetable and process for capital outlay applications and the awards actually made in the fall of 2004. The task force monitored the progress of the deficiencies correction program and the final implementation phase of full-day kindergarten, a task assigned to the PSFA by the PSCOC at the request of the governor and the legislative leadership. In addition, the task force explored the relationship between the public school insurance authority (PSIA) and the public school facilities authority (PSFA), the volatility of the state-share formula, the impact of offsets for direct appropriations, maintenance and educational technology issues, the debt capacity of small school districts and the status of charter school facilities and lease payments.

The funding subcommittee reviewed the existing funding sources for capital outlay and received testimony concerning the forecast of future revenues. The maintenance subcommittee reviewed the actual expenditures made by school districts for preventive maintenance and investment in technology.

Finally, the task force assembled a panel of experts to evaluate the pilot year of the standards-based process for making capital outlay awards. With respect to school adequacy standards, the panel recommended: 1) the addition of standards for special education and other special programs; 2) providing greater flexibility for limited variances to the standards, especially as they apply to renovating old schools; 3) continuous review and update for new technology and educational standards; and 4) increased consideration of local community values.

With respect to the statewide assessment of school facilities conducted by 3D/International and the ranking of projects, the panel recommended: 1) allowing more local input for determining project priorities; 2) continuing review and improvement of information in the COMET database; 3) changing the methodology for calculating growth, including consideration of a district-wide growth factor in addition to school-by-school growth factors; and 4) prioritizing and funding new schools (needed because of growth) separately from renovation and repair projects.

With respect to the formula used to determine the state and local share of project funding, the panel recommended: 1) providing a waiver for large local-share amounts required in some small districts; 2) providing a waiver for local-share amounts in districts bonded to capacity during the transition period; and 3) counting the district's incurred and expended costs on eligible projects that began prior to the new awards process as being part of the local share of the district.

On the subject of interaction between school districts and the PSFA, the panel recommended: 1) that PSFA be provided with adequate resources to be able to continue to provide the necessary construction managers to work with districts; 2) that there be continued state support for state-of-the-art construction document and payment systems; and 3) that state efforts focus on districts that need help while allowing those with their own professional resources to maintain more local control such as for use of local architects and selection of materials. The panel also urged that recognition be given to the effect that recent operational initiatives have had on the availability of funds for maintenance. The panel also indicated that the greatest maintenance needs are trained staff and roof repairs.

Generally, the panel recommended that the state: 1) provide more information to school boards and the public about how the new process works; 2) improve the transparency of how projects are ranked and funded; 3) develop a state master plan that would enable districts to align their master planning process to the state's; and 4) clarify that only state building and fire codes should apply to the public schools.

The work of the task force and the subcommittees was guided and assisted by a team of professional staff from the legislative council service (LCS), the legislative education study committee (LESC), the legislative finance committee (LFC), the department of finance and administration (DFA), the public education department (PED) and the PSFA, and the task force expresses its appreciation for the work of the staff in accomplishing its tasks.

The reports of the funding and maintenance subcommittees are included in Appendix A. Appendix B contains the 2004 interim work plan adopted by the task force and approved by the legislative council. Appendix C contains agendas and minutes from the several meetings of the task force and subcommittees. Appendix D contains the proposed legislation.

Highlights of Recommendations and Proposed Legislative Changes

The 2004 recommendations of the public school capital outlay task force are intended to complete the work of the task force in terms of developing the structure and goals of the state public school capital outlay program and providing for its implementation. They address issues raised during the evaluation of the pilot year of operation under the standards-based program, tie up some loose ends previously addressed by the task force and provide for ongoing monitoring and oversight of the program.

For discussion purposes, the recommendations have been grouped into four general areas: 1) assessing the adequacy of the permanent revenue source for the public school capital outlay program; 2) modifying the statewide public school capital outlay process to complete the transition programs, improve the effectiveness of the ongoing programs and provide for the

creation of an oversight task force; 3) providing the framework for a more uniform process for funding educational technology infrastructure and support programs; and 4) continuing to address the facility needs of charter schools and their integration into the standards-based process.

In most cases, the recommendations will require additional legislative action. These recommendations are discussed in terms of statutory changes included in legislation endorsed by the task force or, in the case of provisions relating to charter schools, proposed statutory changes presented to the LESC for consideration. Copies of the legislation endorsed by the task force are included in Appendix D.

1. The Adequacy of the Permanent Revenue Source

One of the statutory tasks of the task force for the current year, as well as the past several years, has been "to evaluate the existing permanent revenue streams as an adequate long-term funding source for public school capital outlay projects". The task force had been unable to complete this assessment in previous years because it lacked information about the estimated costs of bringing all schools up to the adequacy standards. Information from the completion of the statewide needs assessment was presented to the task force during the 2004 interim. The funding subcommittee of the task force reviewed the information on the current cost of funding the backlog of needs at schools and looked at different scenarios for funding the projected future costs of bringing schools up to the adequacy standards and addressing other building repair and replacement needs over the next 10 years. The subcommittee also reviewed projections provided by the DFA of revenues available to the public school capital outlay fund from supplemental severance tax bond proceeds for the next five years. A copy of the subcommittee report discussing this information in more detail is included in Appendix A.

Based on this information, the funding subcommittee concluded that the state should continue to rely on supplemental severance tax bonds as the permanent revenue stream for the public school capital outlay process and that, for the foreseeable future, these revenues should be sufficient to address the adequacy needs and to provide for a significant improvement in the condition of school facilities. Thus, the subcommittee recommended that an alternative or supplemental permanent revenue source for the program was not necessary and thus need not be requested in 2005. This recommendation was accepted by the task force.

However, the funding subcommittee noted that because of the volatility and uncertainty of severance tax revenues upon which supplemental severance tax bonding capacity is based, it recommended that the state consider, on a year-by-year basis, using severance tax revenues that would otherwise flow to the severance tax permanent fund for supplemental severance tax bonds for public school capital outlay purposes. These funds could augment the regular revenue stream or could be dedicated to other high-priority projects. This recommendation of the subcommittee was also accepted by the task force and is reflected in the proposed legislative changes, described below, relating to the completion of the deficiencies correction program and a roof repair initiative.

Finally, the subcommittee agreed that if projected bonding capacity falls substantially below the levels currently estimated on a longer-term basis, then the need for an additional revenue source should be revisited. The task force adopted this recommendation and provided that a newly created oversight task force included in the proposed legislation would "monitor the existing permanent revenue streams to ensure that they remain adequate long-term funding sources for public school capital outlay projects".

2. Changes to the Statewide Public School Capital Outlay Program

The task force adopted a number of recommendations that make changes to the capital outlay program as it is administered by the PSCOC and as it interacts with other public entities. These recommendations focus on the following broad areas: a) issues related to the funding of capital projects, including completion of the deficiencies correction program; b) measures aimed at

improving the maintenance of school facilities; c) changes needed to ensure the ongoing success of implementing the statewide program; and d) recommendations addressing the need for continuous monitoring and oversight of the state program. Unless specifically noted, all of the recommendations described below are included in the "omnibus" draft legislation endorsed by the task force.

a) Funding Issues, Including the Completion of the Deficiencies Correction Program

The task force considered a number of issues relating to the funding of the capital outlay program. Recommendations aimed at completing the deficiencies correction program and providing for a new statewide roof repair initiative would have a significant positive impact on most school districts and would result in a measurable improvement in the condition of many school facilities.

- The task force recommends an authorization of up to \$70 million in additional short-term supplemental severance tax bonds, with the proceeds to be transferred to the public school capital outlay fund. These bonds would be paid from severance tax revenues that would otherwise flow to the severance tax permanent fund.
- A portion of the \$70 million would be appropriated to complete the deficiencies correction program initiated in 2001 by funding the serious roof repairs at those schools that originally qualified as having roofing problems under the deficiencies correction criteria. An updated review by PSFA of the previously identified roof deficiencies yielded approximately 80 schools that are currently in such bad condition that they pose a serious life, safety or health risk. PSFA estimates that these projects would cost about \$32 million. If this program is funded, the state will have funded approximately \$280 million of projects to address the most serious deficiencies at schools throughout the state.
- The remainder of the bond proceeds from the special authorization of up to \$70 million would be appropriated to partially fund a new, statewide roof initiative for other roof repairs that do not qualify as part of the deficiencies correction program but that do create

a threat of significant property damage to a school. This would be a voluntary program for school districts, with the cost of repairs shared by the state and the district using the state-share formula that applies to other capital outlay projects. Districts would apply to the PSCOC for funding and the PSFA would verify the district need and cost estimate and rank the application based on a methodology adopted by the PSCOC. The PSCOC would be authorized to allocate up to \$30 million a year in fiscal years 2006 and 2007 from the public school capital outlay fund for the roof repair initiative.

During the 2004 interim, the task force received periodic updates from the PSCOC and the PSFA on efforts to provide facilities for the last year of implementation of full-day kindergarten in time for the opening of school for the 2004-2005 school year. The majority of funds for the full-day kindergarten initiative, as it was called, came from an advancement of funds from the PSCOC for kindergarten facilities that were funded in a general obligation bond measure that was approved by the voters in November 2004. However, in assessing the need for kindergarten facilities, the PSFA identified approximately \$3.8 million needed in excess of those facilities funded through the general obligation bond. The PSCOC authorized the expenditure for kindergarten facilities from funds allocated for the deficiencies correction program with an expectation that the funds would be reimbursed. The task force agreed that the public school capital outlay fund should be reimbursed for these expenditures.

- The task force recommends a general fund appropriation of \$3.8 million to repay the public school capital outlay fund for the unanticipated cost of providing full-day kindergarten facilities, in excess of the amount to be repaid from the general obligation bond issue.

The task force considered a number of issues related to the funding formula and how various provisions, such as the annual calculation of the state-share amount, the offset for direct appropriations and the ability of the PSCOC to provide funds in excess of the calculated state-share amount, apply. The following recommendations address these issues.

- The task force recommends that the formula that applies to PSCOC grant awards be revised to calculate the state-share amount as a three-year average, using the fiscal year 2004 amounts as a base year. This will reduce the volatility resulting from the annual calculation

of the state-share amount and should assist school districts in determining local funding needs for implementing their five-year facility master plans.\

- The task force recommends a temporary provision to help school districts meet their match requirement during the transition to the standards-based public school capital outlay process. The provision would provide that school district funds used for an eligible project that was initiated after the statewide adequacy standards were adopted, but before they were used for making grants, could be considered part of the local match for that project.
- The task force recommends that the offset for direct appropriations for educational technology that currently applies to distributions from the educational technology fund be discontinued beginning with appropriations received in 2005 and that these appropriations instead be offset against future PSCOC capital outlay grant awards. Any carry-forward amounts from previous educational technology appropriations that would have applied against the educational technology fund would also be shifted to apply against future capital outlay awards. This recommendation recognizes the fact that many districts use a significant portion of their educational technology distribution for operational support of technology networks and systems rather than for capital outlay, and that the effect of the offset was to eliminate the funding for these purposes. Under the new proposal, the state will continue to take into account the disequalizing effect of direct appropriations for computers and other educational technology infrastructure and hardware by applying the offset to capital outlay grant awards of the district.
- The task force recommends that the date for districts to reject legislative appropriations be changed from July 15 to June 1 to coincide with the normal schedule of the state board of finance for issuing severance tax bonds that are often the source of funds for the appropriations.
- The task force recommends that the current provision that allows the PSCOC to fund up to the total amount of a project in those instances in which a school district has used all of its

local resources be amended to clarify when additional state funding should be considered. The recommendation provides two sets of criteria for the PSCOC to use to determine when a school district has, in effect, "used all of its local resources".

1. For all districts, the criteria would be that the district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and that it has imposed at least 10 mills of property taxes for all educational purposes.
2. For small districts, defined as those with fewer than 800 students, a more lenient set of criteria would apply. These districts would be considered as having used all of their resources if at least 70 percent of their students are eligible for free or reduced-fee lunch, their local share based on the formula is greater than 50 percent and they have imposed at least seven mills of property tax for all educational purposes.

PSFA staff requested that the task force consider a proposal to establish a permanent working capital fund for use by the PSFA so that it can continue its current practice of paying project expenses directly and within a 10-day period after approval of the expenditure by the project manager. After some discussion of the current administrative procedures relating to the payment of supplemental severance tax bond proceeds into the public school capital outlay fund, it was decided that the need for a working capital fund could be satisfied by changing these administrative procedures.

- The task force recommends new language to provide that bond proceeds from short-term supplemental severance tax bonds that are appropriated to the public school capital outlay fund be transferred to the fund immediately.

Under current law, the PSCOC is required to give priority to funding continuation projects for three years, beginning in July 2004. Continuation projects are those projects that received partial funding in September 2003 under the critical capital outlay program and need additional funding to be completed. The PSCOC awarded \$73.8 million of funds to 18 continuation projects in the September 2004 awards cycle. This action completed funding for all continuation projects that applied. The PSCOC requested the task force consider shortening the period for funding continuation projects to one more year. This change would give the few districts that might still

qualify for continuation funding the ability to apply for the September 2005 awards cycle. It was also suggested that the definition of "continuation project" be tightened.

- The task force recommends that the period for funding be shortened from two more years to one more year and staff was directed to tighten the definition of what constitutes a continuation project.

The task force recommends two changes related to the lease payment program enacted in 2004. Under current law, the PSCOC may allocate up to \$4 million a year in fiscal years 2005 through 2009 for grants to school districts for the purpose of making lease payments for classroom facilities, including for charter schools. The amount of a grant to a school district was \$300 per member enrolled during the prior school year, not to exceed the actual annual lease payment. The \$300 per member amount was originally estimated as one-half of the average amount being spent by charter schools for leases. It was hoped that funds from a federal grant program that would match this amount would also be available. For fiscal year 2005, the PSCOC allocated \$1.9 million in lease assistance awards. No federal funds were awarded to New Mexico to supplement the program. The recommended changes are intended to provide some additional assistance to charter schools and other public schools that lease classroom facilities during the remaining four years of the program.

- The calculation of membership would be changed to include estimated enrollment during the initial year of operation of a charter school. This will enable new schools to benefit from the program.
- The grant amount would be increased to provide up to \$600 per member, not to exceed the actual annual lease amount. This will allow many schools to receive close to the full amount of funds spent for leases. If this grant amount cannot be provided within the \$4 million total authorized funding, it will be proportionately reduced by the PSCOC to stay within the authorized limit.

b) Improving the Maintenance of School Facilities

Since its inception, the task force has considered maintenance of school facilities a critical component of the state's public school capital outlay plan. Each year it has adopted

recommendations aimed at improving the maintenance of school facilities, including providing additional state resources to school districts for maintenance expenditures, requiring the implementation of preventive maintenance plans as a condition for receiving state funds and supporting resources for the PSFA to assist districts in their maintenance efforts.

The maintenance subcommittee of the task force continued working on maintenance issues during the 2004 interim and developed a number of recommendations to continue efforts to improve the maintenance of school facilities. The following recommendations of the maintenance subcommittee were adopted by the task force.

- It is recommended that state funding for maintenance of school facilities be increased by raising the state equalization guarantee amount under SB 9 (the Public School Improvements Act) from \$50.00 to \$60.00 per unit per mill. This is estimated to provide an additional \$6 million in SB 9 distributions from the public school capital outlay fund to 64 school districts. This recommendation is consistent with the long-term goal of the task force to raise the state's share of funding for maintenance to approximately one-third of the total. According to PED worksheets, the increase in the equalization guarantee amount to \$60.00 would increase the state share of total SB 9 funding from approximately 18 percent to 27 percent in fiscal year 2006.
- A general fund appropriation of \$2.1 million to the PSFA is recommended for the purpose of developing and implementing a uniform, statewide web-based facility information management system (FIMS). The FIMS would provide a centralized database of maintenance activities and comprehensive maintenance request and expenditure information. It would also facilitate training of facilities maintenance and management personnel. The funding and implementation of FIMS is a high-priority item recommended by PSFA.
- The PSCOC would be required to develop, implement and maintain FIMS and to develop a schedule and procedure for phasing all school districts into the system. All school districts, including those that do not apply for state grant assistance, would be required to implement a preventive maintenance plan and to participate in FIMS subject to the schedule for

implementation adopted by the PSCOC.

c) Ensuring the Ongoing Success of the Process

During its evaluation of the pilot year of the standards-based process, the task force heard testimony about the added cost, in terms of both time and money, resulting from the applicability of different state and local building and fire codes to school construction and remodeling projects. PSFA staff confirmed the difficulties involved in some projects and assured the task force that the application of state codes, rather than local codes, would provide appropriate life, health and safety standards for public schools.

- The task force recommends that public school facilities be subject to state construction and fire codes, rather than local codes. Local governments would not be allowed to impose code requirements different from those adopted by the state.
- In order to assist the construction industries division of the regulation and licensing department and the state fire marshal's office with the additional costs of providing state inspections, the task force recommends that the PSFA be authorized to contract with these entities for the costs incurred in permitting and inspecting projects funded under the Public School Capital Outlay Act. Up to one percent of the average grant assistance authorized from the public school capital outlay fund during the previous three years could be expended for this purpose. For fiscal year 2006, this would amount to approximately \$2.1 million.

The interaction of the PSFA and the PSIA was also an area reviewed by the task force during the 2004 interim. Although the task force heard that the two agencies are beginning to work together in many areas, it also heard that some clarification of the roles and responsibilities of the PSFA, the PSIA and the school district is needed. The following changes are recommended to address these issues.

- School construction or remodeling projects paid for from insurance proceeds should be in compliance with the statewide adequacy standards.
- Amend the Public School Insurance Authority Act to require that payment for a claim for

property damage be paid directly to the school district and that the expenditure of the funds be approved by the PSFA and be in compliance with the Procurement Code.

Another area of concern addressed by the task force was the methodology used by the PSCOC to measure the need for additional classroom and other space at schools resulting from projected growth in enrollment. Both the PSFA staff and outside evaluators agreed that the current method was inadequate.

- The task force recommends that a proposal brought forth by the PSFA staff to fund the development of a student population forecasting model be adopted. The model would be funded by a nonrecurring general fund appropriation of \$575,000 to the DFA to develop the model in conjunction with the LFC, the PED, the LESC and the PSFA.

The current success of the PSFA in working with school districts and building professionals was noted as a strength of the new process during the evaluation hearings. The task force commends the PSFA on its efforts to date and supports the need to continue providing the PSFA with adequate resources and flexibility to do its job in a professional and timely manner. The task force continues to endorse the principle that providing adequate funding for the PSFA, especially for project management expenses and maintenance assistance and oversight, results in significant cost savings to the state and school districts. While no specific statutory changes are being recommended, the support of the task force for adequate funding and budget flexibility for the PSFA will be communicated to the PSCOC and the appropriate legislative budget committees.

The following recommendations of the task force address two specific concerns related to the operations of the PSFA.

- PSFA staff should be allowed to remain exempt from the state personnel system for at least one more year until an appropriate job classification and pay schedule can be developed.
- PSFA should be authorized to use electronic signatures for processing documents within the

state accounting system. This recommendation will be discussed with the DFA and, if necessary, included in the proposed legislation of the task force.

Issues relating to the facility needs of charter schools continued to be a vexing area for the task force. As described below, the majority of task force recommendations related to charter schools are expected to be included in a legislative proposal sponsored by the LESC. However, a few provisions are included in the "omnibus" bill endorsed by the task force. These include the changes to the lease payment program described above as well as the following two recommendations.

- The Public School Capital Outlay Act should clearly state that charter school facilities are eligible for state and local capital outlay funds and that they must be included in the school district's five-year facilities plan. This is not a change in policy, but rather a clarification of the current requirement. It is made in response to testimony to the task force that a number of school districts have not included the needs of their charter schools in their five-year plans.
- The PSFA should provide an assessment of a public facility that will be provided for the use of a charter school within 60 days of being notified by the charter school of the proposed use of the facility. The assessment would determine the extent to which the facility meets the adequacy standards and the costs of bringing it up to those standards. The purpose of this provision is to ensure that these public buildings are assessed in a timely manner so that they will be included in the statewide assessment and needs ranking system used by the PSCOC in determining grant awards.

A number of other proposed changes are included in the task force legislation that are intended to clarify current statutory provisions or make necessary technical changes. Two of the most significant are to clarify that the use of the statewide adequacy standards apply to the construction of school buildings, even if the construction project does not receive state funds and to specify that funds raised by school districts from general obligation bonds may be used to meet the district match for PSCOC grant awards.

d) Providing for Oversight and Monitoring of the Public School Capital Outlay Program

The task force discussed the need to provide ongoing oversight and monitoring of the state public school capital outlay program, given the large amount of public funds involved in the program and the importance of achieving an outcome that satisfies the constitutional requirement of uniformity. After considering a number of alternatives, the task force agreed that a permanent oversight task force modeled on the existing task force membership structure would best protect the interests of the state, the school districts and the general public. The oversight task force should draw on the expertise of current task force members and continue to build on the progress made during the past several years.

- The task force recommends that a permanent public school capital outlay oversight task force be created.
- The task force would consist of 21 members, including the speaker of the house of representatives and the president pro tempore of the senate, six other legislative members, three ex-officio members of the executive branch of government and 10 public members, including at least three school superintendents.
- The duties of the task force would be to monitor the overall progress of bringing all public schools up to the statewide adequacy standards; monitor the progress and effectiveness of the public school capital outlay program; monitor the existing permanent revenue streams to ensure that they remain adequate; and oversee the work of the PSCOC and the PSFA.
- The task force would be requested to appoint an advisory committee to look at ways to facilitate the interaction between charter schools and their school districts on issues relating to facility needs.
- Staff for the task force would be provided by the LCS, with assistance from the PSFA, the DFA, the LESC and the LFC.

3. Developing a Uniform Process for Funding Educational Technology Infrastructure and Support Programs

The recommendations of the task force in this area are embodied in a second piece of legislation endorsed by the task force that provides for the development of educational technology standards by the council on technology in education (CTE) of the PED and an assessment of the educational technology needs at schools throughout the state compared to those standards. These recommendations are in response to testimony heard by the task force about the disparity among schools and school districts in providing for educational technology.

The chair of the CTE and other educational professionals discussed the need for additional resources to support a broad range of technology needs, including purchase of new and replacement computers, internal infrastructure for network configurations within the school and access to the internet, operational support for district data systems and the development of computer-related skills for teachers and students. The standards-based capital outlay program was identified as a good model on which to base the creation of an educational technology needs program.

In addition to providing the framework for a program aimed at ensuring more uniformity of access to educational technology, this legislation also supports the task force recommendations aimed at improving the maintenance of school facilities by eventually freeing up the use of SB 9 funds currently spent on the purchase of computer hardware and software and redirecting those funds to maintenance expenditures.

- The task force recommends that the legislature adopt legislation enacting a framework for an educational technology deficiencies correction program that includes the development of educational technology adequacy standards and an assessment of schools against those standards.
- The CTE should determine the cost for bringing all schools up to the adequacy standards and report its findings to the governor and the legislature by December 1, 2005.

4. Addressing the Facility Needs of Charter Schools

As previously mentioned, the task force included three specific recommendations related to the facility needs of charter schools in the proposed "omnibus" legislation that it endorsed. These included measures to: 1) increase the lease assistance payments to charter and other schools for leasing classroom space and to provide payments to new charter schools based on estimated enrollment; 2) clarify that charter school facilities are eligible for state and local capital outlay funds and should be included in the school district's five-year facilities plan; and 3) require an assessment within 60 days by the PSFA of a public building that will be used to house a charter school. In addition, the proposed public school capital outlay oversight task force would be requested to appoint an advisory committee to look at ways to facilitate the interaction between charter schools and their school districts on issues relating to facility needs.

The task force also reconsidered and re-endorsed, with some changes, a number of previous recommendations related to the facility needs of charter schools. These recommendations were included in charter school legislation endorsed by the task force in January 2004 and submitted to the legislature for consideration. However, this legislation failed to pass.

In developing its 2004 interim work plan, the task force was informed that a work group was being formed by the LESC and the PED to address issues related to charter schools. The task force agreed to review the recommendations of the work group as they pertain to charter school facilities and to make recommendations to the LESC on provisions aimed at ensuring that proposed legislative changes relating to charter schools are consistent with the statewide standards-based program for public school capital outlay.

The following recommendations related to the facility needs of charter schools are endorsed by the task force and will be submitted to the LESC for consideration for inclusion in charter school legislation sponsored by that committee.

- School districts should be required to provide facilities to a charter school if they have space available that is not being used for educational purposes.

- Charter school facilities are eligible for state and local capital outlay funds and should be included in the school district's five-year facilities plan. (This language would also be included in the "omnibus" bill sponsored by the task force.)
- School districts should be responsible for providing the state match required for projects to bring the facilities of charter schools up to the standards. If the district refuses, the matter would go to mediation.
- After July 1, 2005, the facilities of a new charter school would be required to meet life and health safety codes related to educational occupancy.
- The facilities of charter schools in existence prior to July 1, 2005 should be required to meet the statewide adequacy standards within the same time frame as other public schools that are being brought up to standards. The PSCOC could award funds to these charter schools to make the improvements in their facilities necessary to bring them up to standards. For leased facilities, the improvements would have to be accomplished through tenant improvements.
- After January 1, 2010, an application for a charter shall not be approved and an existing charter shall not be renewed unless the charter school is housed in a public building that is subject to evaluation and prioritization and is eligible for PSCOC grants in the same manner as all other public schools. If it is not in a public building, the charter school must demonstrate the following:
 - ▶ that the facility in which it is located meets the adequacy standards and that the owner will maintain the facility to continue to meet the standards at no additional cost to the school; and
 - ▶ that a public building is not available that is adequate for educational purposes or that the charter school is housed in a facility in which the owner is a nonprofit entity organized for the purpose of providing the facility for the charter school.

The task force did not endorse a proposal brought to it by the work group to allow for the dual

chartering of schools by the local school district or by the PED. Although not unanimous, a majority of members felt that this proposal would further complicate and confuse issues related to the responsibility of school districts to include the needs of charter schools within their facility plans and to provide local matching funds for improvement to these facilities.

Appendix A

Report of the Funding Subcommittee

Report of the Maintenance Subcommittee

REPORT
of the
FUNDING SUBCOMMITTEE
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

The Funding Subcommittee met on November 12, 2004 and considered the following three items:

1. the adequacy of the permanent revenue source for the public school capital outlay program;
2. the need for a working capital fund for the public school facilities authority; and
3. the need for additional funding for the deficiencies correction program.

Following is a brief summary of the findings and recommendations of the subcommittee on these three topics.

1. The Adequacy of the Permanent Revenue Source for the Public School Capital Outlay Program

After reviewing past and present funding data and the 3DI statewide needs assessment data, the subcommittee concluded that, at this time, the state should continue to rely on supplemental severance tax bonds as the permanent revenue stream for the public school capital outlay process and that for the foreseeable future these revenues should be sufficient to address the adequacy needs and to provide for a significant improvement in the condition of school facilities. Thus, the subcommittee is recommending that the task force does not need to request an alternative or supplemental permanent revenue source for the program in 2005.

However, because of the volatility and uncertainty of severance tax revenues upon which supplemental severance tax bonding capacity is based, the subcommittee is recommending that the state consider, on a year-by-year basis, using severance tax revenues that would otherwise flow to the severance tax permanent fund for supplemental severance tax bonds for public school capital outlay purposes. These funds could augment the regular revenue stream or could be

dedicated to other, high-priority projects. In addition, the subcommittee agreed that if projected bonding capacity falls substantially below the levels currently estimated on a longer-term basis, then the need for an additional revenue source should be revisited.

Some of the background information used by the subcommittee in reaching its recommendations is attached, including:

- Table 1, the schedule of severance tax bonding capacity through fiscal year 2009 (revised);
- Table 2, a summary of state fund allocations for fiscal years 2000-2005 (revised); and
- Table 3, a recap of current funding sources and uses for the public school capital outlay program, excluding the deficiencies correction program.

In terms of the question of revenue adequacy, the most significant information is that shown in Table 1, which contains the estimates for supplemental severance tax bonding capacity based on revised estimates by the State Board of Finance as of November 30, 2004. The table shows the following amounts available for the distribution to the public school capital outlay program fund:

- FY 2005 – \$135.2 million
- FY 2006 – \$131.4 million
- FY 2007 – \$134.2 million
- FY 2008 – \$125.3 million
- FY 2009 – \$123.5 million

The subcommittee also reviewed the findings in the 3DI statewide assessment that showed a \$2.3 billion backlog of facility needs, including funding needed to meet adequacy standards. It also showed that \$109 million a year in total funding (state and local) was needed to keep facilities at their current level of condition and that approximately \$220 million a year (state and local) would provide for a substantial improvement in the condition of the facilities as measured by the New Mexico condition index. The subcommittee concluded that, based on the current revenue projections and assuming an average state share of 50 percent, a \$220 million

annual funding level for projects should be sustainable.

2. The Need for a Working Capital Fund for the Public School Facilities Authority

The subcommittee endorsed a recommendation brought forth by the PSFA staff that the state should authorize a permanent working capital fund for use by the PSFA. This fund is critical for allowing the PSFA to maintain its current practice of paying project expenses within a 10-day period. The timely payment of obligations results in lower costs on projects and greater satisfaction and support from contractors and other claimants.

The PSFA currently uses the \$50 million general fund appropriation for the deficiencies correction program made in 2001 as a working capital fund. However, as the deficiencies correction projects are completed, the \$50 million will no longer be available to be used for this purpose.

The details of the size and source for the working capital fund had not been determined by staff. Thus, the subcommittee endorsed the need for the fund and requested staff to report back to the full task force on the details.

3. The Need for Additional Funding for the Deficiencies Correction Program

The subcommittee reviewed the status of the deficiencies correction program and discussed the need for completing the program and moving on to the long-term standards-based process. The principle question discussed by the subcommittee was whether additional funding for the program was needed in order for the state to meet its original commitment of fixing past inequities as evidenced in serious life, safety and health deficiencies identified in the spring of 2002 assessment process.

Staff had identified four options for completing the deficiencies correction program. However, the data supporting these options was not fully developed. Therefore, the subcommittee is not making a recommendation on this topic. Staff was asked to gather additional information on the options and report back to the full task force.

Table 1

Fiscal Year	(In Millions)	2004	2005	2006	2007	2008	2009
Senior Severance Tax Bonds (STB)							
Sources							
Long-term Bonds		74.5	85.8	85.7	85.8	85.8	85.8
Annual Sponge		<u>63.7</u>	<u>91.4</u>	<u>110.7</u>	<u>90.4</u>	<u>80.3</u>	<u>66.0</u>
Total Senior STB Capacity		<u>138.2</u>	<u>177.2</u>	<u>196.4</u>	<u>176.2</u>	<u>166.1</u>	<u>151.8</u>
Uses							
2004 Projects Funded		100.0					
Prior-year Projects Funded		3.7					
SHARE Project		10.0					
Public School Deficiencies		10.0					
Authorized/Unissued			18.3				
North and South Valley Sewers - Bernalillo County		2.0	2.0	2.0	2.0	2.0	2.0
10% Allocated to Water Trust Fund Board		<u>12.5</u>	<u>17.7</u>	<u>19.6</u>	<u>17.6</u>	<u>16.6</u>	<u>15.2</u>
Sub-total		<u>138.2</u>	<u>38.0</u>	21.6	19.6	18.6	17.2
Net New Capacity - Senior STB Projects			139.2	174.8	156.6	147.5	134.6
Total Senior STB Capacity		<u>138.2</u>	<u>177.2</u>	<u>196.4</u>	<u>176.2</u>	<u>166.1</u>	<u>151.8</u>
Supplemental STB Capacity							
Sources							
Long-term Bonds		10.1	10.5	10.0	10.0	10.0	10.0
Annual Sponge		<u>151.8</u>	<u>124.7</u>	<u>121.4</u>	<u>124.2</u>	<u>115.3</u>	<u>113.5</u>
Total Supplemental STB Capacity		<u>161.9</u>	<u>135.2</u>	<u>131.4</u>	<u>134.2</u>	<u>125.3</u>	<u>123.5</u>
Uses							
PSCOC Projects Funded		104.8					
Public School Deficiency Corrections		<u>57.0</u>					
SB9			13.2				
Lease Awards			1.8				
Prior Certifications			<u>3.2</u>				
Sub-total Designated Funds		<u>161.8</u>	18.2	0.0	0.0	0.0	0.0
Net New Capacity - Supplemental STBs			117.0	131.4	134.2	125.3	123.5
Total Supplemental STB Capacity		<u>161.8</u>	<u>135.2</u>	<u>131.4</u>	<u>134.2</u>	<u>125.3</u>	<u>123.5</u>
Grand Total Capital Capacity		<u>300.0</u>	<u>312.4</u>	<u>327.8</u>	<u>310.4</u>	<u>291.4</u>	<u>275.3</u>

Table 2

TABLE 2
SUMMARY OF STATE FUND ALLOCATIONS
FOR PUBLIC SCHOOL CAPITAL OUTLAY
FISCAL YEARS 2000-2005
(millions of dollars)

SB 9 State Guarantee and Minimum Distribution	\$58.8
Critical Capital Outlay Projects	395.1
Continuation Projects (to date)	73.8
Standards-Based Projects (1)	85.9
Deficiency Correction Projects (2)	243.6
Full-Day Kindergarten Facilities (3)	13.3
Grants for Lease Payment Assistance	1.8
Administrative Costs (4)	11.0
Local Funds from 20% Reduction in Credit for Impact Aid, Forest Reserve and Local Property Tax Revenues (5)	<u>87.1</u>
 Total	 \$970.4

1. The FY 05 grant awards totaled \$124.7 million, of which \$85.9 million is the estimated amount of funds to be allocated in FY 05.

2. This includes \$227.1 million of funds allocated through October 2004 and an estimated \$24.4 million of funds remaining to be allocated by the Public School Capital Outlay Council (PSCOC) in FY 05.

3. This includes \$5 million appropriated to the State Department of Education in Laws 2001, Chapter 338 plus \$8.3 million allocated by the PSCOC in 2004 as part of its full-day kindergarten initiative.

4. This includes \$1.3 million for the additional costs of the statewide assessment, \$5.4 million in costs for the deficiencies correction program through FY 04 and an estimated total cost for the Public School Facilities Authority, including costs for the deficiencies correction program, for FY 05 of \$4.3 million.

5. This reflects actual revenues for FY 00 - 03 as reported by the Public Education Department and estimated revenues for FY 04 - 05.

Table 3

**PUBLIC SCHOOL CAPITAL OUTLAY PROGRAM
RECAP OF CURRENT FUNDING SOURCES AND USES**

**PUBLIC SCHOOL CAPITAL OUTLAY FUND
(excluding deficiencies correction program)**

Revenue Sources

- * Proceeds of supplemental severance tax bonds
- * Annual capacity based on using 95% of prior year revenues less up to 50% used for senior bonds
- * Current estimates -- \$135 million for FY 05 declining to \$123.5 million for FY 09
- * Standing statutory authorization subject to certification of need by the Public School Capital Outlay Council (PSCOC)
- * Other amounts appropriated by the Legislature -- \$57 million in supplemental severance tax "sweep" bonds in 2004 for continuation projects and for deficiencies correction projects, of which \$39.5 million was allocated by PSCOC for continuation projects and \$17.5 million for deficiencies correction projects

Uses

Senate Bill 9 (SB 9, Public School Capital Improvements Act)

- * State guarantee distribution of \$50 per mill per unit
- * State minimum distribution of \$5 per mill per unit
- * Total currently amounts to about \$13.2 million a year
- * Amounts indexed beginning July 1, 2005
- * PSCOC may increase SB 9 amounts without additional legislation if they determine that amount of money available in the fund exceeds the amount needed to fund projects, provided increase may not result in state's share exceeding 1/2 of local revenues generated

Public School Facilities Authority (PSFA) Operating Costs

- * Balances may be annually appropriated for the core administrative functions of the PSFA
- * Balances may be expended for project management expenses
- * Total administrative expenses cannot exceed 5% of annual average grant assistance amounts over three previous years
- * Current PSCOC rules limit administrative expenses to 3%
- * FY 05 budget (with proposed budget adjustment request) is \$1.5 million for core expenses and \$2.8 million for project oversight for a total of \$4.3 million. Of this, \$3.1 is allocated to the deficiency correction program. The total budget is 2.47% of annual average grant assistance amount; the project oversight budget is 1.59%

PSCOC Awards for Lease Payments

- * Up to \$4 million a year for FY 05 - FY 09

- * Amount cannot exceed \$300 per member based on prior year enrollment or actual lease payment
- * For FY 05, awards amounted to \$1.8 million

PSCOC Purchase of Portables

- * No funds have been expended from the fund for this purpose to date (except for portables for full-day kindergarten program, which were expended from deficiencies correction funds)

PSCOC Grant Awards

- * Critical capital outlay continuation projects have priority for 2 more years
- * State-share amount for standards-based projects
- * Emergency grants when the health or safety of students or staff is threatened or when there is a threat of significant property damage

Other Uses Appropriated by the Legislature

- * \$22 million appropriated for the completion of continuation projects in Gadsden, contingent on \$57 million special appropriation for continuation and deficiency projects

REPORT
of the
MAINTENANCE SUBCOMMITTEE
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

The Maintenance Subcommittee met on September 16 and December 6, 2004 and considered the following items:

1. the total expenditures on maintenance from all sources of funds;
2. changes in the SB9 millage rate and state guarantee amount;
3. conversion to the National Council of Education Statistics (NCES) accounting system;
4. public School Facilities Authority (PSFA) efforts to capture maintenance information;
5. the use of SB9 funds for education technology activities and potential new sources of revenue for education technology; and
6. the New Mexico Public School Insurance Authority (NMPSIA) cooperation with the PSFA.

The following is a brief summary of the findings of the subcommittee on these topics.

1. The Total Expenditures on Maintenance from All Sources of Funds

For each of the past two years more than \$18 million per year has been spent on maintenance from all sources of funds statewide (see attachment A). Although we know the amount spent on maintenance, we cannot at present determine if the amount is adequate or how much of the \$18 million is expended on preventive maintenance as opposed to capital improvements for which SB9 may also be used. It was noted that SB9 funds have supplanted some of the general fund dollars that had been used for maintenance because of the shortage of general fund dollars.

2. Changes in the SB9 Millage Rate and State Guarantee Amount

At the existing 2 Mil levy, an increase in the state guarantee from \$50.00 to \$60.00 would cost approximately \$6 million. This increase would raise the state share from its current 18 percent of SB9 funding to 27 percent of the total (see attachment B). The subcommittee also reviewed possible changes in the millage rate.

3. Conversion to the National Council of Education Statistics (NCES) accounting system

The current Public Education Department (PED) system of accounting for school

expenditures lacks sufficient detail in certain areas related to maintenance. The PED will attempt to address this by fine-tuning the chart of accounts. The PED anticipates conversion to the NCES accounting system by July 2006.

4. Public School Facilities Authority Efforts to Capture Maintenance Information

The subcommittee recognized the need for more detailed maintenance information. The PSFA developed a web-based maintenance information system that consisted of 10 forms that school districts were asked to fill in. Data collected focused on roof maintenance and included contact information, identification of maintenance staff and contract maintenance, funding requirements for maintenance, preventive maintenance schedules, utility costs and roof conditions. This effort was regarded as a precursor to development of a Facility Information Management System (FIMS). The FIMS system was presented to the Maintenance Subcommittee as a way to obtain standardized and detailed information on maintenance efforts statewide and allow for greater oversight.

5. The Use of SB9 Funds for Education Technology Activities and Potential New Sources of Revenue for Education Technology

A review of the past three years of SB9-related expenditures reveals that not more than 15 to 20 percent of these funds are spent on education technology-related activities (see attachment C). For the 2003-2004 school year, less than \$15 million of the \$71.4 million in SB9 expenditures was used for education technology.

The subcommittee received testimony concerning the lack of education technology standards and the need for connectivity within the classroom. A Public Education Department initiative to expand distance learning opportunities would be facilitated if additional education technology resources were made available. The subcommittee noted that if additional resources could be made available for education technology, existing SB9 funds could be directed toward maintenance activities. As a way to provide additional funds for education technology and thus relieve the pressure on the fund available for maintenance, the subcommittee discussed several potential sources of new revenue for education technology, including a non-recurring general fund appropriation that could serve as a short-term infusion of funds to address educational technology infrastructure deficiencies and a 1 Mil statewide property tax assessment that could be distributed statewide to address ongoing infrastructure deficiencies (approximate new revenue would be \$32 million). Also discussed was the relationship between direct capital appropriations and the education technology fund offset. The subcommittee learned that the

offset is impacting operational funding and not necessarily hardware, i.e., capital.

6. New Mexico Public School Insurance Authority Cooperation with the PSFA

The PSFA and NMPSIA described their cooperative relationship. It was suggested that NMPSIA should adopt PSFA's standards, especially for roof repair or replacement, because 59 percent of all insurance claims are related to water damage. NMPSIA indicated its willingness to do so.

Recommendations of the Maintenance Subcommittee:

- Ultimately, improved maintenance will reduce the need for capital appropriations; therefore, in order to address the need for comprehensive maintenance information and to promote preventive maintenance and enhanced oversight, the subcommittee endorses a request for \$2,062,000 of non-recurring general fund for implementation of the Facility Information Management System (FIMS) to be administered by the PSFA.
- An issue identified by the subcommittee, but as yet unresolved, is a method for requiring districts to participate in the implementation and use of the FIMS.
- Although the exact amount needed for maintenance has not yet been determined, the subcommittee concluded that additional resources are needed now and endorsed a fiscal year 2006 increase in the SB9 state guarantee to \$60 per pupil.
- Because of new information concerning the unintended consequences of the education technology offset, the subcommittee endorsed a shift in the direct appropriation offset from the educational technology fund distribution to the capital outlay allocations; this would also involve a transfer of carryforward education technology offsets to capital outlay allocations.
- The subcommittee concluded that maintenance could be improved if competition for scarce financial resources was reduced and that there is a need for education technology adequacy standards; therefore, the subcommittee endorsed a non-recurring general fund infusion and a 1 Mil statewide property tax levy to be earmarked for a new education technology deficiency correction program to ensure that all schools have the appropriate technology infrastructure with the facilities to provide a good education to all New Mexico students.
- A suggestion that was advanced *without recommendation* was to divert from the general fund the gross receipts tax revenue collected from school construction projects, which

revenue could then be put in a fund and distributed statewide for maintenance purposes.

Attachment A

Actual Expenditures by Year Maintenance & Repair - Buildings and Grounds					
Source of Funds	2002	2003	2004	% Change 03 vs. '02	% Change 04 vs. '03
Ed. Tech. Equip. Act	0	31,436	6,267	NA	-80.1%
Energy Efficiency Act	780,221	737,435	659,780	-5.5%	-10.5%
General-Operational	3,649,800	4,452,699	2,536,387	22.0%	-43.0%
General-Teacherage	70,343	79,237	51,532	12.6%	-35.0%
General-Transportation	171,943	122,082	311,806	-29.0%	155.4%
PSCOC-20%	743,641	1,506,940	1,262,463	102.6%	-16.2%
SB9	9,705,610	11,120,676	13,605,713	14.6%	22.3%
Special Revenue	955	2,881	12,407	201.6%	330.6%
Total	15,122,512	18,053,386	18,446,355	19.4%	2.2%

Attachment B

DISTRICTS	PROJECTED STATE MATCH	PROJECTED STATE MATCH
	FOR 2004-2005	FOR 2004-2005
	2 MILS @ \$50 WITH \$5 MINIMUM	2 MILS @ \$60 WITH \$5 MINIMUM
ALAMOGORDO	272,628	507,452
ALBUQUERQUE	1,638,823	1,638,823
ANIMAS	23,364	39,794
ARTESIA	66,626	66,626
AZTEC	57,540	57,540
BELEN	200,975	382,251
BERNALILLO	74,011	196,646
BLOOMFIELD	58,216	58,216
CAPITAN	12,687	12,687
CARLSBAD	128,897	128,897
CARRIZOZO	6,123	14,634
CENTRAL	132,856	325,325
CHAMA	13,951	13,951
CIMARRON	14,694	14,694
CLAYTON	14,795	14,811
CLOUDCROFT	11,039	11,039
CLOVIS	642,998	923,510
COBRE	80,927	155,107
CORONA	2,893	2,893
CUBA	118,424	156,980
DEMING	373,257	562,862
DES MOINES	12,079	21,063
DEXTER	134,803	177,795
DORA	20,762	33,554
DULCE	13,389	13,389
ELIDA	4,578	11,848
ESPANOLA	140,257	334,332
ESTANCIA	59,519	99,191
EUNICE	12,130	12,130
FARMINGTON	169,361	169,361
FLOYD	46,443	60,622
FT. SUMNER	14,777	32,160
GADSDEN	1,401,374	1,886,840
GALLUP	1,206,040	1,669,377
GRADY	22,046	29,339
GRANTS	286,937	430,908
HAGERMAN	65,098	86,580
HATCH	211,866	272,736
HOBBS	121,176	147,611
HONDO	4,029	9,553
HOUSE	29,258	38,221
JAL	10,298	10,298
JEMEZ MTN.	10,741	10,741
JEMEZ VALLEY	24,182	51,672
LAKE ARTHUR	12,738	22,019
LAS CRUCES	807,958	1,656,378
LAS VEGAS CITY	96,020	186,030
LAS VEGAS WEST	209,035	298,952
LOGAN	14,174	26,773

LORDSBURG	16,767	18,210
LOS ALAMOS	69,580	69,580
LOS LUNAS	735,412	1,061,854
LOVING	13,622	13,622
LOVINGTON	54,888	54,888
MAGDALENA	81,766	104,042
MAXWELL	20,897	27,998
MELROSE	35,440	49,774
MESA VISTA	47,442	75,217
MORA	57,656	88,476
MORIARTY	77,393	223,771
MOSQUERO	2,154	2,154
MOUNTAINAIR	32,037	49,869
PECOS	91,646	139,970
PENASCO	83,222	113,331
POJOAQUE	120,187	193,202
PORTALES	191,101	291,114
QUEMADO	4,981	4,981
QUESTA	15,594	15,594
RATON	67,242	122,357
RESERVE	5,942	9,689
RIO RANCHO	196,685	458,702
ROSWELL	455,606	799,130
ROY	19,187	25,353
RUIDOSO	50,275	50,275
SAN JON	26,281	35,750
SANTA FE	237,362	237,362
SANTA ROSA	37,485	74,585
SILVER CITY	66,617	104,623
SOCORRO	144,303	218,742
SPRINGER	13,092	25,600
TAOS	64,252	64,252
TATUM	7,970	7,970
TEXICO	46,405	71,117
T OR C	30,698	30,698
TUCUMCARI	95,602	143,171
TULAROSA	123,512	167,782
VAUGHN	3,329	3,329
WAGON MOUND	33,079	46,000
ZUNI	354,384	426,182
TOTAL	12,937,880	18,804,525

Attachment C

Comparison of SB9 Percentage Spending: School Year 2001-2002 vs. 2002-2003				
District	01 - 02	02 - 03	01 - 02	02 - 03
	% Ed. Tech. Spending	% Ed. Tech. Spending	% Activity Bus Spending	% Activity Bus Spending
ALAMOGORDO	0.0%	0.0%	0.0%	0.0%
ALBUQUERQUE	3.4%	11.8%	0.0%	0.0%
ANIMAS	17.5%	0.0%	0.0%	0.0%
ARTESIA	23.3%	30.2%	1.8%	0.1%
AZTEC	39.4%	58.8%	0.0%	0.0%
BELEN	30.9%	37.0%	0.0%	0.0%
BERNALILLO	13.9%	15.2%	0.0%	15.3%
BLOOMFIELD	21.6%	22.7%	0.0%	0.0%
CAPITAN	32.0%	34.7%	13.5%	0.0%
CARLSBAD	25.8%	15.3%	0.0%	0.0%
CARRIZOZO	36.1%	82.5%	0.0%	0.0%
CENTRAL	14.5%	13.3%	0.0%	3.6%
CHAMA VALLEY	38.6%	9.4%	0.0%	0.0%
CIMARRON	23.7%	2.4%	0.0%	0.0%
CLAYTON	4.9%	54.2%	25.5%	0.0%
CLOUDCROFT	33.8%	28.8%	0.0%	0.0%
CLOVIS	75.2%	36.4%	1.9%	0.0%
COBRE	0.0%	70.3%	0.0%	2.9%
CORONA	11.3%	6.0%	0.0%	0.0%
CUBA	0.4%	2.0%	0.0%	0.0%
DEMING	29.2%	32.0%	0.0%	0.0%
DES MOINES	7.2%	7.1%	0.0%	0.0%
DEXTER	1.4%	8.1%	37.4%	0.0%
DORA	2.7%	8.4%	0.0%	31.4%
DULCE	0.0%	NA	0.0%	NA
ELIDA	4.4%	3.2%	71.2%	0.0%
ESPANOLA	8.8%	2.9%	0.0%	0.0%
ESTANCIA	0.0%	0.0%	0.0%	0.0%
EUNICE	37.6%	12.4%	2.7%	4.9%
FARMINGTON	25.6%	13.8%	0.0%	0.0%
FLOYD	0.0%	53.1%	0.0%	0.0%
FT. SUMNER	49.0%	36.3%	0.0%	0.0%
GADSDEN	41.3%	27.7%	0.0%	0.0%
GALLUP	7.6%	8.6%	0.0%	0.0%
GRADY	59.5%	27.4%	0.0%	0.0%

**Comparison of SB9 Percentage Spending: School Year 2001-2002 vs.
2002-2003**

District	01 - 02	02 - 03	01 - 02	02 - 03
	% Ed. Tech. Spending	% Ed. Tech. Spending	% Activity Bus Spending	% Activity Bus Spending
GRANTS	38.6%	38.2%	0.0%	0.0%
HAGERMAN	49.2%	45.2%	0.0%	0.0%
HATCH	36.7%	33.2%	0.0%	0.0%
HOBBS	33.9%	36.0%	0.0%	0.0%
HONDO VALLEY	0.0%	0.0%	66.8%	0.0%
HOUSE	0.0%	0.0%	0.0%	0.0%
JAL	46.4%	18.5%	0.0%	0.0%
JEMEZ MOUNTAIN	25.3%	15.2%	0.0%	0.0%
JEMEZ VALLEY	1.4%	7.5%	0.0%	25.0%
LAKE ARTHUR	5.6%	22.2%	0.0%	0.0%
LAS CRUCES	25.7%	26.2%	0.0%	0.0%
LAS VEGAS CITY	13.7%	20.8%	0.0%	0.0%
LAS VEGAS WEST	25.0%	16.7%	0.0%	6.9%
LOGAN	3.5%	0.0%	5.8%	0.0%
LORDSBURG	38.2%	10.3%	0.0%	0.0%
LOS ALAMOS	NA	NA	NA	NA
LOS LUNAS	24.6%	21.9%	0.0%	0.0%
LOVING	39.9%	30.3%	0.0%	0.0%
LOVINGTON	24.0%	66.8%	15.9%	0.0%
MAGDALENA	26.3%	54.1%	0.0%	0.0%
MAXWELL	87.0%	74.3%	0.0%	0.0%
MELROSE	32.7%	0.0%	0.0%	61.9%
MESA VISTA	2.1%	6.9%	0.0%	4.1%
MORA	0.0%	0.0%	0.0%	0.0%
MORIARTY	16.6%	29.6%	0.0%	0.0%
MOSQUERO	45.7%	0.0%	0.0%	0.0%
MOUNTAINAIR	20.9%	32.8%	15.6%	0.0%
PECOS	50.7%	30.0%	0.0%	0.0%
PENASCO	32.6%	87.9%	36.5%	0.0%
POJOAQUE	6.5%	0.0%	0.0%	0.0%
PORTALES	48.6%	33.2%	0.0%	0.0%
QUEMADO	40.5%	10.2%	0.0%	44.3%
QUESTA	2.9%	0.6%	0.0%	0.0%
RATON	0.0%	44.2%	0.0%	0.0%
RESERVE	NA	NA	NA	NA
RIO RANCHO	36.3%	50.2%	0.0%	0.0%

**Comparison of SB9 Percentage Spending: School Year 2001-2002 vs.
2002-2003**

District	01 - 02	02 - 03	01 - 02	02 - 03
	% Ed. Tech. Spending	% Ed. Tech. Spending	% Activity Bus Spending	% Activity Bus Spending
ROSWELL	20.6%	38.9%	4.1%	0.0%
ROY	0.0%	0.0%	0.0%	0.0%
RUIDOSO	17.8%	9.5%	0.0%	0.0%
SAN JON	48.4%	54.5%	0.0%	0.0%
SANTA FE	32.5%	27.0%	0.0%	0.0%
SANTA ROSA	24.4%	0.0%	0.0%	0.0%
SILVER CITY	20.5%	24.2%	0.0%	0.0%
SOCORRO	9.0%	18.0%	0.0%	0.0%
SPRINGER	41.1%	23.1%	0.0%	0.0%
TAOS	28.9%	12.5%	8.6%	0.0%
TATUM	20.9%	17.6%	0.0%	0.0%
TEXICO	2.6%	3.4%	0.0%	0.0%
TRUTH OR CONS.	49.1%	20.9%	15.4%	0.0%
TUCUMCARI	28.1%	20.1%	0.0%	49.4%
TULAROSA	24.7%	35.6%	17.0%	0.0%
VAUGHN	0.0%	0.0%	0.0%	0.0%
WAGON MOUND	4.1%	5.1%	0.0%	0.0%
ZUNI	10.0%	30.9%	0.0%	0.0%
STATEWIDE WEIGHTED				
AVG.	20.7%	21.9%	1.1%	0.9%

Appendix B

2004 Interim Work Plan

2004 APPROVED
WORK PLAN, MEETING SCHEDULE AND BUDGET
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

Statutory Authority and Duties

The public school capital outlay task force was re-created by Laws 2004, Chapter 125 following the statutory expiration of the previous task force that was created by Laws 2001, Chapter 338. The task force consists of 20 members, including members of the legislature, public members who have expertise in finance and education, superintendents of school districts or their designees from districts that receive federal impact aid grants and certain designated public officials. The task force is to report the results of its analyses, findings and recommendations to the governor and the legislature prior to the beginning of the first session of the forty-seventh legislature. The statutory authority for the task force expires on July 1, 2005.

The duties of the task force, as set forth in the legislation, are to:

1. study and evaluate the progress and effectiveness of programs administered pursuant to the Public School Capital Outlay Act and the Public School Capital Improvements Act;
2. review the condition index and the methodology used for ranking projects;
3. evaluate the existing permanent revenue streams as adequate long-term funding sources for public school capital outlay projects; and
4. monitor and assist the public school capital outlay council and the public school facilities authority as they perform functions pursuant to the Public School Capital Outlay Act, particularly as they implement the statewide-based process for making grant awards.

Membership

Legislative members:

- Senator Ben D. Altamirano, chair of the senate finance committee
- Representative Larry A. Larranaga, minority member of the house of representatives
- Senator Carroll H. Leavell, minority member of the senate
- Representative Rick Miera, chair of the house education committee
- Senator Cynthia Nava, chair of the senate education committee
- Representative Henry Kiki Saavedra, deputy chair of the house appropriations and finance committee

Designated public officials

- Deborah Gallegos, designee of the state investment officer
- Veronica Garcia, secretary of public education, or her designee
- Robert J. Desiderio, designee of the dean of the university of New Mexico law school
- James Jimenez, secretary of finance and administration, or his designee

Appointed members:

- Odis Echols
- Pancho Guardiola
- Leonard Haskie
- Robert G. Heyman
- Kilino Marquez
- Rey S. Medina
- Tony Monfiletto
- James "Bud" Mulcock
- Neil Nuttall
- Norman Suazo

Advisory member:

- Representative Ben Lujan

2004 Interim Work Plan

In order to accomplish the duties set forth in the legislation, the task force proposes to

complete its work during the 2004 interim by focusing on the following areas:

- Assist the public school capital outlay council (PSCOC) and the public school facilities authority (PSFA) as they perform functions pursuant to the Public School Capital Outlay Act, particularly as they implement the statewide standards-based process for making grant awards

The task force will review the guidelines, procedures and reporting requirements adopted by the PSCOC for implementing the new, standards-based capital outlay program. The focus of the review will be to ensure that the current year pilot program being implemented by the PSCOC and the PSFA is being done in a fair, efficient and effective manner and that the outcome of the new process will accomplish the goal of a statewide uniform system of public school capital outlay funding. The task force will also continue to review any proposed changes to the standards adopted by the PSCOC.

The task force will continue to assist the PSCOC in strengthening the preventive maintenance programs of the school districts by reviewing the funding and authorized expenditures under the Public School Capital Improvements Act (SB 9) and any other funds budgeted for maintenance purposes. The task force will consider other issues related to the cost of providing and maintaining school facilities, including the interface between programs administered by the PSCOC and the New Mexico public school insurance authority and any federal programs and requirements related to school facilities.

The task force will continue to monitor the progress of the PSCOC in implementing the deficiencies correction program. It will also review the PSCOC kindergarten initiatives project and the newly funded program for assistance for lease payments for classroom space.

If requested, the task force will hear from local school districts about concerns or questions related to the implementation of the programs administered by the PSCOC.

- Conduct a review of the New Mexico condition index and the methodology used for ranking projects

The task force will review the final report submitted by 3D International (3DI) that calculates a New Mexico condition index (NMCI) to reflect the relative condition of each school in the state and the weighted NMCI that will be used to prioritize projects. The task force will receive periodic reports from the PSCOC and PSFA on the use of the index and on the plans and procedures for the state and local school districts to maintain the database from which the index is calculated. It will assist the PSCOC in examining the weighting system to ensure that the funding of projects based on the weighted NMCI results in equity and balance among need priorities.

- Re-examine the existing permanent revenue streams for public school capital outlay projects to determine long-term adequacy.

The task force will use the statewide assessment of school facilities completed by 3DI to develop a proposed strategic plan for bringing all of the state's schools up to the adequacy standards within a reasonable time frame. The plan will include an assessment of the total need, a methodology for measuring progress and options for providing the level of funding necessary to implement the plan. Once the strategic plan has been developed, the task force will work with the PSCOC to develop an income and expense cash flow budget for the next 10 years.

The task force will hear from state finance experts about projected levels of severance tax revenues and the supplemental severance tax bonding capacity, especially in terms of expected long-term trends. The task force will analyze the need for other long-term funding sources and, if existing revenue sources do not appear adequate, will evaluate the advantages and disadvantages of various funding options. Part of this review will be the use of local and federal revenues available for capital outlay projects and the share of state and local funding resulting from the implementation of the current state share formula.

The task force will review the work of the previous task forces in the funding area and will re-evaluate funding options in light of additional information on the level of needs and legislative and other feedback on the suitability of the options. As in the past, the evaluation of each funding option will take into account:

1. any short-term and long-term effects upon the general fund;

2. any potential impact upon other capital outlay needs of the state, including the institutions of higher education, and local political subdivisions; and
3. any potential impact upon the current citizens and businesses of the state as well as the future economic development potential of the state.
 - Review the recommendations of the legislative education study committee (LESC) task force on charter schools as they pertain to the facility needs of charter schools.

The task force will receive a report from the LESC on the deliberations and recommendations of the LESC task force on charter schools as they pertain to charter school facilities, including funding issues, requirements for charter approval, use of district facilities and resolution of disputes with the district. The public school capital outlay task force will provide input into the recommendations aimed at ensuring that they are consistent with the statewide, standards-based program administered by the PSCOC.

Meeting Schedule and Budget

<u>DATE</u>	<u>LOCATION</u>
May 18	Albuquerque
August 30	Albuquerque
September 16	Albuquerque
October 14	Albuquerque
November 11-12	Santa Fe
December 20-21	Santa Fe
TOTAL BUDGET	\$15,000.00

Appendix C

Meeting Agendas and Minutes of Meetings

TENTATIVE AGENDA
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

January 17, 2004
Room 307, State Capitol
Santa Fe

Saturday, January 17

10:00 a.m. CALL TO ORDER

—Representative Rick Miera, Co-chair

OVERVIEW OF MEETING TOPICS AND LOGISTICS

—Staff

10:15 a.m. REVIEW OF PROPOSED PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL
(PSCOC) AWARDS PROCESS

—Paula Tackett, Member, PSCOC

—Tim Berry, Public School Facilities Authority (PSFA)

10:45 a.m. REVIEW OF STATEWIDE ASSESSMENT DATA

- SPECIAL REPORTS

- Charter Schools, including PSCOC variances from the standards

- Full Day Kindergarten Facilities

- Use of Portables

- GROWTH FACTORS

- PRELIMINARY RANKINGS

- TOTAL COSTS

- Bob Gorrell and Bill Sprick, PSFA

- Winton Smith and John Oualline, 3D International

11:30 a.m. CRITICAL CAPITAL OUTLAY CONTINUATION PROJECTS

—Bill Sprick, PSFA

(Working Lunch)

12:00 noon REVIEW OF DRAFT LEGISLATION AND ADOPTION OF
RECOMMENDATIONS

- THE "GENERAL" PUBLIC SCHOOL CAPITAL OUTLAY BILL
- CHARTER SCHOOL BILLS

—Staff

4:00 p.m. ADJOURN

MINUTES
of the
JANUARY 2004 (UNOFFICIAL²) MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

January 17, 2004
Room 307, State Capitol
Santa Fe

Representative Rick Miera, co-chair, and Robert Desiderio, co-chair, called the meeting of the public school capital outlay task force to order at 9:40 a.m. on Saturday, January 17, 2004, in room 307 of the state capitol.

PRESENT

Robert Desiderio, co-chair
Rep. Rick Miera, co-chair
Sen. Ben D. Altamirano
Rep. Max Coll
Sen. Carroll H. Leavell
Sen. Cynthia Nava
Odis Echols
Veronica Garcia
Leonard Haskie
James Jimenez
Kilino Marquez
Rey Medina
Tony Monfiletto

ABSENT

Gary Bland
Pancho Guardiola
Rep. Larry A. Larranaga
William McCarthy
Alan Morgan

Advisory member

Rep. Ben Lujan

²The statutory authority of the public school capital outlay task force was repealed effective January 1, 2004. Therefore, these minutes are not official, but represent a report of the actions and discussion during the meeting.

Bud Mulcock
Neil Nuttall
Norman Suazo

Staff

David Abbey, Legislative Finance Committee (LFC)
Sharon Ball, Legislative Education Study Committee (LESC)
Tim Berry, Public School Facilities Authority (PSFA)
Gary Carlson, Legislative Council Service (LCS)
Bob Gorrell, PSFA
Liz Holmes, LCS
Janet Peacock, LCS
Pauline Rindone, LESC
Bill Sprick, PSFA
Paula Tackett, LCS

Representative Miera and Mr. Desiderio, co-chairs, welcomed members and guests. The minutes of the November 24-25, 2003 meeting of the task force were approved. Paula Tackett reviewed the logistics of the meeting, including the need for a working lunch.

Senator Altamirano asked the task force to consider a motion to recommend funding of \$20 million for building Chapparral high school in the Gadsden school district. The motion was seconded by Senator Nava. Senator Altamirano noted the extreme need for this school based on his personal knowledge of it. Secretary Jimenez agreed that there is a significant need for this school. Ms. Tackett noted that initial funding for Chapparral high was approved by the public school capital outlay council (PSCOC) during the last grant award cycle and that the proposed legislation that the task force would be considering later has some provisions to address continuation funding for this school and for other projects that the PSCOC has partially funded. The task force indicated it would hold taking action on the motion until after consideration of the proposed legislation.

Review of the PSCOC Awards Process

Ms. Tackett, chair of the PSFA subcommittee of the PSCOC, and Tim Berry, deputy director of the PSFA, reviewed the proposed process that the PSCOC is considering to implement the standards-based process and several issues that are still to be resolved. Ms. Tackett noted that this is a preliminary proposal, as the PSCOC has not yet formally adopted a process. She stated that, for discussion purposes, the process has been broken down into four phases: pre-application, application, post-application review and analysis and grant awards. She noted that the goal of the PSCOC and staff is to strike the appropriate balance between PSFA statutory duties and local districts' autonomy.

Mr. Berry explained the proposed process in more detail. He noted that the project ranking system would be built around what he called the New Mexico condition index (NMCI) of the school, which is the new index calculated by 3D international (3DI) that measures the needs under the adequacy standards, including a factor for growth, and the traditional building renewal and replacement needs using the national building owners and managers association (BOMA) standards. The process would require PSFA staff to work with the districts to review and update the index for their individual schools and to try and ensure consistency between the information in the five-year plans and in the facilities database. Mr. Berry explained that it has been proposed that the NMCI would also be used to screen the potential pool of applications by informing districts of the highest ranked projects on the ranking list that could tentatively be funded within 150 percent of the projected available state funds. He also discussed the proposed appeals process that would give districts the opportunity to challenge PSFA initial rankings, the intent of the PSFA field review efforts and various issues related to the final grant award decision.

During the discussion period, Mr. Abbey, also a member of the PSCOC, expressed his opinion that the ranking process should continue to have some flexibility built into it. He noted that the PSCOC could not expect to "push a button" and get the right answer. The task force was reminded, however, that the court and the law requires funding based on deviation from the adequacy standards.

Review of Statewide Assessment Data

Bob Gorrell and Bill Sprick of the PSFA and John Oualline of 3DI provided a number of reports on the statewide assessment data. Copies of all handouts are in the meeting file.

Mr. Sprick began by reviewing the charter school analysis that shows the proposed variances from the adequacy standards that staff presented to the PSCOC and the actual variances granted by the PSCOC. He explained the rationale behind granting variances to charter schools and the factors that staff used in making their recommendations. During the discussion, staff was asked whether the 3DI report includes specific information on the needs of charter schools. Mr. Sprick said that this information is included in the database, but that there is not a separate run for charters.

Mr. Sprick also provided information on the funding needs for full-day kindergarten. He noted that a recent survey by the public education department shows that 117 classrooms are needed for full-day kindergarten. The estimated cost of providing these classrooms ranges from \$6.7 million using portables to \$21 million for permanent structures. In response to a question, Ms. Tackett noted that the adequacy standards include classroom space for kindergarten, as well as auxiliary needs such as playground equipment and fencing. In response to a question regarding funding for kindergarten, she also said that schools with insufficient space for kindergarten will not automatically rise to the top of the 3DI rankings, as this is only one factor included in the ranking. Mr. Gorrell added that insufficient kindergarten space, for example, will not be treated differently than insufficient space for a science classroom for the new science requirement.

Mr. Oualline reviewed the special report on the use of portables. He noted that the report shows a total of 666 portables at schools throughout New Mexico, comprising 3.3 million square feet of space. The 3DI lifecycle analyses use a useful life of 15 years as the baseline for portables. Individual portables are then evaluated against this baseline and for other specific repair costs. According to the 3DI report, the replacement cost for expired portables is \$230 million for replacement with new portables or \$296 million for replacement with permanent

construction. If all current portables, regardless of age, are replaced with permanent construction space, the cost would be \$457 million.

Mr. Gorrell reminded members that the updated statewide assessment includes the cost for additional space due to projected enrollment growth and provided a table showing the growth factors used in the analysis. He explained that the growth factor is calculated on a school-by-school basis, using the average growth in the 40-day membership over the 1998-2002 school years. It assumes 100 percent capacity. In response to questions, he noted that the table will not include new schools started after 2002 and that the growth factors will be a starting point for the PSFA and districts to use in the planning process. The purpose is to ensure that the relative rankings recognize the space needs in growing areas.

Mr. Gorrell then asked the members to turn their attention to the charts showing the statewide comparative rankings by district and by school. He explained that these are the preliminary rankings by 3DI and that the PSFA feels comfortable that the ranking using the "weighted + growth" index reflects the reality of the condition of the schools around the state. He noted that the "FCI" in the chart is no longer based on BOMA standards, but has been revised to include the costs of meeting the adequacy standards as well as projected enrollment growth. This new index should be renamed the NMCI. He also provided a chart showing the proposed weighting system.

Ms. Tackett briefly explained the rationale for the various columns on the charts, noting that at the last meeting, the task force asked staff to separate out the costs of meeting the adequacy standards from the costs of building renewal and replacement. This information is provided in the right-hand columns of the chart, both on a weighted and unweighted basis. She pointed out that when the task force discusses its recommendations on funding later in the meeting, this information will be addressed again.

Members looked at the rankings for a number of specific schools and discussed the relevant methodology and data. In response to a question about combined schools, Mr. Oualline

noted that 3DI will be breaking out the data separately for combined schools that share a campus but have separate facilities. Mr. Abbey noted that the replacement cost numbers need "to be taken with a grain of salt" and Mr. Gorrell agreed that they are not the project cost that the PSCOC will fund. They merely give an indication of need using a consistent methodology for all schools. Mr. Gorrell reiterated that the numbers are preliminary and that PSFA will be working with all the districts to refine them. Representative Miera commented that once the districts understand that the numbers will be used in making grant awards, he felt that they will be motivated to correct any errors and make sure the data reflects reality.

In closing, Mr. Oualline noted that the total need reflected on the charts amounts to \$2.3 billion. He said that this reflects a snapshot in time and represents the cost today of addressing the needs. If the state adopts a goal of addressing the needs over a 10-year period, the amounts will need to be increased by three percent per year for inflation and 2.75 percent per year for additional renewal and replacement costs. Mr. Gorrell added that it will cost \$140 million a year just to maintain schools in their current condition.

Critical Capital Outlay Continuation Projects

Mr. Sprick presented a table of continuation projects from the 2003-2004 PSCOC awards. A copy is in the meeting file. The task force had previously directed staff to review these projects and Mr. Sprick indicated that based on staff analysis and refinement of the projects, it will cost approximately \$65 million to fund these projects. Mr. Nuttall noted the importance of these projects for many schools, including two in his district that were not included to be funded. Ms. Tackett said that the proposed legislation authorizes the PSCOC to provide funding for continuation projects during a transition period.

Review of Proposed Legislation — The General Capital Outlay Bill

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed draft legislation. A copy of the legislation is in the meeting file. The following changes to the draft bill were discussed:

- With regard to the language in the legislative offset provisions (page 16), there was a discussion about the time period for school districts to accept or reject their direct

legislative appropriations. It was noted that there is no definite time period. The acceptance occurs when the certification is made to the state board of finance that the district is ready to begin the project and is thus requesting that the bonds be sold or general fund appropriations be allocated. It was agreed that the bill should provide a specific time limit for a school district to "reject" its direct legislative appropriations.

- On page 21, Subsection G, Representative Coll noted that there should not be an automatic appropriation to the PSFA for its operating budget, but that it should go through the regular appropriation process like all other agencies. Secretary Jimenez agreed that this is a preferable approach. It was agreed that the bill should say "may be appropriated" instead of "is appropriated".
- It was agreed that the language relating to continuation projects beginning on page 27 should be clarified to specify that it applies to projects partially funded by the PSCOC in the September 2003 allocation cycle. In addition, there was concern about an unlimited time period for funding the continuation projects, so it was agreed that it will be limited to three years. Finally, there was concern about limiting the funding for continuation projects to the "minimum amount necessary to meet the statewide adequacy standards". Senator Nava noted that this could conflict with the planning process upon which the project is initially funded. It was agreed to delete the word "minimum" and see if further clarification is needed.
- It was recommended that the language allowing the use of funds in the event of an emergency be tightened by requiring that the safety risk be an immediate risk.
- With respect to the language in Section 11, beginning on page 36, relating to the certification of need, Co-chair Desiderio explained that the 3DI data had been given to staff on Friday, January 16, and at about 9:00 p.m. Friday evening, this section had been drafted to address the new total costs reflected in the data, with a new proposal to have the goal of the state be to reduce the average NMCI from 36.87 to 25. The

goal of a statewide average of 25 was selected as representing a meaningful reduction taking into account the ability of the state to effectively manage the funds.

Mr. Desiderio said that upon reflection, he is now recommending that the task force not adopt this approach until further analysis could be done on the data. He said that he is not certain whether the proposal will enable the state to convince the court that all schools will be brought up to adequacy within a reasonable time period. He also said that the task force had initially been working on a conceptual framework that looked at bringing all schools up to adequacy within 10 years and reducing the statewide average facility condition index for building renewal and replacement to 20 percent. However, the new data shows greater-than-expected costs for meeting the adequacy standards and a facility condition index for building renewal and replacement well below the 20 percent target. In addition, staff learned that the base numbers do not include the appropriate escalation factors to evaluate need over a multi-year time frame. Given all these issues, Mr. Desiderio recommended that the task force continue to work on this issue over the next year. He said the PSCOC will continue moving forward with implementing the standards-based process on a pilot basis to see how the new process will work. In addition, it will address the continuation projects previously discussed. Since the legislation already includes provisions to keep the task force in operation for another year, this is consistent with that proposal.

The task force agreed with the recommendation of Mr. Desiderio and directed staff to rewrite this section appropriately.

- On page 42, it was noted that Section 14, the duties of the public school capital outlay task force, duplicates Section 22 and should be stricken.
- On page 47, Section 16 of the bill allows for a mediation process for resolving disputes over the five-year facilities plan. A number of task force members expressed concern about the potential proliferation of requests for mediation using

this provision and about requiring the secretary of public education to make final decisions in these disputes. After considerable discussion, it was agreed to remove this section, but to insert language supporting the establishment and use of a dispute resolution process within each district to address concerns about the facilities master plan.

- On pages 53 through 55, the indexation of the SB 9 amounts should be changed to increase the guarantee amount to \$60.00 per unit per mill for fiscal year 2005 and then index both this amount and the \$5.00 minimum amount to the CPI beginning in fiscal year 2006.
- On page 57, it was explained that the proposed membership of task force has been reduced by eliminating members who had not participated in the past year. This includes the state investment officer and the dean of the college of engineering at New Mexico state university. Ms. Ball noted that it is her impression that Ms. Deborah Gallegos, the deputy state investment officer who attended the task force meeting on November 24, expressed a desire to continue to participate. Staff was requested to contact the state investment officer and determine if he or his designee wishes to serve on the task force. If so, he will be retained.

The task force voted to recommend this bill with these changes.

Review of Proposed Legislation — The Charter School Bills

Ms. Tackett explained that there are three bills relating to charter schools — the bill discussed at the previous meeting that encompasses the recommendations of the charter school subcommittee, a bill drafted at the request of Secretary Jimenez that addresses the issue of lease payments for charter schools and a bill drafted at the request of the public education department that provides funds to charter schools on a per-member basis to match federal funds available for facilities of charter schools.

Ms. Tackett explained the three bills. Task force members discussed the similarities and differences between the bill earmarking \$3 million for lease payments and the bill earmarking \$5 million to match federal funds to be distributed on a per-pupil basis. In response to questions, Dr. Michael Kaplan from the public education department provided additional information about the federal funds appropriated by congress under the No Child Left Behind Act of 2001 that will be awarded through a competitive application process to states that provide assistance to charter schools for their capital outlay needs. After considerable discussion, it was agreed to endorse the idea of allowing up to \$3 million per year to be appropriated from the public school capital outlay fund for lease payments for charter schools and to specify that these funds could be used to match federal funds under the No Child Left Behind Act of 2001. The lease payment assistance would be a transitional program that would expire in 2009 when all charter schools are intended to be in public buildings. Ms. Tackett noted that from a drafting perspective, these provisions should be included in the general capital outlay bill rather than the charter school bill. The task force accepted this recommendation.

In terms of the charter school bill, the following changes were discussed:

- There was considerable discussion about the requirement on page 3, lines 23 through 25, for the accounting services for a charter school to be performed by the school district. Members expressed concern that this requirement is too broad and should be targeted to those schools that have repeated financial problems and audit exceptions. It was also noted that school districts may oppose this requirement if they feel that they are being forced to provide these services without compensation. In the end, a motion was passed to delete the provision entirely. Some members felt that this is a serious problem that needs to be addressed and Ms. Tackett said that staff will draft an amendment that could be proposed that would require the district to provide accounting services when certain events trigger the need.
- On page 6, line 7, language should be added to clarify that a charter school that maintains separate facilities at two or more locations within the same school district

is considered a single school for purposes of the factors in the funding formula.

- On page 7, line 10, it was agreed to change March 2004 to July 2004, since the March date would require the bill to pass with an emergency clause.

The task force voted to recommend the charter school bill with these changes. It also accepted a motion to allow staff to make other necessary changes to both the general capital outlay bill and the charter school bill to carry out the intent of the task force.

Senator Nava reminded members that Senator Altamirano had asked the task force to consider a motion to recommend a \$20 million appropriation for construction of the Chapparral high school in the Gadsden school district. There was discussion about the need for this motion given the provisions in the proposed legislation that give priority to funding for continuation projects over the next three years. Senator Nava expressed her concern that the PSCOC still has considerable discretion to determine what is a continuation project and at what level it should be funded. The task force adopted a substitute motion to request the PSCOC to carefully review all of the projects that qualify as continuation projects to ensure that the rationale for the initial funding decision is going to be upheld.

The meeting was adjourned at 4:45 p.m.

Revised: May 17, 2004

TENTATIVE AGENDA
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

May 18, 2004
Continuing Education Building, Room C
University of New Mexico
Albuquerque

Tuesday, May 18

9:30 a.m. CALL TO ORDER AND INTRODUCTION OF MEMBERS

—Rep. Rick Miera and Robert Desiderio, 2003 Co-chairs

9:35 a.m. ELECTION OF 2004 CO-CHAIRS

9:45 a.m. 2004 LEGISLATIVE UPDATE

—Laws 2004, Chapter 125

—Funding for Deficiencies and Continuation Projects

—Funding for Kindergarten Facilities

—Individual School District's Capital Outlay and Education Technology Funding

—Charter School Changes (Not Adopted)

—Paula Tackett and Janet Peacock, Legislative Council Service

—Sharon Ball, Legislative Education Study Committee

10:45 a.m. PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL (PSCOC), PUBLIC SCHOOL
FACILITIES AUTHORITY (PSFA) STATUS REPORT AND COUNCIL PROJECT
STATUS

—Deficiencies Correction Program

- Standards-Based Process
 - Adoption of Rules
 - Timetable and Process for Applications and Awards
- Funding for Kindergarten Facilities
- Public Information Efforts
 - Staff

12:15 p.m. LUNCH

1:30 p.m. FINAL REPORT ON THE STATEWIDE ASSESSMENT OF SCHOOL FACILITIES BY 3D/INTERNATIONAL (3D/I)

- Winton Smith, 3D/I
- Christina Shahan

2:30 p.m. ADOPTION OF WORK PLAN AND MEETING SCHEDULE FOR 2004 INTERIM

- Staff

MINUTES
of the
MAY 18, 2004 MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

May 18, 2004
Continuing Education Building, University of New Mexico
Albuquerque

Robert Desiderio, co-chair, called the meeting of the public school capital outlay task force to order at 9:45 a.m. on Tuesday, May 18, in room C of the continuing education building of the university of New Mexico in Albuquerque.

PRESENT

Robert Desiderio
Rep. Larry A. Larranaga
Sen. Carroll H. Leavell
Rep. Rick Miera
Otis Echols
Deborah Gallegos
Pancho Guardiola
Leonard Haskie
James Jimenez
Rey S. Medina
Tony Monfiletto
Bud Mulcock
Antonio Ortiz (representing Veronica Garcia)
Norman Suazo

ABSENT

Sen. Ben D. Altamirano
Sen. Cynthia Nava
Robert G. Heyman
Kilino Marquez
Neil Nuttall

Advisory Member

Speaker Ben Lujan

Staff

Sharon Ball, analyst, legislative education study committee (LESC)

Tim Berry, deputy director, public school facilities authority (PSFA)

Gary Chabot, analyst, legislative finance committee (LFC)

Bob Gorrell, director, PSFA

Liz Holmes, research assistant, legislative council service (LCS)

Linda Kehoe, analyst, LFC

Janet Peacock, analyst, LCS

Pauline Rindone, director, LESC

Ron Segura, analyst, LFC

Paula Tackett, director, LCS

Mike Unthank, consultant to PSFA

Doug Williams, analyst, LCS

Mark Williams, communications officer, PSFA

Guests

The guest list is in the meeting file.

Mr. Desiderio welcomed members, staff and guests and asked everyone to introduce themselves. He requested that the first item on the agenda, the election of 2004 interim co-chairs, be postponed until Representative Miera arrived.

2004 Legislative Update

Ms. Peacock, Ms. Tackett and Ms. Ball reviewed the 2003 task force recommendations and the actual 2004 legislation. A copy of the presentation and the relevant legislation is in the meeting file. Ms. Peacock noted that, with two exceptions, most of the recommendations of the task force were adopted by the legislature and are included in Laws 2004, Chapter 125. The two exceptions were the separate charter school bill, which did not pass, and the recommendations relating to the long-term revenue needs. Ms. Peacock reported that in terms of additional short-term funding, up to \$67 million in supplemental severance tax bonds paid for by severance tax revenues that would otherwise go to the severance tax permanent fund were authorized for the

deficiencies correction program and for funding continuation projects. However, the long-term funding recommendations were not adopted, but were, in essence, referred back to the task force for additional review and consideration during the 2004 interim.

With respect to the separate bill endorsed by the task force and the LESC relating to charter schools, it failed to pass both houses. Ms. Rindone explained that the governor submitted a competing bill regarding charter schools and, in the end, neither of the proposals passed. She noted that the LESC has already agreed to work with school administrators and other interested parties during the 2004 interim on charter school issues.

Ms. Peacock also presented charts on direct legislative appropriations to individual schools and districts made during the 2004 session for capital outlay projects and for educational technology. Copies of the charts are in the meeting file. There was considerable discussion about the effect of the offset for direct appropriations on school districts' capital planning processes. Secretary Jimenez expressed concern that the type of improvements being funded often do not fall within the adequacy standards. It was agreed that the task force will look more closely at the direct appropriation offset at a future meeting.

Public School Capital Outlay Council (PSCOC) and Public School Facilities Authority (PSFA) Status Reports

Ms. Tackett reported that the PSCOC has been working very diligently to implement the standards-based process. She noted that this has entailed monthly PSCOC meetings, plus frequent meetings of various PSCOC subcommittees that have been formed. She also noted the considerable amount of PSFA staff work that is involved.

Mr. Gorrell briefed the task force on the status of the deficiencies correction program and provided a status report on critical capital outlay projects. A copy of his presentation is in the meeting file. With respect to deficiencies correction projects, he reported that as of April 16, 2004 the PSCOC has approved 343 projects, totaling \$216 million. Of this amount, \$60.4 million has actually been expended and 45 projects are fully completed. For critical capital outlay projects, he presented a report that shows money awarded by the PSCOC and the current

cash balances of those awards. Mr. Gorrell explained that the report includes project awards going back to fiscal year 1998-1999, but only those projects with a current cash balance. Ms. Tackett explained that this particular report addresses concerns raised by the governor and the legislature about the amount of unspent money allocated for capital projects, and that the PSCOC and other executive agencies will more closely monitor the actual expenditure of these funds. In response to a question, Mr. Gorrell said that at a future meeting, staff will provide historical information on all critical capital outlay projects funded by the PSCOC by school district.

Mr. Berry reviewed the PSCOC time line and work plan associated with implementing the standards-based process. A copy of his presentation is in the meeting file. He highlighted the following steps in the process.

- District training — Approximately two-thirds of the school districts participated in the COMET database training held in March. It is likely that additional training will be held in the future, so that all districts will be able to use the COMET system.
- Application process — The application forms and related explanatory material were sent to school districts on March 15. Districts were advised that the likely funding pool included projects within the top 100 on the 3D/International (3DI) ranking. However, districts were not limited to applying for projects within this pool. The mail-out also included the preliminary 3DI rankings and an explanation that districts could appeal to the PSCOC if they felt the information in the COMET database was incorrect. Two districts subsequently filed an appeal, but upon further staff review, the data in each case was found to be correct. Preliminary applications for grant awards, which were due May 7, were received from 41 districts for 77 projects totaling approximately \$365 million. Final revised applications will be due July 20 and awards made September 21.
- Continuation projects — Districts were advised that the application process and time lines noted above also apply to continuation projects. However, continuation projects will not be evaluated based on the 3DI ranking.
- Development and adoption of PSCOC rules — Draft rules were adopted by the PSCOC in March and made available for public comment. A formal public hearing was held on May 5. Comments were received from 16 respondents, primarily addressing provisions

relating to the charter school lease program. Some revisions were made to the proposed rules and on May 12, the PSCOC adopted the revised rules.

Mr. Unthank discussed the full-day kindergarten initiative being administered by the PSFA and the PSCOC. A copy of his presentation is in the meeting file. Ms. Tackett explained that the initiative was undertaken at the request of the governor and members of the legislature in order to ensure that schools have adequate space available for full-day kindergarten for the start of the September 2004 school year. This requires the project to be on a very fast timetable and she commended the PSFA and Mr. Unthank for their prompt and thorough work. Mr. Unthank explained that the projected need for additional space for full-day kindergarten is for additional space in 19 districts, costing approximately \$8.1 million. The PSCOC will pay for the costs out of the public school capital outlay fund. Of the total amount, \$5 million will be reimbursed from general obligation bond proceeds appropriated for full-day kindergarten space needs, if approved by voters. During the discussion, there was some concern expressed about the kindergarten initiative reducing the funds available for other capital outlay projects. Ms. Tackett noted that if the bond issue is not approved, the PSCOC could request the legislature to appropriate other funds to reimburse the public school capital outlay fund for these expenditures and it could also seek an appropriation for the \$3.1 million not covered by the general obligation authorization. This decision will be considered by the PSCOC prior to the 2005 legislative session after the fate of the vote on the bond issue is known.

There was some additional discussion about what costs had been included in the \$8.1 million estimate. Mr. Gorrell noted that it did not include playground equipment or furniture, but that it did include other facility costs such as fencing, septic system hook-ups, etc. In response to a question, Ms. Ball reported that the legislature included \$9.6 million of new operational money this year for fully implementing full-day kindergarten, and appropriated \$54 million to date.

Mr. Gorrell reviewed the history and accomplishments of the PSFA. A copy of his presentation is in the meeting file.

Mr. Mark Williams explained the public information initiatives being undertaken by the PSCOC and PSFA. He noted that the PSCOC is engaged in a unique and revolutionary process that is probably one of the greatest success stories of government. However, he indicated that there is little public understanding or appreciation of what is being done. His focus will be to tell the story of the statewide capital outlay program to the districts, state policymakers and the general public. He noted that he will also work to improve internal communications aimed at making the PSFA and its staff more effective.

Election of 2004 Co-chairs

On a motion from Representative Miera, Senator Nava was nominated to serve as co-chair of the task force during the 2004 interim. The motion was unanimously adopted. Mr. Desiderio was also unanimously elected to continue to serve as co-chair.

Final Report on the Statewide Assessment of School Facilities by 3D/International

Mr. Winton Smith, vice president of 3DI, presented the New Mexico K-12 Statewide Facilities Condition Final Report for Fiscal Year 2003-2004. A copy of the report is in the meeting file. It was noted by Co-chair Desiderio that the task force could spend hours reviewing the information in the report, and that the purpose of today's presentation is to set the stage for more deliberate review during future meetings.

Mr. Smith briefly reviewed the methodology used by 3DI to update the COMET database that provides a detailed facilities assessment of each school, including an assessment of space and equipment needed to meet the state adequacy standards. He noted that the updated assessment is a snapshot of the current condition of the schools and will be maintained by the PSFA as conditions change. However, in terms of space needs, the COMET database also includes a five-year projection of estimated enrollment growth based on growth factors calculated by the PSFA.

Mr. Smith pointed out that Appendix 1 of the report contains order of magnitude repair costs for each school and the school's ranking using the weighted New Mexico condition index (NMCI). This ranking will be used by the PSCOC in evaluating applications for grant awards.

Mr. Smith also reviewed the Summary of Findings, noting the following highlights.

- The total statewide need is estimated at \$2.3 billion.
- The unweighted NMCI for all schools is 43.99 percent.
- In terms of repair costs by category, the largest category includes systems that are "beyond expected life", which reflects the aging condition of New Mexico schools. The next two largest categories are "potential mission impact/degraded" and "adequacy - space".
- A forecast of the 20-year facility renewal needs also depicts the aging infrastructure, with a significant increase in needs shown as beginning in 2016. The numbers in this chart include a three percent annual inflation adjustment.
- The amount needed just to maintain the current condition of the schools over the next 10 years is \$109 million a year. This will maintain the NMCI at 43.99 percent.
- A number of funding scenarios are provided that show the cost of improving the condition of the schools over a 10-year period. These scenarios are illustrative and are intended to give policymakers information on which to base future funding decisions. The cost of the options ranges from \$191 million a year to \$287 million a year. For purposes of comparison, it will cost \$375 million a year to fully fund all of the current needs and the projected renewal needs.

In response to a question, Mr. Smith stated that the amounts in the funding options are total resources, including both state and local contributions. They also include a three percent annual inflation adjustment. Mr. Smith also responded that the future facility renewal needs are based on current maintenance practices. Task force members noted a number of policy issues related to the funding needs that should be explored at future meetings.

Adoption of Work Plan and Meeting Schedule for 2004 Interim

Ms. Peacock reviewed the proposed 2004 work plan for the task force that will be submitted to the legislative council at its June meeting for approval. A copy of the work plan is in the meeting file. At the request of Mr. Haskie, it was agreed to amend the work plan to specify that the task force also look at the interface with the New Mexico public school insurance authority and at certain federal requirements related to facility requirements. It was

also agreed that the task force should receive a report from the LESC on charter school issues and consider approving its recommendations. With these changes, the proposed work plan was adopted.

The task force adopted the following meeting dates and locations:

August 11	Albuquerque
September 16	Albuquerque
October 14	Albuquerque
November 11-12	Santa Fe
December 20-21	Santa Fe

The meeting adjourned at 3:15 p.m.

Revised: August 24, 2004

TENTATIVE AGENDA
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE
August 30, 2004
Pete McDavid Room, UNM Pit Arena
Albuquerque

Monday, August 30

9:30 a.m. CALL TO ORDER

APPROVAL OF MINUTES OF MAY 18, 2004

2004 APPROVED WORK PLAN

RE-CREATION OF MAINTENANCE SUBCOMMITTEE

—Robert Desiderio, Co-Chair

—Senator Cynthia Nava, Co-Chair

9:45 a.m. PUBLIC SCHOOL INSURANCE AUTHORITY — PROPERTY INSURANCE
ISSUES, COSTS AND BENEFITS

—Sammy Quintana, Executive Director, New Mexico Public School Insurance
Authority

—Julie Garcia, Poms Insurance

10:45 a.m. THE STATE SHARE FORMULA — HOW VOLATILE IS IT AND DOES IT
MATTER?

—Janet Peacock, Legislative Council Service

11:15 a.m. REVIEW OF THE OFFSETS FOR DIRECT APPROPRIATIONS

—Education Technology

—Ferdinand Serim, Public Education Department, Educational Technology
Unit

—Tom Ryan, Executive Director of Technology, Albuquerque Public
Schools

—Capital Projects

—Antonio Ortiz, Public Education Department, Capital Outlay Unit

12:15 p.m. LUNCH

1:30 p.m. HISTORY OF CRITICAL CAPITAL OUTLAY AWARDS —A 10-YEAR LOOK-
BACK

—Antonio Ortiz, Public Education Department, Capital Outlay Unit

—Janet Peacock, Legislative Council Service

2:15 p.m. UPDATE FROM THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

—Report on Final Revised Applications for Continuation Projects and Standards-
Based Projects

—Status of Full-Day Kindergarten Initiative

—Lease Assistance Applications and Time Table

—Other Public School Facilities Authority Initiatives

—Paula Tackett, Member, Public School Capital Outlay Council

—Bob Gorrell, Director, Public School Facilities Authority

—Tim Berry, Deputy Director, Public School Facilities Authority

3:30 p.m. PUBLIC COMMENT

3:45 p.m. ADJOURN

MINUTES
of the
AUGUST 30, 2004 MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

August 30, 2004

Pete McDavid Room, The Pit Arena, University of New Mexico
Albuquerque

Representative Rick Miera called the meeting of the public school capital outlay task force to order at 9:40 a.m. on Monday, August 30, in the Pete McDavid room at the university of New Mexico's Pit arena in Albuquerque.

PRESENT

Sen. Ben D. Altamirano
Robert Desiderio
Odis Echols
Pancho Guardiola
Leonard Haskie
Robert G. Heyman
James Jimenez
Rep. Larry A. Larranaga
Sen. Carroll H. Leavell
Kilino Marquez
Rep. Rick Miera
Tony Monfiletto
Don Moya (Representing Veronica Garcia)
Bud Mulcock

ABSENT

Gary Bland
Rey S. Medina
Sen. Cynthia Nava

Advisory Member

Speaker Ben Lujan

Neil Nuttall

Rep. Henry Kiki Saavedra

Norman Suazo

Staff

Sharon Ball, analyst, Legislative Education Study Committee (LESC)

Tim Berry, deputy director, Public School Facilities Authority (PSFA)

Bob Gorrell, director, PSFA

Liz Holmes, research assistant, Legislative Council Service (LCS)

Linda Kehoe, capital outlay coordinator, Legislative Finance Committee (LFC)

Antonio Ortiz, director, capital outlay unit, Public Education Department (PED)

Olivia Jackson-Padilla, analyst, LFC

Janet Peacock, research and fiscal policy analyst, LCS

Pauline Rindone, director, LESC

Bill Sprick, planning and designing, PSFA

Paula Tackett, director, LCS

Doug Williams, researcher, LCS

Mark Williams, communications officer, PSFA

Representative Miera welcomed members, staff and guests. He acknowledged the appointment of Representative Henry Kiki Saavedra and the re-appointment, after a year's hiatus, of Robert G. Heyman to the task force and welcomed both of them.

The task force adopted the minutes of the May 18, 2004 meeting. Ms. Peacock then reported that the legislative council adopted the proposed work plan of the task force for the 2004 interim. This work plan had been discussed at the previous meeting of the task force and was subsequently revised to expand the language pertaining to the continuing work on maintenance issues. A copy of the approved work plan is in the meeting file. In response to a question, Mr. Desiderio briefly summarized the goals of the task force and the work to be done in the interim.

Representative Miera noted that the work plan included hearing from the LESC's subcommittee on charter schools, and he emphasized the importance of having the task force continue to provide recommendations relating to the facility needs of charter schools.

Ms. Peacock said that staff is recommending that the maintenance subcommittee of the task force be re-created and that the September 16 meeting of the full task force be changed to a meeting of the subcommittee. She explained that a lot of fairly detailed information on maintenance issues had been compiled by staff at the request of the previous maintenance subcommittee, and it was felt that a continued discussion of the information and of related maintenance issues would be beneficial at the subcommittee level. The task force adopted a motion to re-create the maintenance subcommittee, with Representative Miera to continue as chair along with the following members from last year — Senator Nava, Mr. Guardiola, Mr. Haskie, Mr. Marquez and Mr. Suazo. Other members of the task force were invited to serve on the subcommittee and the co-chairs were asked to appoint members to replace individuals who had served on the previous subcommittee but are no longer on the task force.

Report from the New Mexico Public School Insurance Authority

Sammy Quintana, director of the New Mexico public school insurance authority (PSIA), and Julie Garcia of Poms & Associates presented information on the state's public school insurance program, focusing on the property insurance program. A copy of their presentation is in the meeting file. Mr. Quintana explained the structure and services of the PSIA. He noted that all school districts except Albuquerque are required to participate in the PSIA insurance programs and other educational entities may elect to participate. The programs are all self-insured, with excess coverage purchased privately. Mr. Quintana said that PSIA is working closely with Mr. Gorrell and his staff and that he believed that this cooperation could lead to a significant drop in claims in the future, especially as the new maintenance guidelines and construction oversight programs are implemented.

Ms. Garcia reviewed the property insurance program administered by PSIA, including

coverage, exclusions, deductibles and recent claim history. She noted that claims resulting from water damage are the largest source of property damage and estimated that 90 percent of water damage claims result from poor maintenance. She said that programs to mitigate water damage could lead to significant premium reductions. She also noted that a number of charter schools have had a relatively high claims history, reflecting to some extent the poor condition of facilities that they are housed in and, to some extent, the operational focus of charter school administrators.

During the discussion, the issue of renovation and repair projects being paid for from PSIA funds and going to contractors without competitive bid was raised. It was noted that one interpretation is that insurance funds are not public funds and therefore are not subject to the Procurement Code. Mr. Moya said that based on his experience in the Santa Fe school district, projects paid for from insurance funds could also be an emergency, such as in the case of a fire, and the contracts would come under the Procurement Code exception for emergencies. It was suggested that the LCS staff could do a legal analysis of the applicability of the Procurement Code to insurance-funded projects and report back to the task force.

Other issues raised by members of the task force included concerns about soaring premiums despite the efforts of school districts to implement mitigation plans; the recent increases in deductibles; and the lack of district input into work performed for the PSIA. The question of the compatibility between PSIA projects and programs and those administered by the PSFA was also raised. The maintenance subcommittee was asked to look into ways to avoid duplication and conflict between the PSIA and the PSFA and to ensure adequate district involvement in both processes.

The Volatility of the State-Share Formula

Ms. Peacock reviewed the formula that determines what percentage of costs the state will pay for under the new, standards-based process and changes in the formula results over the past three years. A copy of the presentation is in the meeting file. She explained that the formula

relies primarily on two factors — the assessed value of the school district for property tax purposes and the enrollment, or membership, of the district. These factors are used to calculate the relative assessed value per member of the district compared to the state as a whole, which is used as a measure of the ability of the district to finance its own capital improvements. The lower the assessed value per member of the district, the higher the state share. In addition, districts that impose property taxes for educational purposes in excess of the average statewide receive a bonus of up to five percentage points in state share. Ms. Peacock also reminded members that the local share determined by the formula is the offset amount that is applied to direct legislative appropriations for capital outlay and education technology appropriations to public schools.

Ms. Peacock presented a number of tables showing the change in state-share amounts since 2002. She concluded that the formula has been fairly volatile, especially in 2004, when 31 districts experienced a change in their state-share percentage from 2003 of five percent or more. She noted that while much of the volatility in 2004 was probably a one-time adjustment to statutory changes resulting in revaluation of residential property in many counties, there will always be some districts experiencing large year-to-year changes because of changes in the valuation from oil and gas production or nonresidential property and changes in school enrollment, especially in small districts. In response to a suggestion that the volatility could be reduced by using a three- or five-year rolling average, Ms. Peacock noted that one of the tables shows a three-year average, which reduces the number of districts with a change in their state-share percentage of five percent or more in 2004 from 31 to four.

Review of the Offsets for Direct Appropriations

Antonio Ortiz, director of the capital outlay unit of the PED, provided information on both the educational technology and capital project offset amounts for all school districts for 2003 and 2004. A copy of his presentation is in the meeting file. His report shows that 10 districts were subject to educational technology offsets in 2003, amounting to \$2.045 million, and 12 in 2004, totaling \$5.3 million. Three districts currently have an educational technology offset carry-

forward amount — Albuquerque for \$4.2 million; Ft. Sumner for \$25,160; and Mountainair for \$13,438. In response to a question, Mr. Ortiz verified that the law was changed in 2004 to limit the carry-forward period for educational technology offsets to three years.

Mr. Ortiz also reported that offsets for capital outlay projects (other than educational technology) for appropriations made in 2003 and 2004 total \$10.371 million and apply to 56 school districts. The two-year calculation for these offsets reflects the fact that this is the first year of the standards-based process that is subject to the state-share formula and offset provisions. These offset amounts will be subtracted from grant awards made by the public school capital outlay council later this year for non-continuation projects. Amounts for school districts that do not receive grant awards or receive awards smaller than their offset amount will be carried forward and applied to future award amounts. Unlike educational technology offsets, the carry-forward period for these offsets is not limited.

During the discussion on offsets, two issues were raised. The first dealt with the time frame and authority for districts to reject direct appropriations. Mr. Ortiz noted that the law provides that districts must notify the department of finance and administration and the PED by July 15 if they want to reject an appropriation. This decision is made by the local school board. So far, no direct appropriations have been rejected. However, he also noted that since severance tax bonds for projects funded by direct appropriations are often sold in June, the PED has agreed that certification by a local board to the state board of finance that a project is ready for bonds to be issued is deemed as acceptance of the appropriation. It was suggested that some consideration be given to changing the date for notification of rejection to fit in with the state board of finance schedules for selling bonds. The second issue dealt with school district involvement in the direct appropriations process and the goal of having appropriations better reflect the needs of the district. One suggestion was to require a school district to endorse an appropriation prior to its passage. However, it was noted that the current capital outlay appropriation process may not easily accommodate such a requirement.

Ferdi Serim, program manager of the educational technology unit of PED, provided an overview of state and federal funding for educational technology in the schools. A copy of his presentation is in the meeting file. He stressed the importance of educational technology in twenty-first century education and highlighted a number of statewide efforts to enhance education through technology. During discussion, Mr. Serim was asked if he could quantify the costs in terms of technology resources and operating costs to districts of complying with the No Child Left Behind Act. He responded that this would be very difficult. He stated that, contrary to popular belief, the act does not have quantifiable standards for technology, which makes it more difficult to determine costs of compliance.

Tom Ryan, executive director of technology for Albuquerque public schools (APS), talked about the impact that the offset for direct appropriations for educational technology is having on APS. He noted that because of generous appropriations from Albuquerque legislators for educational technology at specific schools in the district, the APS distribution from the educational technology fund in July of each year has been zero in both 2003 and 2004. This, coupled with the lack of E*Rate funding, has meant that the district has no reliable source of funding for educational technology needs, including the operational costs of providing internet access, running district networks, etc. He said that APS would need a minimum of \$102 million over the next five to seven years just to maintain the level of current technology systems at its schools. Mr. Ryan stressed the importance of technology infrastructure in the schools, saying it is not a choice but a necessity, and he questioned the decision to separate funding for technology infrastructure from funding for facilities. He suggested that the state should approach funding for technology infrastructure as it is now approaching funding for facilities, i.e., develop minimum standards, assess all schools against these standards, provide funding based on a rank-ordered assessment of need and provide adequate funding to ensure that all schools meet the standards. He again noted the need for operational funds for supporting technology and said that the educational technology fund distributions had previously met some of this need for APS.

Task force members questioned Mr. Ryan about the process APS uses to provide funds for

educational technology to individual schools. Mr. Ryan said that APS does have minimum standards that it takes into consideration in distributing funds. However, he reiterated that the shortage of funds makes it difficult to achieve the standards.

History of Critical Capital Outlay Awards

Ms. Peacock and Mr. Ortiz provided information on critical capital outlay awards during the past 10 years. A copy of the presentation is in the meeting file. Ms. Peacock noted that this information is being compiled in response to a legislative request for the LCS to evaluate the changes in funding for the public school capital outlay process since 1999 to see if the additional funding has reduced the disparity in the quality of educational facilities in the state. Staff intends to discuss the study results with the task force during the interim.

The information shows that total critical capital outlay awards from fiscal year 1995 through fiscal year 2004 totaled \$527.6 million. Of this amount, approximately \$130 million was awarded in the first five years with 49 districts receiving awards, compared to \$400 million in the second five years with 65 districts receiving awards. Ms. Peacock noted that the awards information had been sorted in three ways — total awards by district over the 10-year period, awards per member and awards per square foot of district facilities. She noted that when looked at per member or per square foot, small districts generally received the highest awards, reflecting the lack of economies of scale available to them. She also noted that staff did look at the awards compared to the state share of districts calculated under the new formula, and generally found that the vast majority of critical capital outlay awards went to relatively poor districts. She said, however, that staff was not able to look at awards compared to "need", as there was no uniform measurement of the condition of the schools prior to the 3DI assessment. Finally, she said that information was provided on awards by school during the last five years, which showed that in some cases awards were made for projects to more than one school within a district. Ms. Peacock reminded members that one of the concerns of the litigants in the *Zuni* lawsuit was the fact that awards were generally limited to one project per district per year, regardless of the needs of the district.

Update from the Public School Capital Outlay Council (PSCOC)

1. Overview and Emerging Issues

Ms. Tackett began the presentation by summarizing the large amount of work that the PSCOC and the PSFA have accomplished since the last meeting of the task force. She said that the PSCOC is in the middle of the pilot year of the standards-based process while transitioning from the former critical capital outlay process in place for many years. Noting that the current law requires the PSCOC to give priority to funding of continuation projects from the critical capital outlay process for the next three years, she provided members with a definition of "continuation project" that will be presented to the PSCOC at its next meeting for consideration prior to making awards. A copy of the definition is in the meeting file.

Ms. Tackett reported that the PSCOC had three days of district presentations in August and heard from 34 districts requesting funding for continuation projects and standards-based projects. She noted the high quality of the presentations and praised both the district representatives and the PSFA staff for their hard work in making the new process a reality. She said that during the presentations, a number of issues surfaced on which she felt the PSCOC could use some guidance from the task force. These included the following:

- review of growth issues, including the question of who should pay for growth, the current weighting factors for growth used in the rankings and the methodology of calculating growth;
- the inability of small school districts to meet match requirements for large projects;
- whether the state-share amount applies to projected costs on which the grant award is made or actual bid costs;
- whether the state will pay for land as part of the project cost;
- whether the PSCOC should develop flexible rules for applying the state share to total project costs when a project has been begun by the district at some reasonable date prior

to the awards date in order to reward proactive districts; and

- whether the statute needs to specifically authorize the funding of master plans by the PSCOC.

Although the co-chairs indicated that there would be further discussions on these issues, several members of the task force expressed concern about including payment of land costs as part of the project cost.

2. Awards Application Process

Mr. Berry discussed the awards application process and presented a table showing the revised applications submitted by district. He also provided a chart showing the worst 100 schools in the 3DI rankings with an indication of whether the applicable district had applied for a project addressing the inadequacies at that school. Copies of these handouts are in the meeting file.

With respect to the applications, Mr. Berry noted that PSCOC had received 18 applications for continuation projects, totaling \$124.8 million, and 60 requests for standards-based projects, totaling \$252 million. He indicated that the PSFA staff had worked with many of the applicants to make sure they understood the state adequacy standards and, for non-continuation projects, the local share requirements. With respect to the schools included in the worst 100, Mr. Berry noted that applications had been received directly addressing 39 of the schools, leaving 61 of them without an application. However, he added that for some schools that had overcrowding issues, applications for new schools would relieve the overcrowding and thereby reduce the condition index for schools on the list. Mr. Berry also noted that for many of the schools where no application had been submitted, the state match is very low or the school district may have not applied because it is not prepared to meet its local match requirement.

Task force members raised a number of questions regarding the applications, many of which

focused on the issue of growth. With respect to the need for new schools, Ms. Tackett noted that the 3DI database is very good at identifying the problem of inadequate space and that PSFA staff, district personnel and PSCOC members are working to craft the appropriate solution, which in some cases is funding a brand new school. A question was raised about the optimum size of a school. It was noted that size is usually left to the discretion of the district; it is not addressed in the adequacy standards and often a tradeoff must be made between size and cost.

3. Lease Payment Assistance

Mr. Berry reported that applications for lease payment assistance have been received from 48 schools, 42 of which are charter schools. The total amount of funds requested is \$1.9 million. A copy of the lease payment requests is in the meeting file. During discussion, it was noted that the law allows up to \$4 million of funds in the public school capital outlay fund to be used for lease payments, so that approximately \$2 million is not being used for this purpose. It was also noted that the lease payment amounts are calculated on previous year enrollment, which precludes new schools from receiving assistance the first year. Staff noted that the charter school stimulus fund should be available to help with first-year lease payments, although it was not known whether sufficient revenues are available in the fund.

4. Update on the Full-Day Kindergarten Initiative

Mr. Gorrell then presented an update on the full-day kindergarten initiative. He reported that the PSFA has been allocated up to \$12 million to provide 112 new full-day kindergarten facilities that are available for the start of the current school year. This includes 103 portable classrooms (25 singles and 39 doubles) and nine renovations. He noted that there are some major obstacles faced by the PSFA and the districts on this project, including a large increase in the cost of steel, site issues, flooding, security issues at Los Alamos, a shortage of installation personnel and the difficulty of projecting how many kindergarten students will show up and at what schools. Mr. Gorrell said that PSFA has determined that portables do not generally meet

the state adequacy standards for kindergarten classes of 60 square feet per student or 1,200 square feet for a class of 20, excluding storage space, and access to toilet facilities without exiting the building. Thus, districts have been advised that use of portables is to be considered as a temporary solution until brick and mortar classroom space that meet the adequacy standards is provided. With this in mind, the PSCOC has granted a variance to the standards for the use of portables for full-day kindergarten when no other option is feasible. It was later reiterated that the use of portables is a temporary solution and the 3DI database will still show a need to provide additional space with adequate toilet and storage facilities in order to meet the standards.

Task force members commended Mr. Gorrell and his staff for accomplishing so much in such a short time frame. It was noted that the current project did not really get underway until Representative Miera met with the governor after the 2004 legislative session to work out a plan for advancing money for kindergarten facilities included in the general obligation bond resolution to be voted on in November and using other public school capital outlay funds in order to get the kindergarten kids in classrooms by the start of the school year. Questions were raised about why the time frame is so short when full-day kindergarten is being phased in over five years. A number of factors were noted, including the fact that during the first years of the program, only districts that had adequate facilities participated. The difficulty of projecting which parents would enroll their students in full-day kindergarten was also noted.

Representative Miera recognized Representative Thomas Swisstack from Rio Rancho and invited him to address the task force. Representative Swisstack reported that Rio Rancho has experienced a greater enrollment in kindergarten than projected and therefore the 14 portables that it requested and were provided are not adequate. He said it needs at least one more doublewide. Mr. Gorrell said that, assuming approval by the PSCOC, the PSFA will provide the additional portable.

5. Update on Deficiencies Correction Program

Mr. Berry presented an update on the deficiencies correction program. A copy of his handout is in the meeting file. He reported that as of August 6, 2004, the PSCOC had approved 347 deficiency correction projects and awarded \$223 million. Of this amount, contracts had been entered into for about \$106 million and \$73 million had been expended. He noted that work is moving forward fairly quickly now and the two latter numbers are probably each about \$10 million higher as of today. In response to a question, Mr. Berry said that the current law requires all deficiency correction projects to be allocated by June 30, 2006 and all money expended by June 30, 2007. Mr. Gorrell noted that, in some cases, the PSFA is holding up the expenditure of funds in order to combine a deficiency correction project with a bigger project being funded by the PSCOC or the district. It was noted that delaying expenditure beyond June 30, 2007 will require a statutory change.

6. Other PSFA Initiatives

Bill Sprick discussed the planning and design review process being implemented by the PSFA. Highlights include achieving a 14-day turnaround on getting building permits through coordination with the construction industries division of the regulation and licensing department, the energy, minerals and natural resources department and the developmental disabilities council; working with the districts on master plan development and review; continuing to update the COMET database and training districts on its use; and working with districts and their architects on the design and specifications for projects prior to bidding.

Mr. Gorrell introduced Jim Luster and Bob Bittner, PSFA staff members in charge of the maintenance program, and talked about their recent efforts in developing a statewide, web-based maintenance system. He discussed the potential for the PSFA to provide statewide purchasing for common maintenance items such as light bulbs, and to offer a regional directory of resources available for certain maintenance services. He also discussed plans to implement requirements for certification of maintenance staff, starting with certification of construction procurement specialists, and efforts to develop maintenance and custodial guidelines.

Mr. Gorrell was praised for the good work being done by PSFA and was asked if there are areas where things are not going well. He noted that two challenges are being able to retain the high-level staff he has put together and to provide an organization structure that will lead to long-term stability through entry-level positions and training and development opportunities.

Adjournment

The meeting was adjourned at 3:40 p.m.

Revised: October 13, 2004

TENTATIVE AGENDA
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE
October 14, 2004
Pete McDavid Room, UNM Pit Arena
Albuquerque

9:30 a.m. CALL TO ORDER

APPROVAL OF MINUTES OF AUGUST 30, 2004

—Sen. Cynthia Nava, Co-chair

9:40 a.m. UPDATE FROM THE PUBLIC SCHOOL CAPITAL OUTLAY
COUNCIL

—Report on 2004 Financial Plan and Grant Awards

—Update on Deficiency Correction Projects

—Discussion of Selected Issues

—David Abbey, Chair of Awards Subcommittee, Public School Capital
Outlay Council

—Paula Tackett, Member, Public School Capital Outlay Council

—Bob Gorrell, Director, Public School Facilities Authority (PSFA)

—Tim Berry, Deputy Director, PSFA

10:45 a.m. REVIEW OF THE NEW MEXICO CONDITION INDEX, GROWTH
FACTORS, WEIGHTING FACTORS AND PROJECTING
ENROLLMENT

—Bob Gorrell, Director, PSFA

—Jeffrey Eaton, Controller, PSFA

11:30 a.m. PSFA — HOW DO WE ENSURE SUCCESS?

—Bob Gorrell, Director, PSFA

12:00 noon LUNCH

1:30 p.m. REPORT FROM THE MAINTENANCE SUBCOMMITTEE

—Summary of Data on Spending for Maintenance and Repairs

—Coordination with the Public School Insurance Authority

—Preliminary Recommendations

—Rep. Rick Miera, Chair of Maintenance Subcommittee

—Bob Bittner, Maintenance Director, PSFA

2:30 p.m. DISCUSSION OF CHARTER SCHOOL ISSUES

—Review of 2003 Task Force Recommendations

—Report from the Legislative Education Study Committee's Subcommittee on
Charter Schools

—Pauline Rindone, Legislative Education Study Committee

—Sharon Ball, Legislative Education Study Committee

3:15 p.m. PUBLIC COMMENT

3:30 p.m. ADJOURN

MINUTES
of the
October 14, 2004 MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

October 14, 2004
Pete McDavid Room, The Pit Arena, University of New Mexico
Albuquerque

Senator Cynthia Nava called the meeting of the public school capital outlay task force to order at 9:40 a.m. on Thursday, October 14, in the Pete McDavid Room at the University of New Mexico's Pit Arena in Albuquerque.

PRESENT

Sen. Cynthia Nava, Co-chair
Sen. Ben D. Altamirano
Odis Echols
Pancho Guardiola
James Jimenez
Rey S. Medina
Rep. Rick Miera
Tony Monfiletto
Bud Mulcock
Neil Nuttall
Antonio Ortiz (Representing Veronica Garcia)
Rep. Henry Kiki Saavedra
Norman Suazo

ABSENT

Gary Bland
Robert Desiderio, Co-chair
Leonard Haskie
Robert Heyman
Rep. Larry A. Larranaga
Sen. Carroll H. Leavell
Kilino Marquez

Advisory Member

Speaker Ben Lujan

Staff

Sharon Ball, analyst, Legislative Education Study Committee (LESC)

Tim Berry, deputy director, Public School Facilities Authority (PSFA)

Bob Bittner, director of maintenance, PSFA

Bob Gorrell, director, PSFA

Liz Holmes, research assistant, Legislative Council Service (LCS)

Linda Kehoe, analyst, Legislative Finance Committee (LFC)

Janet Peacock, analyst, LCS

Pauline Rindone, director, LESC

Paula Tackett, director, LCS

Doug Williams, analyst, LCS

The task force adopted the minutes of the August 30, 2004 meeting.

Update from the Public School Capital Outlay Council (PSCOC)

Mr. David Abbey, Ms. Paula Tackett, Mr. Bob Gorrell and Mr. Tim Berry discussed a number of recent actions taken by the PSCOC.

2004 - 2005 Grant Awards

Mr. Abbey began by reviewing the grant awards made by the PSCOC at their meeting of September 21, 2004. A copy of his handout is in the meeting file. He noted that these are the first awards made under the new standards-based process and that both staff and council members devoted a lot of time and effort to making this new process work. He referred members to the PSCOC Financial Plan that shows the sources and uses of funds available to the PSCOC for grant awards. He explained that based on current estimates the total proceeds available for grant awards is \$159.7 million, which includes \$118.3 million of FY05 supplemental severance tax bond capacity, \$39.5 million of authorizations from the 2004 legislative session and \$1.9 million of uncommitted funds from FY04.

Mr. Abbey explained that the PSCOC awarded a total of \$198.5 million for projects, which

anticipates using all of the FY05 revenues plus committing \$19.4 million of funds from both FY06 and FY07. Mr. Abbey said that the multi-year funding plan adopted by PSCOC recognizes the inherent lags in the actual expenditure of capital funds and allows the state to fully fund a number of large projects that will not be completed within a one-year time frame. School districts will be able to bid the projects at one time, rather than in a piecemeal fashion as happened in the past, which should result in economies of scale and better project control. He said that the PSCOC would probably continue to use a multi-year funding approach, but in a prudent and cautious manner.

Mr. Abbey presented a chart showing a 30-year history of state support for public school capital outlay. He noted that the chart, which shows a substantial increase in state funding during the past five years, with the FY05 amount almost double any previous annual funding amount, speaks for itself in terms of the progress the state has made in funding for school facilities.

Mr. Abbey then referred members to the table listing the 2004-2005 project awards. The PSCOC approved 39 projects under the new, standards-based process, amounting to \$124.7 million. In addition, it approved 18 continuation projects, amounting to \$73.8 million. Mr. Abbey said that \$109 million went to districts that receive federal impact aid funds (PL 874) and that several districts, including Albuquerque, Gadsden, Lordsburg, Los Lunas, Truth or Consequences, Deming, Gallup, Grants and others, received substantial award amounts. With respect to continuation projects, Mr. Abbey said that the \$73.8 million in grant awards completed funding for all of the projects that applied. With respect to standards-based projects, he noted that the PSCOC was able to fund projects included in the worst one hundred schools on the ranking list. However, he noted that 43 of the worst 100 schools did not apply for funding.

There was a general discussion of the standards-based ranking process, the applicability of the process to charter schools, the impact of the direct legislative appropriation offset and how to balance the important role of local school boards in determining project priorities.

With regard to the offset for direct legislative appropriations, it was noted that the majority

of direct appropriations are for educational technology and that the offset was having its greatest impact on education technology distributions. Staff was asked to look at the possibilities for easing the impact of the offset on educational technology, including increasing statewide appropriations for computers in the schools.

Discussion of Selected Issues

Mr. Abbey and Ms. Tackett discussed a number of issues faced by the PSCOC related to the awards process.

1. Continuation projects

Ms. Tackett reminded members that current law requires the PSCOC to give priority to funding continuation projects for a three-year period beginning with the current year. Continuation projects are projects that were partially funded by the PSCOC in 2003, the last year of the critical capital outlay program, where there was an expectation that additional funding would be available to complete the project. Although these projects are considered without regard to their position in the standards-based priority ranking system and are not subject to the provisions of the state match formula, they may only be funded to adequacy. Mr. Abbey noted that continuation projects have two advantages over standards-based projects – they move to the front of the line and they receive 100 percent state funding. He noted that because this encourages some districts to try to expand a project beyond its original scope in order to take advantage of state funding, some members of the PSCOC would like to remove this incentive and require a local match amount for any remaining continuation projects.

Ms. Tackett reported that the PSCOC adopted a motion to request the task force to look at the time frame for continuation projects and to generally revisit the issues on continuation projects. She noted that the three-year period reflected an original estimate of the cost of completing all continuation projects of up to \$108 million and an estimate by staff that no more than \$35 million a year could be allocated to these projects and still provide a reasonable amount for other projects. However, because of the high bonding capacity this year, the PSCOC was able to fund \$74 million in the current year. Therefore, from a funding perspective, it would be possible to shorten the time frame for funding continuation projects to two years. This would

allow the PSCOC and the PSFA to close out these projects sooner and focus more on the standards-based projects.

2. Small district match requirements

Mr. Abbey said that during their recent deliberations, the PSCOC encountered three instances where the local match requirements determined by the formula seemed overly burdensome on small school districts. In particular, Chama, Jemez Mountain, and Corona school districts all have a local match requirement of 90 percent but could have substantial difficulty in raising the amount of funds needed to meet their local share of project costs. He noted that the PSCOC could have granted a waiver for some or all of the local match, but it was unwilling to do so this first year. Instead, it was requesting the task force to look at the issue of small district match requirements to see if a solution other than a waiver seemed appropriate. Ms. Tackett noted that the difficulty with the council using the waiver approach without some guidelines was the precedent it sets when other districts want to reduce their local contribution. She said that staff would look at the issue and report back to the task force.

3. Growth

Ms. Tackett noted that the methodology used by the PSCOC in this, the pilot year of the standards-based award process, incorporated growth in school enrollment in two specific areas – (1) a school-specific growth factor was applied to measure adequacy of space and (2) the need for additional space, including growth, was weighted by a factor of three to obtain the ranking score of the schools. Ms. Tackett noted that improvements in how the growth factor is calculated would be addressed later in the meeting by PSFA staff. However, the broader question that the task force might want to look at is whether the current ranking methodology produces the right balance between allocating funds for new space in growth areas and for repair and renovation of existing facilities. After some discussion of this issue by members, Ms. Tackett suggested that further discussion of this topic might be warranted and that staff could develop some options on different approaches.

4. Application of state-share to actual bid amounts

Ms. Tackett noted that the PSCOC had determined that under the new process, the state grant awards would apply to actual bid amounts rather than estimated project costs. This means that the grant award amounts are only estimates, and may increase due to price increases in steel, for example, or decrease due to improved project management.

5. Purchase of land

This topic had been discussed at the previous task force meeting and it was felt that the state should not get involved in the purchase of land for new school sites. Ms. Tackett reported that the PSCOC agreed with this advice and would generally not include the cost of land acquisition in their project costs for purposes of the grant awards.

6. Additional funding for deficiency correction projects

Ms. Tackett said that the task force should consider at a future meeting whether the deficiency correction program could be considered completed in terms of grant awards or whether additional state funding was needed. She said that some of the PSCOC members felt that the state had basically accomplished this task and that other deficiency needs previously identified could be rolled into the standards-based awards. However, she noted that Co-chair Desiderio had previously expressed support for additional funding to complete serious health and safety deficiencies such as those identified in the 3DI database because of the commitment to the court.

Update on Deficiency Correction Awards

Mr. Berry presented the latest figures on the deficiency correction program. A copy of his handout is in the meeting file. He reported that total awards amounted to \$225.6 million as of October 12, 2004. Of this amount, \$113.7 million is under contract and \$90.4 million has been expended. In response to a question, Mr. Berry explained the early delays in getting this money under contract and expended given the short, summer construction season at schools. He said that a significant increase in progress had been experienced recently and that PSFA expects to be

able to get the projects finished to meet the statutory deadlines.

Awards for Lease Assistance

Mr. Berry reviewed the PSCOC awards for lease assistance. A copy of the award amounts is in the meeting file. Mr. Berry noted that the PSCOC approved \$1.77 million in lease payment awards to be distributed to 33 schools, including 28 charter schools and 5 non-charter schools. (The numbers differ somewhat from information provided in August because the PSCOC collapsed awards for multiple leases at a single school into a single award amount.)

During the discussion of this program, a question was raised about whether lease amounts had increased to take advantage of the state funds. Mr. Berry noted that they did not have data on this, but agreed that PSFA would start keeping track of lease amounts to determine if such a trend could be discerned. It was also noted that charter schools did not receive federal matching funds for lease assistance as had been anticipated. It was reported that the Public Education Department (PED) said that the language in the New Mexico legislation did not meet the federal requirements. Staff was asked to work with PED to clarify any statutory changes needed.

Another discussion point concerned the inability of new charter schools to qualify for lease assistance since the grant amount was calculated on prior year enrollment. The availability of other state and federal start-up funds to help with first-year lease payments was discussed, with staff asked to report back on this. Staff was also requested to present an estimate at the next meeting of the amount of lease assistance payments expected for the next fiscal year.

PSFA – How Do We Ensure Success

Mr. Bob Gorrell made a presentation on the challenges faced by the PSFA in being able to effectively and efficiently administer the state's public school capital outlay program. A copy of his presentation is in the meeting file. He said that the PSFA had worked hard to establish a partnership with school districts and that their long-term success required that the districts believe in the value added by the work of the PSFA. He commented that there was a \$4 return

for every \$1 spent on good project management. In terms of obstacles to success, Mr. Gorrell highlighted the difficulty of continuing to recruit and retain skilled personnel. He said that PSFA is trying to develop a credentialed, career-oriented structure for professional staff. This will require that an aggressive recruitment and training process be put into place and that PSFA be able to pay competitive wages to professional staff. He noted that currently the PSFA staff is exempt from the state personnel system, but that this exemption expires July 1, 2005 under the current law. He said that his concern was that this would negatively affect the ability of PSFA to continue to pay competitive wages for technical and professional staff. Ms. Tackett noted some of the difficulties PSFA was having in terms of fitting into the classification structure under the personnel system.

In terms of training, it was suggested that Mr. Gorrell should work with the state's universities to develop specific training programs. He noted that UNM offered some relevant course work aimed at developing construction management skills. It was also suggested that the PSFA could serve as the model for an expanded capital outlay management agency to oversee all capital projects.

Review of the New Mexico Condition Index and the Calculation of Growth Factors

Mr. Gorrell briefly explained the facilities condition index used for the ranking of projects and how enrollment growth has been incorporated into the calculations. He presented a "white paper" on a proposed student population forecasting model that could be developed by the UNM Bureau of Business and Economic Research staff. He highlighted the capabilities of the model and its usefulness to various state agencies, including the PED and the LESC. A copy of the paper is in the meeting file. Mr. Gorrell outlined the costs of the model, including one-time development costs of approximately \$550,000 over three years and recurring maintenance and licensing costs of \$175,000.

Report from the Maintenance Subcommittee

Representative Rick Miera, chair of the subcommittee, provided an overview of the subjects discussed at the subcommittee meeting, including expenditures of SB 9 funds, the need for maintenance personnel training programs, coordination with the Public School Insurance

Authority, the condition of charter school facilities and other related topics. Mr. Bob Bittner provided additional information on these topics. Copies of his handouts are in the meeting file.

Mr. Bittner reviewed the PSFA maintenance plan reporting requirements and the compliance by the districts in meeting the requirements. He said that there was good compliance of the 34 districts applying for state funds, but poor compliance from many other districts. He said that for those reporting, the data provided some useful information on spending for maintenance. However, he cautioned that this data may not be comparable and so staff was working with the districts to get apple-to-apple numbers. He said that it appeared that approximately 25 percent of SB 9 funds were being spent on non-maintenance items. In response to a question, he responded that about \$2.5 million out of \$41 million in SB 9 funds from reporting districts went for education technology. He also noted that approximately 30 percent of maintenance budgets were spent on utilities.

Mr. Bittner also reviewed the proposed statewide facility information management systems (FIMS) being proposed by the PSFA. He said that FIMS will greatly assist school districts in managing their maintenance workload and utility expenses and in scheduling preventive maintenance work. He also said that FIMS will allow the PSFA to centrally monitor district maintenance operations and costs, while collecting data for reporting to policy makers. In terms of resource requirements, he said the system would take just over \$2 million in one-time costs to develop and implement and would have a \$320,000 ongoing license cost. In response to a question, Mr. Berry said that PSFA would probably be requesting a nonrecurring general fund appropriation to fund the development of FIMS.

Representative Miera noted some concerns raised by PSFA on their reluctance to insure some of the charter school facilities because of their poor condition. He also noted the need for the state to understand the cost of providing facilities for pre-kindergarten programs that are being discussed with the governor. He asked the PSFA staff to try to develop some estimates of adequacy standards for facilities for pre-kindergarten children, based on whether the program would be an educational program under PED or a social development program under the

Children, Youth and Families Department (CYFD), and on the costs of providing those facilities.

Discussion of Charter School Issues

Ms. Pauline Rindone and Ms. Sharon Ball reported on discussions of the LESC/PED Charter Schools Work Group. Ms. Anna Lamberson, representing the city of Albuquerque, and Ms. Danielle Johnston, representing East Mountain Charter School, were also present. Dr. Rindone said that the work group consists of representatives from charter schools, school districts, professional associations, PED staff and LESC staff. She explained that the framework for the discussion was various provisions contained in two competing charter school bills considered during the 2004 session. The first, House Bill 404 (and its duplicate, Senate Bill 403), was endorsed by the LESC and included recommendations of the PSCOTF on facility-related issues. A copy of this bill is in the meeting file. The second was Senate Bill 521, sponsored by Senator Nava. The original bill reflected the recommendations of the governor, among them that PED would be the only chartering authority; the committee substitute retained many of the governor's recommendations, but it would have given chartering authority to PED in addition to local school districts. It also contained many of the PSCOTF recommendations on facility-related issues.

According to Dr. Rindone, the work group has not concluded its discussions, but it has reached consensus on the following provisions:

- allow dual chartering authority (local school boards and PED);
- require all charter schools to submit their budgets to PED and require those charter schools authorized by a local school board to submit their budgets also to the school board that authorized the charter;
- retain the provisions for conversion charter schools in current law and allow a conversion charter school to continue using the facilities and equipment it had been using prior to conversion;

- provide mediation as prescribed in HB 404;
- allow public institutions of higher education to start charter schools;
- require charter schools to be responsible for their own operation, including preparation of a budget, subject to periodic audits through the school district or pursuant to the Audit Act;
- prohibit a member of a governing body of one charter school from serving as a member of the governing body of another charter school;
- allow charter schools to contract for services or facilities with the state or a political subdivision of the state, or with federal or tribal governments, in addition to those entities already allowed in law;
- require charter school facilities to meet adequacy standards;
- allow a charter school to maintain separate facilities at two or more locations within a school district, with the understanding that the separate facilities constitute a single school;
- prohibit the governing body of a charter school from contracting with a for-profit or nonprofit entity to manage the charter school (pending further review by PED);
- provide that a charter school accountability data system be maintained either by PED or by a single charter school designated by PED;
- retain the charter school enrollment procedures in current law; and

- require teachers in charter schools to be subject to the same standards of evaluation (the Highly Objective Statewide System of Evaluation, or HOUSSE) as teachers in regular public schools.

Dr. Rindone also noted that Ms. Lamberson had raised three issues that the work group had discussed and had wanted to present for consideration by the PSCOTF (a copy of the handout explaining the issues is in the meeting file):

- allow a charter school to decline any facility offered by a school district if the facility does not meet the charter school's needs (a point of consensus among the members of the work group);
- allow lease payment funds to flow to charter schools during their first year of operation; and
- draft a new section of statute requiring that, if possible, charter schools be in public buildings by a certain date, but also allowing a facility that is used by a charter school and owned by a nonprofit organization and that meets adequacy standards to remain in the hands of the nonprofit organization. This second provision is intended to encourage private investment in public charter school facilities.

The PSCOTF asked staff to return to the next meeting with draft language that addresses each of these provisions.

Finally, Dr. Rindone said that the work group had wanted the task force to consider two other proposals. The first pertains to the size adjustment and proposes that if it applies to charter schools it should also apply to alternative schools. The second pertains to providing for some limit on the relative number of charter schools per school district.

During discussion, several members raised points reflecting the difficulties of balancing the need for charter schools to be in facilities that meet the adequacy standards with the need for flexibility to allow the establishment of new charter schools. Dr. Rindone said that the LESC/PED Charter Schools Work Group would reconvene to try to resolve some of these issues prior to the session, but she noted that finding a consensus on some of them might be difficult.

Mr. Monfiletto asked the task force to consider recommending changes to the lease assistance program to allow the entire \$4.0 million authorized for lease payments to be distributed to schools that lease classroom facilities. He reminded members that only \$1.8 million was allocated this year. He suggested that this change might involve an initial distribution using the \$300 per-member amount and a redistribution of any balance after this calculation had been made. He added that an analysis of charter school funding done a year ago before the lease payment program was adopted showed that, on average, a charter school spends \$7,500 per member on operational costs compared to \$10,000 for a non-charter school. Finally, Mr. Monfiletto noted that the \$300 per-member lease payment was not sufficient to reduce this gap significantly.

Mr. Monfiletto also asked the task force to support some type of longer-range planning process that would help charter schools interact with their school districts on facility needs.

Closing Comments

Based on earlier discussions, Representative Miera asked that the following items be part of the agenda at the next meeting of the task force:

1. SB 9 and the use of funds for maintenance versus education technology;
2. Options for providing additional funding for educational technology on a statewide basis; and
3. How adequacy standards would apply to pre-kindergarten children and some idea of the estimated costs of meeting the standards.

The meeting was adjourned at 3:30 p.m.

TENTATIVE AGENDA
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE
MAINTENANCE SUBCOMMITTEE

November 11, 2004
Pete McDavid Room, UNM Pit Arena
Albuquerque

Thursday, November 11

- 10:00 a.m. CALL TO ORDER
 —Representative Rick Miera, Chair
- 10:05 a.m. PRESENTATION OF CURRENT SPENDING ON MAINTENANCE
 —Overall expenditures from all sources of funds
 —Specifics concerning the use of SB 9 funds
 —Bob Bittner, Maintenance Director, Public School Facilities Authority
- 10:45 a.m. POTENTIAL CHANGES TO SB 9
 —Maintenance vs. Ed. Tech.; alternative funding for Ed. Tech.
 —TBA
 —Change in the mill levy; change in the state guarantee
 —Antonio Ortiz, Director, Capital Outlay Unit, Public Education Department
- 12:00 noon LUNCH
- 1:30 p.m. COMMITTEE DISCUSSION
 —Recommendations to the PSCOTF Funding Subcommittee
- 2:30 p.m. FURTHER DIRECTION TO STAFF
- 3:00 p.m. ADJOURN

TENTATIVE AGENDA
for the
FUNDING SUBCOMMITTEE
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE
November 12, 2004
UNM Executive Board Room
851 University Blvd. SE
Albuquerque

Friday, November 12

10:30 a.m. CALL TO ORDER

—Robert Desiderio, Chair

RECAP OF CURRENT FUNDING SOURCES AND PROGRAMS

—Janet Peacock, Legislative Council Service

CURRENT ESTIMATES FOR SUPPLEMENTAL SEVERANCE TAX BOND
CAPACITY AND OTHER CAPITAL OUTLAY FUNDS

—Janet Peacock, Legislative Council Service

—Linda Kehoe, Legislative Finance Committee

DETERMINATION OF LONG-TERM FUNDING NEED FOR STANDARDS-
BASED PROJECTS

—Review of 3DI Database

—How Much Is Growth Contributing?

—Need for Working Capital Fund

—Janet Peacock, Legislative Council Service

—Bob Gorrell, Public School Facilities Authority

—Tim Berry, Public School Facilities Authority

STATUS OF FUNDING FOR DEFICIENCY CORRECTION PROJECTS

—Bob Gorrell, Public School Facilities Authority

REVIEW OF POTENTIAL CONTINUATION PROJECTS

—Bob Gorrell, Public School Facilities Authority

PROJECTED COST OF FY06 LEASE PAYMENTS AND COST OF
INCREASED PAYMENT AMOUNTS

—Tim Berry, Public School Facilities Authority

OTHER ISSUES?

—Members and Staff

TENTATIVE AGENDA
for the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE
December 20-21, 2004
Room 322, State Capitol
Santa Fe

Monday, December 20

- 9:00 a.m. CALL TO ORDER
 APPROVAL OF MINUTES OF DECEMBER 6-7, 2004
 —Senator Cynthia Nava, Co-chair
- 9:05 a.m. REVIEW OF ISSUES RAISED BY EVALUATION PANEL
 —Staff
 —Representative, Rio Rancho School District
 —Other Public Input
- 9:45 a.m. REVIEW OF 2004 RECOMMENDATIONS AND DRAFT LEGISLATION
 —Staff
- 12:00 noon LUNCH
- 1:00 p.m. REVIEW OF 2004 RECOMMENDATIONS AND DRAFT LEGISLATION
 (continued)
 —Staff
- 2:00 p.m. DISCUSSION OF EDUCATION TECHNOLOGY INITIATIVE
 —Dr. Carmen Gonzales, Chair, Council on Technology in Education
 —Staff
- 3:00 p.m. RECESS

Tuesday, December 21

9:00 a.m. DISCUSSION OF CHARTER SCHOOL RECOMMENDATIONS AND
PROPOSED LEGISLATION

—Dr. Pauline Rindone, Legislative Education Study Committee

11:30 a.m. FINAL REVIEW OF PROPOSED LEGISLATION

—Staff

2:00 p.m. ADJOURN (propose working lunch)

MINUTES
of the
December 20-21, 2004 MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

State Capitol, Room 322
Sante Fe

Representative Rick Miera called the meeting of the public school capital outlay task force to order at 9:10 a.m. on Monday, December 20, in room 322 of the state capitol in Santa Fe.

PRESENT

Robert Desiderio, Co-chair
Sen. Cynthia Nava, Co-chair
Sen. Ben D. Altamirano
Pancho Guardiola
Leonard Haskie
Robert Heyman
James Jimenez (December 20)
Rep. Larry A. Larranaga
Sen. Carroll H. Leavell
Kilino Marquez
Rey S. Medina
Rep. Rick Miera
Tony Monfiletto
Don Moya (Representing Veronica Garcia)
Bud Mulcock (December 20)

ABSENT

Odis Echols
Neil Nuttall

Rep. Henry Kiki Saavedra
Norman Suazo
Mark Valdes (Representing Gary Bland)

Advisory Member

Speaker Ben Lujan

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Sharon Ball, analyst, Legislative Education Study Committee (LESC)
Tim Berry, deputy director, Public School Facilities Authority (PSFA)
Bob Bittner, director of maintenance, PSFA
Gary Carlson, staff attorney, Legislative Council Service (LCS)
Bob Gorrell, director, PSFA
Linda Kehoe, analyst, Legislative Finance Committee (LFC)
Janet Peacock, fiscal and research analyst, LCS
Pauline Rindone, director, LESC
Sara Salazar, intern, LCS
Paula Tackett, director, LCS
Douglas Williams, research analyst, LCS

Monday, December 20, 2004

The task force adopted the minutes of the December 6-7, 2004 meeting.

Review of Issues Raised by the Evaluation Panel

Ms. Peacock reviewed the summary of issues raised by evaluation panels (see attachment).

Alfred Sena, Rio Rancho public schools, indicated that Rio Rancho's next bond election will be in 2006 and the district will coordinate capital planning with PSFA. Mr. Sena reviewed the current status of new school construction in Rio Rancho and raised a transition issue. Rio Rancho is requesting that the project be grandfathered because of the timing of the last bond issue and the implementation of the standard's based process.

Rio Rancho is requesting that the \$1.8 million match requirement be waived during this transition period and that the local funds spent on a project be counted towards its local match; Rio Rancho is seeking only the release of the state share already approved by the Public School Capital Outlay Council (PSCOC) (\$3.1 million).

Brad Winter and Alan Armijo, Albuquerque Public Schools (APS), testified concerning management of student growth, including voluntary busing. Also, Mr. Winter indicated that APS capital priorities matched very closely with priorities established in the statewide assessment of facilities.

Review of 2004 Recommendations and Draft Legislation

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed the omnibus Public School Capital Outlay Task Force (PSCOTF) draft legislation. (Copies of handouts relating to Sections 4 and 6 of the draft are contained in the meeting file.)

Section 1 provides for bond proceeds to be distributed directly to the public school capital outlay fund, thus effectively maintaining a working fund for the PSFA;

Section 2 removes the direct legislative offset from the education technology fund;

Section 3 addresses PSFA approval of projects, requires preparation of master plans and requires the Public School Insurance Authority (PSIA) to comply with adequacy standards;

Section 4 allocates \$30 million of the Capital Outlay Fund for roof repairs;

Section 5 describes the method for making roof repair allocations and incorporates the state-local share formula;

Section 6 smooths changes in the state-local share computation by introducing three year averaging and transfers any educational technology offset carryforward to the capital outlay awards; this section also includes criteria for waiving the local share requirement for small schools; finally, this section grandfathers school districts like Rio Rancho that were caught in the transition to the standard's based award system;

Section 7 authorizes creation of a facility information management system to assist with school maintenance programs and requires school district participation in order to be eligible for a capital outlay award;

Section 8 reconstitutes the task force as the public school capital outlay oversight task force (PSCOOTF) and, based on a suggestion from Representative Lujan, includes the Speaker of the House of Representatives and the President Pro-Tempore of the Senate as members of the task force.

Section 9 describes the duties of the PSCOOTF;

Section 10 allows PSFA staff to remain exempt employees for one additional year;

Section 11 adds the school districts' authority to issue general obligation bonds for matching capital outlay awards;

Section 12 increases the state SB9 guarantee from \$50 to \$60 and authorizes the use of the district match for the roof repair or replacement initiative as set forth in Section 5;

Section 13 requires all school districts to develop and implement preventive maintenance plans;

Section 14 allows the PSFA to pilot the use of electronic signatures; (which will only be piloted after discussion with the financial control division of the Department of Finance and Administration.)

Section 15 establishes that state building codes take precedence over local codes;

Section 16 provides that local fire codes do not apply to school buildings, only state codes apply;

Section 17 is a technical amendment;

Section 18 requires insurance payments made by the PSIA to be expended by school districts pursuant to the procurement code and only after PSFA approval;

Section 19 provides for up to a \$70 million "sweep" of severance tax revenue into the Capital Outlay Fund "for the purpose of... correcting serious roof deficiencies... and for the roof repair and replacement initiative";

Section 20 contains general fund appropriations; and

Section 21 sets out the emergency clause.

Sen. Nava requested a listing of district bond capacity. Mr. Mulcock noted that the suggested criteria only allow four small districts to qualify for a waiver. The Speaker noted that the LESC is not included in the development of the student forecasting model; this section will be amended to include the LESC and PED.

Ms. Tackett and Ms. Peacock reviewed draft 202.153192.1 relating to diverting the gross receipts tax collected on school construction projects from the general fund to a special fund for maintenance.

Ms. Tackett and Ms. Peacock reviewed draft 202.153195.2 relating to charter schools. The legislation provides that direct appropriations to charter schools shall not result in an offset to the parent school district.

Co-chair Desiderio expressed concern that this legislation is a partial "pull back" from the offset provisions and could be problematic from a judicial standpoint.

Ms. Tackett suggested that charter schools should be integrated into district master plans and that charter school needs should be addressed through the standards based process.

Ms. Peacock reviewed draft 202.153194.2 that increases the lease assistance payment for charter schools from \$300 to \$400 per MEM. Ms. Peacock also reviewed draft 202.153217.2 that causes a total of \$4 million be expended for lease payment assistance.

Rep. Miera suggested that lease assistance payments should be made only to charter schools that meet adequacy standards.

Sen. Leavell asked how many charter schools currently exist. Dr. Rindone advised that there are currently 44 with 17 new coming on line.

Ms. Tackett and Mr. Williams reviewed draft 202.153193.2 relating to the creation of a new education technology deficiency correction fund, the establishing of education technology standards, the imposition of a 1 mill statewide property tax and a fiscal year 2005 general fund appropriation of \$21 million.

Discussion of Education Technology Initiative

Dr. Carmen Gonzalez, chair, council on technology in education, Mr. Tom Ryan, executive director of technology for Albuquerque public schools and Mr. Ferdi Serim, program manager of the educational technology unit of the public education department, made a presentation concerning education technology requirements. (A copy of their presentation is included in the meeting file.)

December 21, 2004

Discussion of Charter School Recommendations and Proposed Legislation

Dr. Pauline Rindone made a presentation concerning charter school legislation endorsed by the PSCOTF in January 2004 and recommendations developed for changes to that legislation by the LESC/PED work group. She noted, as background, that the current charter school provisions became law in 1999. Prior to that time, there were only five charter schools. The 1999 charter school legislation contained no funding.

Dr. Rindone reviewed the 2004 charter school proposed legislation as it relates to facilities. Specifically, draft 202.153076.3 (on page 4) prohibits school districts from charging rent to charter schools (with certain exceptions), allows charter schools to be eligible for capital outlay funds (page 5), requires the PSFA to approve charter school facilities with respect to construction codes after July 1, 2005 (page 7) and (on page 8) provides that after January 1, 2010 charter schools must be located in public buildings (with certain exceptions).

Co-chair Desiderio proposed that charter schools be included in a school district's five year master plan. Rep. Miera proposed that no charter school be approved until they have

secured a facility. Mr. Monfiletto counterproposed that a charter school be granted conditional approval contingent upon securing a facility. Superintendent Beth Everett, APS, stated that school districts have no authority to deny a charter based on the lack of a facility. Mr. Moya noted that, unlike the former Board of Education, the Secretary of PED works closely with school districts in the matter of issuing school charters.

Dr. Rindone reviewed the points of agreement reached by the LESC and PED workgroup. These included:

- (a) allowing a charter school to decline a facility offered by a school district, **which proposal was not endorsed by the task force;**
- (b) permitting lease payment assistance in the first year of operation of a charter school, **which proposal was endorsed by the task force;**
- (c) providing that charter schools should be located in a public building by a date certain, except if a charter school is in a facility owned by a nonprofit and the facility meets adequacy standards, **which proposal was endorsed by the task force;** and
- (d) either a local school district or the PED may issue a charter, **which proposal was not endorsed by the task force.**

Senator Nava, Mr. Moya, Mr. Monfiletto and Mr. Heyman were not in favor of the majority position.

The Speaker noted that, if dual chartering authority is authorized, charter schools will bypass the local district and seek a charter from the PED.

Sen. Nava noted that, after 2010, a charter school that moves into a public building could cause a change in the PSFA priority list for meeting adequacy standards.

There followed a discussion concerning PSCOC capital outlay awards and the entity that is required to provide the local match; current law indicates that the school district is responsible for the match; however, some people feel that the match should be provided by the charter school if the PSCOC award is designated for the charter school.

Final Review of Proposed Legislation

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed draft 202.153346.1, the revisions to the omnibus PSCOTF bill. The task force endorsed the new version of the bill.

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed draft 202.153192.2 concerning the gross receipts tax. The task force did not endorse this proposal.

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed draft 202.153193.3 concerning creation of the education technology deficiency fund. **The task force endorsed this proposal after striking sections four (property tax) and five (appropriation).**

Mr. Monfiletto moved to disburse \$4 million in lease payment assistance to charter schools (draft 202.153217.2). **The task force did not endorse that motion, but rather endorsed draft 202.153194.2, as amended,** to increase lease payment assistance to \$600 per MEM or actual lease amount with a maximum not to exceed \$4 million.

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed draft 202.153348.1 concerning an assessment of charter school facilities by the PSFA. The task force tabled consideration of draft 202.153195.2 (charter school offset) and **endorsed the alternative proposal providing for PSFA assessment of a proposed charter school facility within sixty days of receiving notification of the intended occupancy of a facility.**

Ms. Tackett, Ms. Peacock and Mr. Carlson reviewed draft 202.153350.1 concerning the provision of funds to the PSFA for inspecting and permitting projects. **The task force endorsed this proposal.**

The task force endorsed the omnibus bill and authorized staff to make clean up changes as necessary.

The task force adjourned at 12:10 pm.

Appendix D

Draft Legislation Endorsed by the Task Force

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SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; REQUIRING
CONSTRUCTION OF SCHOOL FACILITIES TO COMPLY WITH THE STATEWIDE
ADEQUACY STANDARDS; REQUIRING MAINTENANCE PLANS FOR ALL PUBLIC
SCHOOLS; INCREASING DISTRIBUTIONS PURSUANT TO THE PUBLIC SCHOOL
CAPITAL IMPROVEMENTS ACT; CREATING A PROGRAM TO REPAIR OR
REPLACE DAMAGED ROOFS OF PUBLIC SCHOOL FACILITIES; PROVIDING
FOR THE ASSESSMENT OF CHARTER SCHOOL FACILITIES; EXTENDING THE
TIME PERIOD OF EXEMPT STATUS FOR PUBLIC SCHOOL FACILITIES
AUTHORITY EMPLOYEES; CHANGING CERTAIN FUNDING CRITERIA FOR
PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS; CHANGING THE DUTIES,
COMPOSITION AND TERM OF THE PUBLIC SCHOOL CAPITAL OUTLAY
OVERSIGHT TASK FORCE; RESTRICTING PROPERTY INSURANCE PROCEEDS;
PROVIDING THAT CERTAIN BOND PROCEEDS BE TRANSFERRED IMMEDIATELY
UPON SALE OF THE BONDS; REQUIRING THE APPLICATION OF STATE
CONSTRUCTION STANDARDS AND CERTAIN FIRE REGULATIONS TO PUBLIC

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1 SCHOOL FACILITIES; AUTHORIZING SHORT-TERM SUPPLEMENTAL
2 SEVERANCE TAX BONDS; MAKING APPROPRIATIONS; DECLARING AN
3 EMERGENCY.

4

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

6 Section 1. A new section of the Severance Tax Bonding
7 Act, Section 7-27-12.3 NMSA 1978, is enacted to read:

8 "7-27-12.3. [NEW MATERIAL] ADMINISTRATION OF CERTAIN BOND
9 PROCEEDS APPROPRIATED TO THE PUBLIC SCHOOL CAPITAL OUTLAY
10 FUND.--Proceeds of severance tax bonds and supplemental
11 severance tax bonds previously or hereafter issued by the state
12 board of finance that are appropriated to the public school
13 capital outlay fund for the purpose of carrying out the
14 provisions of the Public School Capital Outlay Act shall,
15 except to the extent that the proceeds are derived from any
16 bonds the interest on which is excluded from federal income
17 tax, be transferred by the state board of finance immediately
18 upon receipt to the public school capital outlay fund. All
19 money so transferred shall be administered for disbursement
20 purposes by the public school capital outlay council consistent
21 with the requirements of the Public School Capital Outlay Act."

22 Section 2. Section 22-15A-9 NMSA 1978 (being Laws 1994,
23 Chapter 96, Section 9, as amended) is amended to read:

24 "22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

25 A. Upon annual review and approval of a school

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1 district's educational technology plan, the bureau shall
2 determine a separate distribution from the educational
3 technology fund for each school district.

4 B. On or before July 31 of each year, the bureau
5 shall distribute money in the educational technology fund
6 directly to each school district in an amount equal to ninety
7 percent of the school district's estimated adjusted entitlement
8 calculated pursuant to Subsection C of this section. A school
9 district's unadjusted entitlement is that portion of the total
10 amount of the annual appropriation that the projected
11 membership bears to the projected membership of the state.
12 Kindergarten membership shall be calculated on a one-half full-
13 time-equivalent basis.

14 C. A school district's estimated adjusted
15 entitlement shall be calculated by the bureau using the
16 following procedure:

17 (1) a base allocation is calculated by
18 multiplying the total annual appropriation by seventy-five
19 thousandths percent;

20 (2) the estimated adjusted entitlement amount
21 for a school district whose unadjusted entitlement is at or
22 below the base allocation shall be equal to the base
23 allocation. For a school district whose unadjusted entitlement
24 is higher than the base allocation, the estimated adjusted
25

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1 entitlement shall be calculated pursuant to Paragraphs (3)
2 through [~~(13)~~] (6) of this subsection;

3 (3) the total projected membership in those
4 school districts that will receive the base allocation pursuant
5 to Paragraph (2) of this subsection is subtracted from the
6 total projected state membership;

7 (4) the total of the estimated adjusted
8 entitlement amounts that will be distributed to those school
9 districts receiving the base allocation pursuant to Paragraph
10 (2) of this subsection is subtracted from the total
11 appropriation;

12 (5) the projected membership for the district
13 is divided by the result calculated pursuant to Paragraph (3)
14 of this subsection; and

15 (6) the estimated adjusted entitlement amount
16 for the school district equals the number calculated pursuant
17 to Paragraph (5) of this subsection [~~is~~] multiplied by the
18 value calculated pursuant to Paragraph (4) of this subsection.

19 [~~(7) excluding appropriations made prior to~~
20 ~~January 1, 2003 and reauthorizations of previous educational~~
21 ~~technology appropriations, the total of educational technology~~
22 ~~appropriations made in the immediately preceding three fiscal~~
23 ~~years directly to, and not rejected by, the school district, is~~
24 ~~calculated. No later than June 30 of each year, the department~~
25 ~~of finance and administration shall certify to the bureau the~~

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1 ~~amount of direct appropriations made to each school district~~
2 ~~during the preceding twelve months. An appropriation made in a~~
3 ~~fiscal year shall be deemed to be accepted by a school district~~
4 ~~unless, prior to July 15 of the fiscal year following the~~
5 ~~appropriation, the district notifies the department of finance~~
6 ~~and administration and the public education department that the~~
7 ~~district is rejecting the appropriation;~~

8 ~~(8) the applicable amount for the school~~
9 ~~district calculated from Subparagraph (k), (m), (n) or (o) of~~
10 ~~Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is~~
11 ~~subtracted from one;~~

12 ~~(9) the value calculated pursuant to Paragraph~~
13 ~~(7) of this subsection for the school district is multiplied by~~
14 ~~the amount calculated pursuant to Paragraph (8) of this~~
15 ~~subsection for that school district;~~

16 ~~(10) the total amount of reductions for the~~
17 ~~school district made in the immediately two preceding fiscal~~
18 ~~years pursuant to Paragraph (11) of this subsection is~~
19 ~~subtracted from the amount calculated pursuant to Paragraph (9)~~
20 ~~of this subsection for that school district;~~

21 ~~(11) the amount calculated for the school~~
22 ~~district pursuant to Paragraph (10) of this subsection is~~
23 ~~subtracted from the amount calculated pursuant to Paragraph (6)~~
24 ~~of this subsection for that school district;~~

25
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1 ~~(12) if the amount calculated for the school~~
2 ~~district pursuant to Paragraph (11) of this subsection is equal~~
3 ~~to or less than the base allocation amount, the estimated~~
4 ~~adjusted entitlement amount for that school district is equal~~
5 ~~to the base allocation amount; and~~

6 ~~(13) if the amount calculated for the school~~
7 ~~district pursuant to Paragraph (11) of this subsection is more~~
8 ~~than the base allocation amount, the estimated adjusted~~
9 ~~entitlement amount for that school district is equal to the~~
10 ~~amount calculated pursuant to that paragraph.]~~

11 D. On or before January 30 of each year, the bureau
12 shall recompute each adjusted entitlement using the final
13 funded membership for that year and, without making any
14 additional reductions, shall allocate the balance of the annual
15 appropriation adjusting for any over- or under-projection of
16 membership.

17 E. A school district receiving funding pursuant to
18 the Technology for Education Act is responsible for the
19 purchase, distribution, use and maintenance of educational
20 technology.

21 F. As used in this section, "membership" means the
22 total enrollment of qualified students, as defined in the
23 Public School Finance Act, on the current roll of class or
24 school on a specified day. The current roll is established by
25 the addition of original entries and reentries minus

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1 withdrawals. Withdrawal of students, in addition to students
2 formally withdrawn from the public school, includes students
3 absent from the public school for as many as ten consecutive
4 school days."

5 Section 3. Section 22-20-1 NMSA 1978 (being Laws 1967,
6 Chapter 16, Section 270, as amended) is amended to read:

7 "22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC
8 SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE ADEQUACY
9 STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS APPLICABLE.--

10 A. Each local school board shall secure the
11 approval of the director of the public school facilities
12 authority or [~~his~~] the director's designee prior to the
13 construction or letting of contracts for construction of any
14 school building or related school structure or before reopening
15 an existing structure that was formerly used as a school
16 building but that has not been used for that purpose during the
17 previous year. A written application shall be submitted to the
18 director requesting approval of the construction, and, upon
19 receipt, the director shall forward a copy of the application
20 to the [~~state superintendent~~] secretary. The director shall
21 prescribe the form of the application, which shall include the
22 following:

- 23 (1) a statement of need;
24 (2) the anticipated number of students
25 affected by the construction;

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- 1 (3) the estimated cost;
- 2 (4) a description of the proposed construction
- 3 ~~[or structure to be built]~~ project;
- 4 (5) a map of the area showing existing school
- 5 attendance centers within a five-mile radius and any
- 6 obstructions to attending the attendance centers, such as ~~[but~~
- 7 ~~not limited to]~~ railroad tracks, rivers and limited-access
- 8 highways; and
- 9 (6) such other information as may be required
- 10 by the director.

11 B. The director or ~~[his]~~ the director's designee

12 shall give ~~[his]~~ approval to an application if ~~[he]~~ the

13 director or designee reasonably determines that:

- 14 (1) the construction will not cause an
- 15 unnecessary proliferation of school construction;
- 16 (2) the construction is needed in the school
- 17 district;
- 18 (3) the construction is feasible;
- 19 (4) the cost of the construction is
- 20 reasonable;
- 21 (5) the construction project:
- 22 (a) is in compliance with the statewide
- 23 adequacy standards adopted pursuant to the Public School
- 24 Capital Outlay Act; and
- 25

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1 (b) if relevant, is appropriately
2 integrated into the school district master plan;

3 [~~(5)~~] (6) the school district is financially
4 able to pay for the construction; and

5 [~~(6)~~] (7) the [~~state superintendent~~] secretary
6 has certified that the construction will support the
7 educational program of the school district.

8 C. Within thirty days after the receipt of an
9 application filed pursuant to this section, the director or
10 [~~his~~] the director's designee shall in writing notify the local
11 school board making the application and the department [~~of~~
12 ~~education~~] of [~~his~~] approval or disapproval of the application.

13 D. A local school board shall not enter into a
14 contract for the construction of a public school facility,
15 including contracts funded with insurance proceeds, unless the
16 contract contains provisions requiring the construction to be
17 in compliance with the statewide adequacy standards adopted
18 pursuant to the Public School Capital Outlay Act.

19 E. Public school facilities shall be constructed
20 pursuant to state standards promulgated pursuant to the
21 Construction Industries Licensing Act and rules adopted
22 pursuant to Section 59A-52-15 NMSA 1978 for the prevention and
23 control of fires in public occupancies. Building standards
24 adopted by a municipality or county do not apply to the
25 construction of public school facilities.

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1 F. As used in this section, "construction" means
2 any project for which the construction industries division of
3 the regulation and licensing department requires permitting."

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

6 "22-24-4. FUND CREATED--USE.--

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

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

14 C. The council may authorize the purchase by the
15 public school facilities authority of portable classrooms to be
16 loaned to school districts to meet a temporary requirement.
17 Payment for these purchases shall be made from the fund. Title
18 and custody to the portable classrooms shall rest in the public
19 school facilities authority. The council shall authorize the
20 lending of the portable classrooms to school districts upon
21 request and upon finding that sufficient need exists.

22 Application for use or return of state-owned portable classroom
23 buildings shall be submitted by school districts to the
24 council. Expenses of maintenance of the portable classrooms
25 while in the custody of the public school facilities authority

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

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

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

18 F. Money in the fund shall be disbursed by warrant
19 of the department of finance and administration on vouchers
20 signed by the secretary of finance and administration following
21 certification by the council that an application has been
22 approved or an expenditure has been ordered by a court pursuant
23 to Section [~~22-24-5.5~~] 22-24-5.4 NMSA 1978. At the discretion
24 of the council, money for a project shall be distributed as
25 follows:

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

7 (2) the council may authorize payments
8 directly to the contractor.

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

16 (1) the total annual expenditures from the
17 fund pursuant to this subsection shall not exceed five percent
18 of the average annual grant assistance authorized from the fund
19 during the three previous fiscal years; and

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

23 H. Up to one million two hundred fifty thousand
24 dollars (\$1,250,000) of the balances of the fund may be
25 expended in fiscal years 2003 and 2004 by the council for the

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1 purpose of updating and refining the statewide assessment study
2 required by Section 22-24-5 NMSA 1978 and for the training of
3 state and local officials on the use of the database and other
4 data-management-related issues identified by the council.

5 ~~[I. Of the appropriation made to the fund by~~
6 ~~Subsection D of Section 15 of Chapter 338 of Laws 2001 for the~~
7 ~~purpose of correcting outstanding deficiencies, one million one~~
8 ~~hundred thousand dollars (\$1,100,000) is appropriated to the~~
9 ~~council for expenditure in fiscal years 2004 through 2007 for~~
10 ~~the core administrative functions of the deficiencies~~
11 ~~corrections program. Any unexpended or unencumbered balance~~
12 ~~remaining at the end of fiscal year 2007 shall revert to the~~
13 ~~fund.~~

14 ~~J. Up to seven hundred thousand dollars (\$700,000)~~
15 ~~of the balances of the fund may be expended by the council in~~
16 ~~fiscal year 2004 for the core administrative functions of the~~
17 ~~public school facilities authority.]~~

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

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1 [~~K-~~] J. Up to four million dollars (\$4,000,000)
2 from the fund may be expended annually by the council in fiscal
3 years 2005 through 2009 for grants to school districts for the
4 purpose of making lease payments for classroom facilities,
5 including facilities leased by charter schools. The grants
6 shall be made upon application by the school districts and
7 pursuant to rules adopted by the council, [~~and~~] provided that,
8 an application on behalf of a charter school shall be made by
9 the school district but, if the school district fails to make
10 an application on behalf of a charter school, the charter
11 school may submit its own application. The following criteria
12 shall apply to the grants:

13 (1) the amount of a grant to a school district
14 shall not exceed:

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

18 (b) three hundred dollars (\$300) for
19 fiscal year 2005 and six hundred dollars (\$600) for fiscal
20 years 2006 through 2009 multiplied by the number of MEM using
21 the leased classroom facilities; provided that, if the total
22 grants awarded pursuant to this paragraph would exceed the
23 total annual amount available, the rate specified in this
24 subparagraph shall be reduced proportionately;

25

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

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

8 (4) as used in this subsection, "MEM" means:

9 (a) the ~~[total]~~ average full-time-
10 equivalent enrollment using leased classroom facilities [~~in the~~
11 ~~final funded~~] on the fortieth, eightieth and one hundred
12 twentieth days of the prior school year; or

13 (b) in the case of an approved charter
14 school that has not commenced classroom instruction, the
15 estimated full-time equivalent enrollment that will use leased
16 classroom facilities in the first year of instruction, as shown
17 in the approved charter school application.

18 K. Up to one percent of the average grant
19 assistance authorized from the fund during the three previous
20 fiscal years may be expended in each fiscal year by the public
21 school facilities authority to reimburse the state fire marshal
22 and the construction industries division of the regulation and
23 licensing department for expenditures made to permit and
24 inspect projects funded in whole or in part under the Public
25 School Capital Outlay Act. The authority shall enter into

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1 contracts with the state fire marshal and the construction
2 industries division to carry out the provisions of this
3 subsection."

4 Section 5. A new section of the Public School Capital
5 Outlay Act, Section 22-24-4.3 NMSA 1978, is enacted to read:

6 "22-24-4.3. [NEW MATERIAL] ROOF REPAIR AND REPLACEMENT
7 INITIATIVE.--

8 A. A school district, desiring a grant award
9 pursuant to this section, shall submit an application to the
10 council. The application shall include an assessment of the
11 roofs on district school buildings that, in the opinion of the
12 school district, create a threat of significant property
13 damage.

14 B. The public school facilities authority shall
15 verify the assessment made by the school district and rank the
16 application with similar applications pursuant to a methodology
17 adopted by the council.

18 C. After a public hearing and to the extent that
19 money is available in the fund for such purposes, the council
20 shall approve roof repair or replacement projects on the
21 established priority basis; provided that no project shall be
22 approved unless the council determines that the school district
23 is willing and able to pay the portion of the total cost of the
24 project that is not funded with grant assistance from the fund.
25 In order to pay its portion of the total project cost, a school

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1 district may use state distributions made to the school
2 district pursuant to the Public School Capital Improvements Act
3 or, if within the scope of the authorizing resolution, proceeds
4 of the property tax imposed pursuant to that act.

5 D. The state share of the cost of an approved
6 project shall be calculated pursuant to the methodology in
7 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

8 E. A grant made pursuant to this section shall be
9 expended by the school district prior to September 1, 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; provided, however, that the order of priority in the
18 [~~three~~] two years beginning July 1, 2004 shall first reflect
19 those specific projects that were partially funded by the
20 council in September 2003 but are not as yet completed,
21 excluding any expansion of the scope of those projects and
22 contingent upon maintenance of the required local support. In
23 that transition period, such projects shall be funded
24 regardless of any deviation from the statewide adequacy
25 standards; provided that the amount of the award received shall

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1 not exceed the amount necessary to meet the statewide adequacy
2 standards, including projected enrollment growth.

3 B. Except as provided in Subsection A of this
4 section and in [~~Section 22-24-5.5~~] Sections 22-24-4.3 and
5 22-24-5.4 NMSA 1978, the following provisions govern grant
6 assistance from the fund for a public school capital outlay
7 project not wholly funded pursuant to Section 22-24-4.1 NMSA
8 1978:

9 (1) all school districts are eligible to apply
10 for funding from the fund, regardless of percentage of
11 indebtedness;

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

15 (a) the council shall apply the
16 standards to charter schools to the same extent that they are
17 applied to other public schools; and

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

23 (3) the council shall establish criteria to be
24 used in public school capital outlay projects that receive
25

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1 grant assistance pursuant to the Public School Capital Outlay
2 Act. In establishing the criteria, the council shall consider:

3 (a) the feasibility of using design,
4 build and finance arrangements for public school capital outlay
5 projects;

6 (b) the potential use of more durable
7 construction materials that may reduce long-term operating
8 costs; and

9 (c) any other financing or construction
10 concept that may maximize the dollar effect of the state grant
11 assistance;

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

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

22 (a) the final prior year net taxable
23 value for a school district divided by the MEM for that school
24 district is calculated for each school district;

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1 (b) the final prior year net taxable value for
2 the whole state divided by the MEM for the state is calculated;

3 (c) excluding any school district for
4 which the result calculated pursuant to Subparagraph (a) of
5 this paragraph is more than twice the result calculated
6 pursuant to Subparagraph (b) of this paragraph, the results
7 calculated pursuant to Subparagraph (a) of this paragraph are
8 listed from highest to lowest;

9 (d) the lowest value listed pursuant to
10 Subparagraph (c) of this paragraph is subtracted from the
11 highest value listed pursuant to that subparagraph;

12 (e) the value calculated pursuant to
13 Subparagraph (a) of this paragraph for the subject school
14 district is subtracted from the highest value listed in
15 Subparagraph (c) of this paragraph;

16 (f) the result calculated pursuant to
17 Subparagraph (e) of this paragraph is divided by the result
18 calculated pursuant to Subparagraph (d) of this paragraph;

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

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1 (h) the lowest value calculated pursuant
2 to Subparagraph (g) of this paragraph is subtracted from the
3 highest value calculated pursuant to that subparagraph;

4 (i) the lowest value calculated pursuant
5 to Subparagraph (g) of this paragraph is subtracted from the
6 value calculated pursuant to that subparagraph for the subject
7 school district;

8 (j) the value calculated pursuant to
9 Subparagraph (i) of this paragraph is divided by the value
10 calculated pursuant to Subparagraph (h) of this paragraph;

11 (k) if the value calculated for a
12 subject school district pursuant to Subparagraph (j) of this
13 paragraph is less than five-tenths, then, except as provided in
14 Subparagraph (n) or (o) of this paragraph, the value
15 ~~calculated~~ for that school district equals the value
16 calculated pursuant to Subparagraph (f) of this paragraph
17 ~~[equals the portion of the approved project to be funded from~~
18 ~~the fund];~~

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

23 (m) if the value calculated for a
24 subject school district pursuant to Subparagraph (j) of this
25 paragraph is five-tenths or greater, then the value calculated

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1 pursuant to Subparagraph (l) of this paragraph is added to the
2 value calculated pursuant to Subparagraph (f) of this
3 paragraph. Except as provided in Subparagraph (n) or (o) of
4 this paragraph, the sum equals the ~~[portion of the approved~~
5 ~~project to be funded from the fund]~~ value for that school
6 district;

7 (n) in those instances in which the
8 calculation pursuant to Subparagraph (k) or (m) of this
9 paragraph yields a value less than one-tenth, one-tenth shall
10 be used as the ~~[portion of the approved project to be funded~~
11 ~~from the fund]~~ value for the subject school district;

12 (o) in those instances in which the
13 calculation pursuant to Subparagraph (k) or (m) of this
14 paragraph yields a value greater than one, one shall be used as
15 the ~~[portion of the approved project to be funded from the~~
16 ~~fund]~~ value for the subject school district;

17 (p) except as reduced pursuant to
18 Paragraph (6) of this subsection, the amount to be distributed
19 from the fund for an approved project: ~~[shall equal the value~~
20 ~~for the subject school district derived from Subparagraph (k),~~
21 ~~(m), (n) or (o) of this paragraph multiplied by the total~~
22 ~~project cost]~~ 1) in calendar year 2005, shall equal the total
23 project cost multiplied by a fraction the numerator of which is
24 the value calculated for the subject school district in 2005
25 plus the value calculated for that district in 2004 and the

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1 denominator of which is two; and 2) in calendar year 2006 and
2 each subsequent calendar year, shall equal the total project
3 cost multiplied by a fraction the numerator of which is the
4 value calculated for the subject school district in the current
5 year plus the value calculated for that school district in each
6 of the two preceding years and the denominator of which is
7 three; and

8 (q) as used in this paragraph: 1) "MEM"
9 means the ~~[total]~~ average full-time-equivalent enrollment of
10 students attending public school in a school district ~~[in the~~
11 ~~final funded]~~ on the fortieth, eightieth and one hundred
12 twentieth days of the prior school year; and 2) "total project
13 cost" means the total amount necessary to complete the public
14 school capital outlay project less any insurance reimbursement
15 received by the school district for the project;

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

19 (a) the total of all legislative
20 appropriations made after January 1, 2003 directly to, and not
21 rejected by, the subject school district for nonoperating
22 purposes, excluding educational technology appropriations made
23 prior to January 1, 2005 and reauthorizations of appropriations
24 previously made to the subject school district, is calculated;
25 provided that an appropriation made in a fiscal year shall be

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1 deemed to be accepted by a school district unless, prior to
2 [~~July 15 of the fiscal year following the appropriation~~] June 1
3 of that fiscal year, the school district notifies the
4 department of finance and administration and the public
5 education department that the district is rejecting the
6 appropriation; provided further that the total shall be
7 increased by an amount, certified to the council by the
8 department, equal to the educational technology appropriations
9 made to the subject school district on or after January 1, 2003
10 and prior to January 1, 2005 and not previously used to offset
11 distributions pursuant to the Technology for Education Act;

12 (b) the applicable [~~amount for the~~
13 ~~subject school district calculated from Subparagraph (k), (m),~~
14 ~~(n) or (o)~~] fraction used for the subject school district and
15 the current calendar year for the calculation in Subparagraph
16 (p) of Paragraph (5) of this subsection is subtracted from one;

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

21 (d) the total amount of reductions for
22 the subject school district previously made pursuant to
23 Subparagraph (e) of this paragraph for other approved public
24 school capital outlay projects is subtracted from the amount
25 calculated pursuant to Subparagraph (c) of this paragraph; and

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

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

9 (8) in those instances in which a school
10 district has used all of its local resources, the council may
11 fund up to the total amount of a project, provided that, in
12 deciding if a school district has used all of its local
13 resources, the council shall consider whether:

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

23 (b) the school district: 1) has fewer
24 than an average of eight hundred full-time-equivalent students
25 on the fortieth, eightieth and one hundred twentieth days of

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1 the prior school year; 2) has at least seventy percent of its
2 students eligible for free or reduced fee lunch; 3) share of
3 the total project cost, as calculated pursuant to provisions of
4 this section, would be greater than fifty percent; and 4) for
5 all educational purposes, has a property tax rate of at least
6 seven dollars (\$7.00) on each one thousand dollars (\$1,000) of
7 taxable 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; and

11 (9) no application for grant assistance from
12 the fund shall be approved unless the council determines that:

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

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

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

21 (d) the school district has submitted a
22 five-year facilities plan that includes: 1) enrollment
23 projections; 2) a current preventive maintenance plan that has
24 been approved by the council pursuant to Section 22-24-5.3 NMSA
25 1978 and that is followed by each public school in the

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1 district; 3) the capital needs of charter schools located in
2 the school district; and [3)] 4) projections for the facilities
3 needed in order to maintain a full-day kindergarten program;

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

15 (f) the application includes the capital
16 needs of any charter schools located in the school district or
17 the school district has shown that the facilities of the
18 charter schools [~~in the district meet the statewide adequacy~~
19 ~~standards~~] have a smaller deviation from the statewide adequacy
20 standards than other district facilities included in the
21 application; and

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

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1 C. After consulting with the public school capital
2 outlay task force and other experts, the council shall
3 regularly review and update statewide adequacy standards
4 applicable to all school districts. The standards shall
5 establish the acceptable level for the physical condition and
6 capacity of buildings, the educational suitability of
7 facilities and the need for technological infrastructure.
8 Except as otherwise provided in the Public School Capital
9 Outlay Act, the amount of outstanding deviation from the
10 standards shall be used by the council in evaluating and
11 prioritizing public school capital outlay projects.

12 D. It is the intent of the legislature that grant
13 assistance made pursuant to this section [~~allow~~] allows every
14 school 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 from
18 using local funds to exceed the statewide adequacy standards.

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

22 F. The council may establish committees or task
23 forces, not necessarily consisting of council members, and may
24 use the committees or task forces, as well as existing agencies
25 or organizations, to conduct studies, conduct surveys, submit

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

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

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

19 Section 7. Section 22-24-5.3 NMSA 1978 (being Laws 2003,
20 Chapter 147, Section 5) is amended to read:

21 "22-24-5.3. PREVENTIVE MAINTENANCE PLANS--GUIDELINES--
22 APPROVAL.--

23 A. The council shall adopt guidelines that will
24 assist school districts in the development and implementation
25 of preventive maintenance plans. In developing the guidelines,

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1 the council shall ensure that they are not overly complex, that
2 they are user-friendly and that they take into account the
3 geographic and size variations of the districts throughout the
4 state. The guidelines shall include the major requirements
5 for:

6 (1) establishing and implementing a preventive
7 maintenance plan;

8 (2) necessary budgets, personnel and staff
9 support;

10 (3) staff training; and

11 (4) evaluation and auditing.

12 B. The council shall develop, implement and
13 maintain a uniform web-based facility information management
14 system. Within available appropriations, the council shall
15 develop a schedule and procedure for phasing all school
16 districts into the system, including those school districts not
17 applying for grant assistance pursuant to the Public School
18 Capital Outlay Act. The facility information management system
19 shall:

20 (1) provide a centralized database of
21 maintenance activities to allow for monitoring, supporting and
22 evaluating school-level and districtwide maintenance efforts;

23 (2) provide comprehensive maintenance request
24 and expenditure information to the school districts and the
25 council; and

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1 (3) facilitate training of facilities
2 maintenance and management personnel.

3 ~~[B-]~~ C. To the extent resources are available, the
4 council shall provide assistance to districts in developing and
5 implementing a preventive maintenance plan.

6 ~~[G-]~~ D. For project allocation cycles beginning
7 after September 1, 2003, a school district shall not be
8 eligible for funding pursuant to Section 22-24-5 NMSA 1978
9 unless:

10 (1) the school district has a preventive
11 maintenance plan that has been approved by the council; and

12 (2) if applicable, the school district is
13 participating in the implementation of the facility information
14 management system.

15 ~~[D-]~~ E. As used in this section, "preventive
16 maintenance" means the regularly scheduled repair and
17 maintenance needed to keep a building component operating at
18 peak efficiency and to extend its useful life. "Preventive
19 maintenance" includes scheduled activities intended to prevent
20 breakdowns and premature failures, including periodic
21 inspections, lubrication, calibrations and replacement of
22 expendable components of equipment."

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

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1 "22-24-7. [~~TEMPORARY PROVISION~~] PUBLIC SCHOOL CAPITAL
2 OUTLAY OVERSIGHT TASK FORCE--CREATION--STAFF.--

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

6 [~~(1)~~] ~~the dean of the university of New Mexico~~
7 ~~school of law or the dean's designee;~~

8 ~~(2)]~~ (1) the secretary of finance and
9 administration or the secretary's designee;

10 [~~(3)]~~ (2) the secretary of public education or
11 the secretary's designee;

12 [~~(4)]~~ (3) the state investment officer or the
13 state investment officer's designee;

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

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

18 [~~(5)]~~ (6) the chairmen of the house
19 appropriations and finance committee, the senate finance
20 committee, the senate education committee and the house
21 education committee or their designees;

22 [~~(6)]~~ (7) a minority party member of the house
23 of representatives, appointed by the New Mexico legislative
24 council;

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1 [~~(7)~~] (8) a minority party member of the
2 senate, appointed by the New Mexico legislative council;

3 [~~(8)~~] (9) two public members who have
4 expertise in education and finance appointed by the speaker of
5 the house of representatives;

6 [~~(9)~~] (10) two public members who have
7 expertise in education and finance appointed by the president
8 pro tempore of the senate;

9 [~~(10)~~] (11) three public members who have
10 expertise in education and finance appointed by the governor;
11 and

12 [~~(11)~~] (12) three superintendents of school
13 districts or their designees, two of whom are from school
14 districts that receive grants from the federal government as
15 assistance to areas affected by federal activity authorized in
16 accordance with Title 20 of the United States Code, appointed
17 by the New Mexico legislative council in consultation with the
18 governor.

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

23 C. [~~Members of the task force shall serve from the~~
24 ~~time of their appointment through June 30, 2005. On July 1,~~
25 ~~2005, the task force is terminated.] Non-ex-officio members of~~

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1 the task force shall serve at the pleasure of their appointing
2 authorities.

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

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

12 Section 9. Section 22-24-8 NMSA 1978 (being Laws 2001,
13 Chapter 338, Section 13, as amended) is amended to read:

14 "22-24-8. [~~TEMPORARY PROVISION~~] PUBLIC SCHOOL CAPITAL
15 OUTLAY OVERSIGHT TASK FORCE--DUTIES.--The public school capital
16 outlay oversight task force shall:

17 A. monitor the overall progress of bringing all
18 public schools up to the statewide adequacy standards developed
19 pursuant to the Public School Capital Outlay Act;

20 [~~A. study and evaluate~~] B. monitor the progress
21 and effectiveness of programs administered pursuant to the
22 Public School Capital Outlay Act and the Public School Capital
23 Improvements Act;

24 [~~B. review the condition index and the methodology~~
25 ~~used for ranking projects;~~]

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1 C. ~~[evaluate]~~ monitor the existing permanent
2 revenue streams ~~[as an]~~ to ensure that they remain adequate
3 long-term funding ~~[source]~~ sources for public school capital
4 outlay projects;

5 D. ~~[monitor and assist]~~ oversee the work of the
6 public school capital outlay council and the public school
7 facilities authority as they perform functions pursuant to the
8 Public School Capital Outlay Act, particularly as they
9 implement the statewide-based process for making grant awards;
10 ~~[and]~~

11 E. appoint an advisory committee to study the
12 feasibility of implementing a long-range planning process that
13 will facilitate the interaction between charter schools and
14 their school districts on issues relating to facility needs;
15 and

16 ~~[E.]~~ F. before the beginning of ~~[the first]~~ each
17 regular session of the ~~[forty-seventh]~~ legislature, report the
18 results of its analyses ~~[findings]~~ and oversight and any
19 recommendations to the governor and the legislature."

20 Section 10. Section 22-24-9 NMSA 1978 (being Laws 2003,
21 Chapter 147, Section 1, as amended) is amended to read:

22 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--
23 CREATION--POWERS AND DUTIES.--

24 A. The "public school facilities authority" is
25 created under the council. The authority shall be headed by a

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1 director, selected by the council, who shall be versed in
2 construction, architecture or project management. The director
3 may hire no more than two deputies with the approval of the
4 council, and, subject to budgetary constraints set out in
5 Subsection G of Section 22-24-4 NMSA 1978, shall employ or
6 contract with such technical and administrative personnel as
7 are necessary to carry out the provisions of this section. The
8 director and deputies shall be exempt from the provisions of
9 the Personnel Act; after July 1, [~~2005~~] 2006, all other
10 employees of the authority shall be subject to the provisions
11 of the Personnel Act.

12 B. The authority shall:

- 13 (1) serve as staff to the council;
- 14 (2) as directed by the council, provide those
15 assistance and oversight functions required of the council by
16 Section 22-24-5.1 NMSA 1978;
- 17 (3) assist school districts with:
- 18 (a) the development and implementation
19 of five-year facilities plans and preventive maintenance plans;
- 20 (b) procurement of architectural and
21 engineering services;
- 22 (c) management and oversight of
23 construction activities; and
- 24 (d) training programs;
- 25

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1 (4) conduct ongoing reviews of five-year
2 facilities plans, preventive maintenance plans and performance
3 pursuant to those plans;

4 (5) as directed by the council, assist school
5 districts in analyzing and assessing their space utilization
6 options;

7 (6) ensure that public school capital outlay
8 projects are in compliance with applicable building codes;

9 (7) conduct on-site inspections as necessary
10 to ensure that the construction specifications are being met
11 and periodically inspect all of the documents related to
12 projects;

13 (8) require the use of standardized
14 construction documents and the use of a standardized process
15 for change orders;

16 (9) have access to the premises of a project
17 and any documentation relating to the project;

18 (10) after consulting with the department,
19 recommend building standards for public school facilities to
20 the council and ensure compliance with building standards
21 adopted by the council;

22 (11) maintain a database of the condition of
23 school facilities and maintenance schedules; and

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1 (12) ensure that outstanding deficiencies are
2 corrected pursuant to Section 22-24-4.1 NMSA 1978. In the
3 performance of this duty, the authority:

4 (a) shall work with school districts to
5 validate the assessment of the outstanding deficiencies and the
6 projected costs to correct the deficiencies;

7 (b) shall work with school districts to
8 provide direct oversight of the management and construction of
9 the projects that will correct the outstanding deficiencies;

10 (c) shall oversee all aspects of the
11 contracts entered into by the council to correct the
12 outstanding deficiencies;

13 (d) may conduct on-site inspections
14 while the deficiencies correction work is being done to ensure
15 that the construction specifications are being met and may
16 periodically inspect all of the documents relating to the
17 projects;

18 (e) may require the use of standardized
19 construction documents and the use of a standardized process
20 for change orders;

21 (f) may access the premises of a project
22 and any documentation relating to the project; and

23 (g) shall maintain, track and account
24 for deficiency correction projects separately from other
25

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1 capital outlay projects funded pursuant to the Public School
2 Capital Outlay Act.

3 C. All actions taken by the authority shall be
4 consistent with educational programs conducted pursuant to the
5 Public School Code. In the event of any potential or perceived
6 conflict between a proposed action of the authority and an
7 educational program, the authority shall consult with the
8 secretary [~~of public education~~].

9 D. A school district, aggrieved by a decision or
10 recommendation of the authority, may appeal the matter to the
11 council by filing a notice of appeal with the council within
12 thirty days of the authority's decision or recommendation.

13 Upon filing of the notice:

14 (1) the decision or recommendation of the
15 authority shall be suspended until the matter is decided by the
16 council;

17 (2) the council shall hear the matter at its
18 next regularly scheduled hearing or at a special hearing called
19 by the chair for that purpose;

20 (3) at the hearing, the school district, the
21 authority and other interested parties may make informal
22 presentations to the council; and

23 (4) the council shall finally decide the
24 matter within ten days after the hearing."
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1 Section 11. A new section of the Public School Capital
2 Outlay Act is enacted to read:

3 "[NEW MATERIAL] PUBLIC FACILITIES TO BE USED BY CHARTER
4 SCHOOLS--ASSESSMENT.--

5 A. Prior to the occupancy of a public facility by a
6 charter school, the charter school shall notify the council of
7 the intended use, together with such other information as
8 required by rule of the council.

9 B. Within sixty days of the notification to the
10 council, the public school facilities authority shall assess
11 the facility in order to determine the extent of compliance
12 with the statewide adequacy standards and the amount of
13 outstanding deviation from those standards. The results of the
14 assessment shall be submitted to the charter school, the school
15 district in which the charter school is located and the
16 council.

17 C. Once assessed pursuant to Subsection B of this
18 section, the facility shall be prioritized and eligible for
19 grants pursuant to the Public School Capital Outlay Act in the
20 same manner as all other public schools in the state.

21 D. As used in this section, "public facility" means
22 a building owned by the charter school, the school district,
23 the state, an institution of the state, another political
24 subdivision of the state, the federal government or a tribal
25 government."

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1 Section 12. Section 22-18-1 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 228, as amended) is amended to read:

3 "22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO
4 ISSUE.--Subject to the provisions of Article 9, Section 11 of
5 the constitution of New Mexico and Sections 6-15-1 and 6-15-2
6 NMSA 1978, a school district may issue general obligation bonds
7 for the purpose of erecting, remodeling, making additions to
8 and furnishing school buildings, purchasing or improving school
9 grounds, purchasing computer software and hardware for student
10 use in public schools, providing matching funds for capital
11 outlay projects funded pursuant to the Public School Capital
12 Outlay Act or any combination of these purposes. The bonds
13 shall be fully negotiable and constitute negotiable instruments
14 within the meaning and for all purposes of the Uniform
15 Commercial Code."

16 Section 13. Section 22-25-9 NMSA 1978 (being Laws 1975
17 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

18 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
19 TAX UNDER CERTAIN CIRCUMSTANCES.--

20 A. Except as provided in Subsection C of this
21 section, the secretary [~~of public education~~] shall distribute
22 to any school district that has imposed a tax under the Public
23 School Capital Improvements Act an amount from the public
24 school capital improvements fund that is equal to the amount by
25 which the revenue estimated to be received from the imposed

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

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

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

24 (2) for fiscal year 2006 and thereafter, an
25 additional amount certified to the secretary ~~[of public~~

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1 ~~education~~] by the public school capital outlay council. No
2 later than June 1, 2005 and each June 1 thereafter, the council
3 shall determine the amount needed in the next fiscal year for
4 public school capital outlay projects pursuant to the Public
5 School Capital Outlay Act and the amount of revenue, from all
6 sources, available for the projects. If, in the sole
7 discretion of the council, the amount available exceeds the
8 amount needed, the council may certify an additional amount
9 pursuant to this paragraph; provided that the sum of the amount
10 calculated pursuant to this paragraph plus the amount in
11 Paragraph (1) of this subsection shall not result in a total
12 statewide distribution that, in the opinion of the council,
13 exceeds one-half of the total revenue estimated to be received
14 from taxes imposed pursuant to the Public School Capital
15 Improvements Act.

16 C. For fiscal year 2004 and thereafter,
17 notwithstanding the amount calculated to be distributed
18 pursuant to Subsections A and B of this section, a school
19 district, the voters of which have approved a tax pursuant to
20 Section 22-25-3 NMSA 1978, shall not receive a distribution
21 less than the amount calculated pursuant to Subsection E of
22 this section, multiplied by the school district's first forty
23 days' total program units and further multiplying the product
24 obtained by the approved tax rate.

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1 D. For purposes of calculating the distribution
2 pursuant to Subsection B of this section, the amount used in
3 Paragraph (1) of that subsection shall equal fifty dollars
4 (\$50.00) through fiscal year 2005, sixty dollars (\$60.00) in
5 fiscal year 2006 and in each subsequent fiscal year shall equal
6 the amount for the previous fiscal year adjusted by the
7 percentage increase between the next preceding calendar year
8 and the preceding calendar year of the consumer price index for
9 the United States, all items, as published by the United States
10 department of labor.

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

20 F. In expending distributions made pursuant to this
21 section, school districts shall give priority to maintenance
22 projects. In addition, distributions made pursuant to this
23 section may be expended by school districts for the school
24 district portion of the total project cost for roof repair or
25 replacement required by Section 22-24-4.3 NMSA 1978.

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1 G. In making distributions pursuant to this
2 section, the secretary [~~of public education~~] shall include such
3 reporting requirements and conditions as are required by rule
4 of the public school capital outlay council. The council shall
5 adopt such requirements and conditions as are necessary to
6 ensure that the distributions are expended in the most prudent
7 manner possible and are consistent with the original purpose as
8 specified in the authorizing resolution. Copies of reports or
9 other information received by the secretary in response to the
10 requirements and conditions shall be forwarded to the council."

11 Section 14. A new section of the Public School Code is
12 enacted to read:

13 "[NEW MATERIAL] PREVENTIVE MAINTENANCE PLANS--
14 PARTICIPATION IN FACILITY INFORMATION MANAGEMENT SYSTEM.--Each
15 school district shall:

16 A. develop and implement a preventive maintenance
17 plan following guidelines adopted by the public school capital
18 outlay council pursuant to Section 22-24-5.3 NMSA 1978; and

19 B. participate in the facility information
20 management system pursuant to the schedule adopted by the
21 public school capital outlay council."

22 Section 15. Section 22-29-1 NMSA 1978 (being Laws 1986,
23 Chapter 94, Section 1) is amended to read:

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1 "22-29-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 29
2 NMSA 1978 may be cited as the "Public School Insurance
3 Authority Act"."

4 Section 16. A new section of the Public School Insurance
5 Authority Act is enacted to read:

6 "[NEW MATERIAL] EXPENDITURE OF INSURANCE PROCEEDS FOR
7 PUBLIC SCHOOLS.--Payment for a claim under property insurance
8 coverage for property damage to public school facilities shall
9 be paid directly to the school district. Without further
10 approval of the authority or any insurance carrier, the
11 proceeds of the insurance payment may be expended by the school
12 district to repair or replace the damaged facility if:

13 A. the school district complies with the
14 Procurement Code; and

15 B. contracts for the repair or replacement are
16 approved by the public school facilities authority pursuant to
17 Section 22-20-1 NMSA 1978."

18 Section 17. TEMPORARY PROVISION--SHORT-TERM SUPPLEMENTAL
19 SEVERANCE TAX BONDS--PUBLIC SCHOOL CAPITAL OUTLAY.--In addition
20 to the bonds issued pursuant to Section 7-27-14 NMSA 1978 and
21 notwithstanding the prohibitions and limitations of that
22 section, in compliance with the Severance Tax Bonding Act, in
23 fiscal year 2005 the state board of finance may issue and sell
24 supplemental severance tax bonds with a term that does not
25 extend beyond the fiscal year in which they are issued in an

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1 amount not exceeding seventy million dollars (\$70,000,000) when
2 the public school capital outlay council certifies by
3 resolution the need for the issuance of the bonds. The
4 proceeds from the sale of the bonds are appropriated to the
5 public school capital outlay fund for the purpose of making
6 awards of grant assistance for correcting serious roof
7 deficiencies pursuant to Section 22-24-4.1 NMSA 1978 and for
8 the roof repair and replacement initiative pursuant to Section
9 22-24-4.3 NMSA 1978; provided that no supplemental severance
10 tax bonds shall be issued pursuant to this section:

11 A. until all other severance tax bonds and
12 supplemental severance tax bonds to be issued in fiscal year
13 2005 have been issued; and

14 B. unless the balance in the severance tax bonding
15 fund as of the date that the bonds are issued is greater than
16 the sum of:

17 (1) the debt service on the supplemental
18 severance tax bonds to be issued pursuant to this section;

19 (2) the debt service scheduled to be paid
20 during the remainder of the fiscal year on all outstanding
21 severance tax bonds and supplemental severance tax bonds; and

22 (3) the amount necessary to meet all principal
23 and interest payments on outstanding bonds payable from the
24 severance tax bonding fund on the next two ensuing semiannual
25 payment dates.

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1 Section 18. APPROPRIATIONS.--

2 A. Three million eight hundred thousand dollars
3 (\$3,800,000) is appropriated from the general fund to the
4 public school capital outlay fund to reimburse the fund for
5 portable classrooms purchased to implement full-day
6 kindergarten programs. The reimbursement shall be expended in
7 fiscal years 2005 through 2007 as originally intended to
8 correct remaining outstanding deficiencies pursuant to Section
9 22-24-4.1 NMSA 1978. Any unexpended or unencumbered balance
10 remaining at the end of a fiscal year shall not revert to the
11 general fund.

12 B. Five hundred seventy-five thousand dollars
13 (\$575,000) is appropriated from the general fund to the
14 department of finance and administration for expenditure in
15 fiscal years 2005 through 2007 for the purpose of developing a
16 student population forecasting model in conjunction with the
17 legislative finance committee, the public education department,
18 the legislative education study committee and the public school
19 facilities authority. Any unexpended or unencumbered balance
20 remaining at the end of fiscal year 2007 shall revert to the
21 general fund.

22 C. Two million sixty-two thousand dollars
23 (\$2,062,000) is appropriated from the general fund to the
24 public school facilities authority for expenditure in fiscal
25 years 2005 through 2007 for the purpose of developing and

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1 implementing a uniform, statewide web-based facility
2 information management system pursuant to the provisions of
3 Section 22-24-5.3 NMSA 1978. Any unexpended or unencumbered
4 balance remaining at the end of fiscal year 2007 shall revert
5 to the general fund.

6 Section 19. EMERGENCY.--It is necessary for the public
7 peace, health and safety that this act take effect immediately.

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HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

AN ACT

RELATING TO EDUCATIONAL TECHNOLOGY; PROVIDING FOR THE IDENTIFICATION AND CORRECTION OF EDUCATIONAL TECHNOLOGY DEFICIENCIES; CREATING THE EDUCATIONAL TECHNOLOGY DEFICIENCY CORRECTION FUND.

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

Section 1. Section 22-15A-1 NMSA 1978 (being Laws 1994, Chapter 96, Section 1) is amended to read:

"22-15A-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 15A NMSA 1978 may be cited as the "Technology for Education Act"."

Section 2. A new section of the Technology for Education Act, Section 22-15A-11 NMSA 1978, is enacted to read:

"22-15A-11. [NEW MATERIAL] EDUCATIONAL TECHNOLOGY DEFICIENCIES--CORRECTION.--

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1 A. No later than September 1, 2005, the bureau,
2 with the advice of the council, shall define and develop
3 minimum educational technology adequacy standards to supplement
4 the adequacy standards developed by the public school capital
5 outlay council, for school districts to use to identify
6 outstanding serious deficiencies in educational technology
7 infrastructure.

8 B. A school district shall use the standards to
9 complete a self-assessment of the outstanding educational
10 technology deficiencies within the school district and provide
11 cost projections to correct the outstanding deficiencies.

12 C. The bureau shall develop a methodology for
13 prioritizing projects that will correct the deficiencies.

14 D. After a public hearing and to the extent that
15 money is available in the educational technology deficiency
16 correction fund, the bureau shall approve allocations from the
17 fund on the established priority basis and, working with the
18 school district and pursuant to the Procurement Code, enter
19 into contracts to correct the deficiencies.

20 E. In entering into contracts to correct
21 deficiencies pursuant to this section, the bureau shall include
22 such terms and conditions as necessary to ensure that the state
23 money is expended in the most prudent manner possible
24 consistent with the original purpose."
25

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1 Section 3. A new section of the Technology for Education
2 Act is enacted to read:

3 "[NEW MATERIAL] EDUCATIONAL TECHNOLOGY DEFICIENCY
4 CORRECTION FUND.--The "educational technology deficiency
5 correction fund" is created in the state treasury. The fund
6 shall consist of money appropriated, distributed or transferred
7 to the fund by law. Earnings from investment of the fund shall
8 be credited to the fund. Money in the fund is appropriated to
9 the education technology bureau for the purpose of making
10 allocations to correct educational technology deficiencies
11 pursuant to Section 22-15A-11 NMSA 1978. Except as otherwise
12 provided, any unexpended or unencumbered balance remaining at
13 the end of a fiscal year shall not revert. Disbursements from
14 the fund shall be made upon warrants drawn by the secretary of
15 finance and administration pursuant to vouchers signed by the
16 chief of the education technology bureau."

17 Section 4. TEMPORARY PROVISION--REPORT.--No later than
18 December 1, 2005, the education technology bureau of the public
19 education department shall prepare a report summarizing the
20 educational technology adequacy standards, describing the
21 outstanding educational technology deficiencies and estimating
22 the cost of correcting the deficiencies. The report shall be
23 submitted to the governor, the legislature and appropriate
24 interim legislative committees.

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