



# **Public School Capital Outlay Oversight Task Force**

**2005  
ANNUAL REPORT**

*Legislative Council Service  
411 State Capitol  
Santa Fe, New Mexico  
January 2006*

**PUBLIC SCHOOL CAPITAL OUTLAY  
OVERSIGHT TASK FORCE**

**2005  
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**TABLE OF CONTENTS**

Report of the Public School Capital Outlay Task Force

Introduction .....	1
Background .....	3
Statutory Duties .....	6
Highlights of Recommendations and Proposed Legislation .....	8
Educational Technology Deficiencies .....	13
Appendix A	Report of the Charter School Advisory Committee
Appendix B	2005 Interim Work Plan
Appendix C	Meeting Agendas and Minutes of Meetings
Appendix D	Endorsed Legislation

**REPORT  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**Introduction**

Created by Laws 2005, Chapter 274, the public school capital outlay oversight task force (PSCOOTF) is a permanent oversight group that is the "direct descendent" of the various public school capital outlay task forces that were created in whole or in part in response to the *Zuni* lawsuit, filed by parents on behalf of their children in the Zuni public schools and later joined by the Gallup-McKinley county and Grants-Cibola county public schools. The *Zuni* lawsuit successfully challenged the constitutionality of New Mexico's process for funding public school capital outlay that was then in effect.

In 1999, state district court Judge Joseph L. Rich, eleventh judicial district, found the state to be in violation of the uniformity clause (Article 12, Section 1) of the New Mexico constitution<sup>1</sup> and gave the state until July 28, 2000 to correct past inequities and establish and implement a uniform system of funding for future public school capital improvements. Later the court extended the deadline in order to evaluate the legislation recommended by the task force established in 2000 and subsequently enacted in 2001.

The current task force consists of 24 members, including members of the legislature and the executive, certain designated public members, some of whom have expertise in finance and education, and superintendents of school districts or their designees, two of whom must be from districts that receive federal impact aid grants. Figure 1 provides a listing of the members who served during the 2005 interim.

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<sup>1</sup>"A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained." (Article 12, Section 1, New Mexico constitution).

Figure 1.–PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

Representative Rick Miera, co-chair	house education committee chair
Senator Cynthia Nava, co-chair	senate education committee chair
Senator Ben D. Altamirano	senate president pro tempore
Senator Vernon D.Asbill	senate minority member
Representative Ray Begaye	Indian affairs committee member
Senator Joseph A. Fidel	senate finance committee chair
Representative Larry A. Larrañaga	house minority member
Senator Carroll H. Leavell	senate minority member
Representative Ben Lujan	speaker of the house
Representative Henry Kiki Saavedra	house appropriations and finance chair
Representative W.C. "Dub" Williams	house minority member
Adam Levine or Mark Valdes for Gary Bland	designee for state investment officer
Don Moya for Veronica Garcia	designee for secretary of education
James Jimenez	secretary of finance and administration
Gloria Rendón, Leslie Carpenter	Santa Fe public schools superintendent
Pancho Guardiola	Cuba independent school district superintendent (impact aid district)
Kilino Marquez	Grants-Cibola county schools superintendent (impact aid district)
Leonard Haskie	Gallup-McKinley county schools assistant superintendent, support services
Elizabeth Marrufo	Las Cruces sunrise elementary school principal
Rey S. Medina, Cecilia Grimes	public member with experience in education and finance
Tony Monfiletto	Amy Biehl charter high school co-founder

James "Bud" Mulcock	former business executive, current education lobbyist
Norman Suazo	architect with expertise in school construction; division chief, Indian affairs department
Dr. Moises Venegas	Albuquerque partnership director; public member
Robbie Heyman (advisory member)	bond counsel

Previous reports of the public school capital outlay task forces, created by Laws 2001, Chapter 338 and recreated by Laws 2004, Chapter 125, provide details related to the background and development of the new, statewide standards-based public school capital outlay process that is now in its second year of implementation. While this report focuses primarily on the work of the task force during the 2005 interim, the following background information is provided for perspective on the issues before the task force.

### **Background**

The current PSCOOTF builds on the work of previous task forces that addressed the need for a statewide public school capital outlay program. The earliest work was performed by a task force established by the state department of public education department (now the public education department) in 1998 and chaired by Representative Ben Lujan. This task force contracted with MGT of America, a consulting firm, to conduct a comprehensive review of issues concerning New Mexico public school capital outlay, including conducting a sampling assessment of 35 districts. The first legislatively created task force was established in 2000 by Senate Joint Memorial 21, forty-fourth legislature, second special session. Many of that task force's recommendations, issued in December 2000, were adopted in Laws 2001, Chapter 338, including authorization to continue the task force's work.

Recommendations enacted in Laws 2001, Chapter 338 included establishment of a transitional

three-pronged framework for public school capital outlay that:

- 1) corrected past inequities by providing 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
- 3) implemented a long-term public school capital improvement process based on adequacy standards.

In addition, this measure increased the Public School Capital Improvements Act (also called "SB 9" or "the two-mill levy") guarantee from \$35.00 per mill per unit (the first such increase in more than 20 years) to \$50.00 per mill per unit and designated supplemental severance tax bonds to be a permanent revenue source for public school capital outlay.

In April 2001, Judge Rich appointed the Honorable Dan McKinnon, former state supreme court justice, 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". Adopting the report of the special master in May 2002, Judge Rich reserved the right to hold status conferences to monitor and review the state's progress in addressing issues raised by the *Zuni* lawsuit.

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 was to go into effect after September 1, 2003. In response to that directive, the 2003 legislature amended the funding formula (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 using the local-state-share formula. The offset provision also applied to legislative appropriations for educational technology, with the reduction credited against the school district's annual distribution under the Education Technology Equipment Act.

Legislation enacted in 2004 made a number of additional improvements to the capital outlay process and provided \$57 million of additional funding for deficiency correction and continuation projects (Laws 2004, Chapter 125). 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 an additional year and added provisions relating to what are called "recalcitrant districts". These provisions would allow the public school capital outlay council (PSCOC) 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 consistently 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 as another important step for ensuring that the new process will comply with the directives of the court in addressing the *Zuni* remedies.

Legislation enacted in 2005 added a number of refinements to the standards-based awards process as a result of experience gained during the pilot year, including many of the recommendations of the task force from the 2004 interim (Laws 2005, Chapter 274). Among those recommendations was completion of the deficiencies correction program with specific emphasis on the correction of serious roof deficiencies. In addition, this legislation created a separate roof repair and replacement initiative and allocated up to \$30 million per year for fiscal

years 2006 and 2007 for this initiative. The lease assistance program enacted in 2004 was modified to increase the maximum grant award from \$300 per member to \$600 per member and to extend this lease assistance to charter schools in their initial year of operation. In response to the task force focus on improving maintenance of public school buildings, the SB 9 guarantee amount was increased from \$50.00 per mill per unit to \$60.00 per mill per unit. Also, a framework was established to allow the PSCOC to waive a portion of the local share when funding a project. Finally, new charter schools are now required to meet educational occupancy standards before being chartered and guidelines were established to assist in the transition of charter schools to public facilities by 2010.

### **Statutory Duties**

The legislation enacted in 2005 to establish the PSCOOTF as a permanent entity set forth the following duties:

- oversee the overall progress of bringing all public schools up to statewide adequacy standards developed in accordance with the Public School Capital Outlay Act;
- evaluate the progress and effectiveness of programs administered pursuant to the Public School Capital Outlay Act and the Public School Capital Improvements Act;
- evaluate the existing permanent revenue streams to ensure that they remain adequate long-term funding sources for public school capital outlay projects;
- oversee the work of the PSCOC and the public school facilities authority (PSFA) as they perform functions established in the Public School Capital Outlay Act, particularly as they implement the statewide-based process for making grant awards;
- appoint an advisory committee to study the feasibility of implementing a long-range planning process that will facilitate the interaction between charter schools and their school districts on issues relating to facility needs; and
- before the beginning of each regular session of the legislature, report the results of its analyses and oversight and make recommendations to the governor and the legislature.

The work of the task force, the advisory committee and the subcommittee during the 2005 interim was 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 public school facilities authority (PSFA). Task force members express their appreciation for the assistance of the staff in completing their work.

The recommendations contained in this first report of the PSCOOTF represent the policy development work of the task force and provide for ongoing monitoring of the standards-based capital outlay program to ensure success toward the goal of bringing all schools up to the adequacy standards and working to keep them there.

### **Highlights of Recommendations and Proposed Legislative Changes**

The 2005 recommendations of the PSCOOTF are intended to follow through on the work of the previous task force in terms of achieving the goals of the Public School Capital Outlay Act while maintaining commitments to the *Zuni* remedies.

During the 2005 interim, the PSCOOTF reviewed the statewide assessment of school facilities, the deficiencies correction program, the roof deficiency correction program, public school capital outlay council awards, lease payment awards, the development of educational technology adequacy standards as directed by HB 511 from the 2005 legislature and a number of issues related to charter schools. The task force also explored a number of new subjects, including high-growth districts and schools, issues related to rural and very small schools, alternative capital financing options, including tax increment financing and industrial revenue bonds, and opportunities for energy efficient school buildings. HB 432/SB 450 address issues raised during this task force's first year of oversight of the standards-based capital outlay program, which is also the second year of implementation of the program, and all of the task force endorsements—except those dealing with educational technology, which are in a separate bill—are included in the task force "omnibus" capital outlay bill.

#### **Public School Finance Act Amendments**

The PSCOOTF endorses amending the Public School Finance Act to remove restrictions that were placed on school district end-of-the-year operations cash balances in 2003, in which the state is allowed to take credit for operational cash balances in determining the subsequent fiscal year's state equalization guarantee. The task force heard a great deal of testimony from superintendents and other representatives from districts of all sizes about what they see as the onerous nature of this requirement. The task force is endorsing removal of this requirement to the Public School Finance Act to make more district funding available for capital issues, such as providing the required local match for a PSCOC grant, financing facilities master plans and funding nonrecurring costs for charter school facilities located in districts.

#### **Amendments to the Public School Capital Outlay Act**

Among its provisions, the PSCOOTF-endorsed omnibus capital outlay bill includes the following amendments to the Public School Capital Outlay Act:

- A requirement that all school districts — not only those applying for state funding—must have an up-to-date five-year facilities plan in place that includes any charter schools located in the district in that plan. Before 2003, when the public school facilities authority (PSFA) was established to administer the standards-based public school capital outlay process, school districts that planned to construct any new facilities had to receive approval from the former state department of public education. This amendment to the Public School Capital Outlay Act requires all districts requesting approval for any construction to have a five-year plan in place before the PSFA can approve the new construction.
- The task force received considerable testimony on the subject of facilities master plans both from members of the PSFA and superintendents. Specifically, the task force heard testimony that initial facilities master plan development, as well as regular updates, can be costly; therefore, the task force endorses legislation to authorize support from the public school capital outlay fund to finance the development of facilities master plans for districts that, under certain conditions, are unable to finance their own.
- The task force invested time in exploring the obstacles that have been encountered in the development of the standards-based capital awards process. One of these is the issue of abandoned buildings that can become "attractive nuisances" and should be demolished. Accordingly, the task force recommends that the PSCOC be authorized the use of \$2.0 million to pay the cost of demolition with some repayment to be realized from savings in school district liability insurance premiums.
- After reviewing the status of the New Mexico school for the deaf and the New Mexico school for the blind and visually impaired at the request of the higher education department, the task force noted that because of the unique nature of these two constitutional schools, they had been excluded from the original deficiency correction program even though they are K-12 schools. The task force recommends a change in law that will create a special deficiency correction program for these

schools and recommends an appropriation of \$40.0 million to fund correction of these already identified deficiencies.

- The subject of the lease assistance program was discussed by the charter school advisory committee as well as the full task force. Current statute authorizes up to a \$4.0 million appropriation to be distributed to qualifying school districts and charter schools at \$600 per MEM. Statute provides, however, for prorating this amount if the total of all applications exceeds the \$4.0 million amount. Because this year's allocations were reduced to approximately \$480 per MEM in order to stay within the \$4.0 million maximum, the task force recommends increasing the maximum to \$7.5 million, an amount that is projected to be adequate for funding the lease assistance payment without proration for at least FY06 and FY07.
- In an effort to hire and retain top quality PSFA employees by remaining competitive with the private sector, the task force is endorsing an amendment to the Public School Capital Outlay Act to maintain the exempt status of all PSFA employees.

### **Growth Issues**

In response to the issue of high growth in some school districts, and in cooperation with the administration, the task force is recommending the creation of a local share advance program designed to provide immediate financing for new schools in high-growth areas of the state. The endorsed language defines a "high-growth area" as one that, within five years of the grant allocation decision, would have an estimated occupancy rate for the proposed new school of 70 percent or more of the design capacity and that, in terms of the existing schools in the area from which students attending the new school will be drawn, at the time of the application, their attendance is above design capacity. Financed with a \$290-million-dollar appropriation, the program will allow for up to 100 percent local share advance for construction of new facilities based on criteria established by the PSCOC that include completion of the project within a 30-month construction period. Repayment for the advance would be assessed over a period not to exceed 10 years. This program sunsets at the end of FY08.

Task force members believe that implementation of this program will allow the state to use for

the extraordinary growth the surplus of state funding that is currently available without sacrificing future funding for projects in districts or areas of districts that are not experiencing growth.

The task force heard testimony regarding the issue of start-up funding for the first year of operation of a new school. Current statute includes no allowance for one-time start-up costs such as supplies, equipment and some operating costs (such as the hiring of a principal and clerical support before the school opens). The task force is endorsing creation of a "new school development fund" to be funded with a \$1.0 million appropriation to the public education department so that districts opening new schools will not have to "raid" other areas of the operational budget to absorb the one-time costs of opening a new school, especially with current restrictions on their cash balances.

#### **Amendments to State Purchasing Statutes**

To facilitate the awarding of contracts throughout the state and in the interest of expediting capital projects, the task force recommends amending state purchasing laws to allow the PSFA to be its own purchasing agent in the same way that school districts act as their own purchasing agents.

#### **Facility Maintenance**

Having seen the sometime disastrous, and always deleterious, effects of deferred maintenance over the past 20 to 25 years, members of the PSCOOTF, as well as members of the predecessor task force, continue to support an increase in funding for public school facility maintenance expenditures. The task force endorses amendments to the Public School Capital Improvements Act ("SB 9" or the "two-mill" levy) to increase the SB 9 guarantee to \$90.00 per mill per student while maintaining the language that requires a yearly adjustment (beginning in FY08) to the state guarantee based on consumer price index increases. The endorsed amendments would also expand the definition of "capital improvements" to include payments under contracts for maintenance support services, allowing, for example, districts to contract with a regional educational cooperative to provide maintenance support services such as inputting maintenance

data or providing a traveling electrician or a heating, ventilating and air conditioning (HVAC) technician, positions that many small, rural, isolated districts have neither the funding nor the need to employ full time.

After hearing testimony on the pilot implementation period of PSFA's facility information management system (FIMS), the task force is recommending a \$2.5 million appropriation for expenditure from FY06 through FY08 to allow the FIMS project to move into the next phase and eventually include all districts. And after receiving testimony on the integrated approach to improve indoor air quality in schools the task force is recommending a \$300,000 appropriation to expand "tools for schools" indoor air quality program.

### **School District Revenue Impact Study Group**

The task force also endorses legislation to create a 16-member study group representing diverse interests charged with examining interaction between school districts and their respective local governments with regard to financing and use of facilities. While the emphasis is on the financial impact of actions taken by local government on school districts, this study group will explore a broad range of related issues, such as the effect of zoning changes, the issuance of industrial revenue bonds on school district capital outlay revenue and expenditures and ways to enhance collaboration between local governments and schools. The task force is recommending a \$50,000 appropriation to the LCS to fund per diem and mileage expenses for qualifying group members.

### **Charter Schools: Additional Entities as Chartering Authorities**

In response to the statutory requirement for the task force to appoint an advisory committee to study the feasibility of implementing a long-range planning process that will facilitate the interaction between charter schools and their school districts on issues relating to facility needs, task force co-chairs appointed a group that includes representation from charter schools, school districts that have authorized charter schools and other interested persons (See Appendix A for a listing of members and the entities they represent). After meeting throughout the fall of 2005, the advisory committee members concluded that separating facilities issues from issues of

governance was neither advisable nor actually possible. Therefore, the advisory committee recommended that the task force endorse legislation to provide a \$50,000 appropriation to the public education department to contract for a study of the feasibility of allowing additional entities, including universities, tribal governments, the public education department and a separate chartering board to approve the establishment of charter schools. The task force adopted this recommendation and included the appropriation and related language in the omnibus capital outlay bill.

### **Educational Technology Deficiencies**

The bill endorsed by the task force related to the correction of educational technology deficiencies follows up on the requirements of HB 511, which was passed last year directing the public education department, in cooperation with the council on technology in education and the office of the chief information officer, to define and develop minimum educational technology adequacy standards for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure.

During the 2005 interim, the department and the council worked with the CIO office to develop a methodology, based upon the capital outlay process to identify, prioritize and correct deficiencies in school buildings. They also developed an initial estimate to correct the most serious deficiencies.

The work group found that educational technology opportunities for New Mexico students vary from very high levels to barely functioning levels. The quantity and quality of educational technology varies often depending upon the experience, attitude and focus of the local school or local school district. Some districts have a strong focus on educational technology and use every source of funding that they can possibly conjure up or imagine, including direct legislative appropriations. As a result, the disparity among and within districts can be great, and the longer the state relies on the largesse of and other demands upon individual legislators when it comes to prioritizing their capital outlay requests, the greater this disparity will become.

The goal of last year's legislation was to ensure that all New Mexico students benefit from educational technology systems that meet baseline adequacy standards no matter where they live. The task force is recommending appropriations in its endorsed educational technology bill that will allow for that goal to be met and to be maintained.

The first appropriation in the task force-endorsed bill is for \$94.4 million to raise all schools in the state to provide equity across all districts for technology infrastructure. The public education department and the council are defining infrastructure, in simple terms, as "what you plug into," which is the underlying framework of a network that includes wiring, electricity, electronics (such as servers, routers, and hubs) and devices that provide access to communication and the internet. The \$24.4 million is the first in a five-year cycle that the department and council are recommending to "refresh" or replace functionally obsolete computers and network devices according to the state technology plan. This legislation will include language that requires districts receiving funding from this appropriation to have an educational technology plan in place that is approved by the department and the council, with an additional approval by the technology council on the methodology used to prioritize allocations.

Task force members heard testimony that no really systematic, objective way exists to assist district officials and legislators in distinguishing educational technology needs from "wants". During the 2005 interim, the public education department's capital outlay bureau provided the task force with a breakdown of direct legislative appropriations for 2005 to school districts. Last year the legislature appropriated approximately \$9.5 million to 12 districts for educational technology. Nearly \$8.5 million dollars went to the Albuquerque district. It was noted that Albuquerque legislators can often choose to fund the educational technology requests of their constituents because they do not have the demands for other types of infrastructure that other legislators do who represent areas without local sources of funding for technology infrastructure.

The task force heard testimony that the special master in the *Zuni* lawsuit pointed out the inherent inequity involved in using direct capital outlay appropriations for school districts. The special master's report directed that these appropriations be taken into account in the state's

standards-based funding system that went into effect September 1, 2003. In response to this directive, the funding mechanism includes 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. That offset has been in effect since the 2004 legislative session.

Task force members endorsed this legislation to equalize funding of educational technology statewide to relieve some of the districts of the burden of these offsets and target all educational technology capital outlay appropriations in a more effective manner.

**FINAL REPORT**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**  
**CHARTER SCHOOL ADVISORY COMMITTEE**

**December 19, 2005**

Established in statute [§22-24-8 NMSA 1978], members of the Charter School Advisory Committee of the Public School Capital Outlay Oversight Task Force were appointed by the co-chairs at the September meeting of the task force. Members include:

Alan Armijo, Chair  
Senator Vernon D. Asbill  
Lisa Grover, Executive Director, New Mexico Coalition of Charter Schools  
Sandra Henson, Superintendent, Jemez Valley Public Schools  
Representative Larry A. Larrañaga  
Tony Monfiletto, Co-founder and Operator, Amy Biehl Charter High School  
Senator Cynthia Nava  
Jack Wiley, Superintendent, Clayton Public Schools

The Legislative Council Service provided staff support with assistance as needed from the Public School Facilities Authority, the Legislative Education Study Committee and the Public Education Department (PED).

The advisory committee met three times from October through December. At the first meeting the members agreed by consensus to examine the following areas:

- Santa Fe County's issuance of Industrial Revenue Bonds (IRBs) to build a facility for the Academy for Technology and the Classics (ATC);
- establishment of a process to ensure charter schools' inclusion in public facilities by 2010;
- further study related to the anti-donation clause of the Constitution of New Mexico and its application to charter schools in private facilities;
- issues associated with the required inclusion of charter schools in school districts' facilities master plans, including the time frame for school districts to include charter schools in their master plan and the sanctions, if any (especially for districts that do not intend to apply for PSCOC funding), for failing to include charter schools;
- issues associated with charter schools' NMCI rankings and the appeals process;
- the concept that not all charter schools are of equal quality and the need for the charter school community to act to "police itself";

- creation of a system that blends thoughtful long-term planning with entrepreneurial start-up of charter schools;
- charter school representation on school district planning committees;
- concerns about the proration of the FY06 lease payment assistance from \$600 per MEM to \$477 per MEM; and
- creation of a state-supported loan fund in order to leverage charter school improvements.

Committee members expressed concern about the time needed to address such a comprehensive list of issues during the remainder of the 2005 interim.

The committee heard presentations from charter school operators from both Santa Fe and Albuquerque who discussed the importance of a close, positive relationship between the charter school and its authorizing district and who suggested that the legislature and the governor might wish to use the current general fund surplus to move charter schools into public facilities.

The committee also heard from representatives of the Albuquerque Public Schools (APS) regarding the importance of establishing a funding mechanism for charter school capital outlay needs in order to avoid the creation of an inferior class of schools in the state.

At its second meeting, the committee heard a presentation from the PED about the effect of direct appropriations on charter schools and their chartering districts. It was noted that charter schools receive proportionally far more direct appropriations than do non-charter schools because charter schools have so few other capital outlay funding mechanisms available to them.

The committee also heard from Mr. Russell Caldwell, senior vice president for public finance, of Kirkpatrick Pettis, who provided details and answered questions about Santa Fe County's issuance of IRBs to meet the capital needs of the ATC. He said that Kirkpatrick Pettis has managed approximately 50 percent of the IRBs issued for public schools across the country. IRBs for ATC will be sold to institutional investors for a period of 30 years at a fixed rate of payment over time. The interest rate is expected to be approximately 6.5 percent. Debt service will be the sole responsibility of ATC's foundation.

IRBs are not appropriate for all charter schools. The bond market looks favorably upon a charter school that demonstrates a strong curriculum and satisfactory test score performance. However, New Mexico's current statutory restrictions on unused cash balances pose problems in regard to the use of IRBs for a charter school's capital outlay funding. Mr. Caldwell told the committee that, because the state takes credit for any accumulation of cash balances beyond a certain level, the state's statutory cash balance restrictions provide no incentive for schools to operate in the most cost-efficient manner possible. Potential investors do not look favorably on this type of disincentive for efficient, economical operation.

At its third and final meeting of the 2005 interim, committee members heard from David Buchholtz, a registered lobbyist for the New Mexico Coalition of Charter Schools, who urged all interested parties involved in the charter school discussion to work together to come up with new approaches to fund charter school capital outlay needs.

Committee members examined bills from prior years that dealt with charter school capital outlay funding and agreed that separating governance issues from capital outlay funding issues would be both difficult and unproductive. By consensus, the committee agreed to recommend the following to the Public School Capital Outlay Oversight Task Force to consider for endorsement for the 2006 legislative session:

- increase the appropriation to fund the lease payment assistance program at \$600 per student;
- require that all charter schools be included in the district master plan;
- study the feasibility of the 90th school district concept; and
- explore the use of IRBs and tax increment financing for capital needs.

Staff prepared drafts of bills for the first three items that were brought to the task force for its consideration along with its other legislation.

## **Appendix B**

### **2005 Interim Work Plan**

**2005 APPROVED  
WORK PLAN AND MEETING SCHEDULE  
for the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**MEMBERSHIP**

Rep. Rick Miera, co-chair	Sen. Carroll H. Leavell
Sen. Cynthia Nava, co-chair	Rep. Ben Lujan
Sen. Ben D. Altamirano	Kilino Marquez
Sen. Vernon D. Asbill	Elizabeth Marrufo
Rep. Ray Begaye	Rey S. Medina
Gary Bland	Tony Monfiletto
Sen. Joseph A. Fidel	Bud Mulcock
Veronica Garcia	Dr. Gloria Rendon
Pancho Guardiola	Rep. Henry Kiki Saavedra
Leonard Haskie	Norman Suazo
James Jimenez	Dr. Moises Venegas
Rep. Larry A. Larrañaga	Rep. W.C. "Dub" Williams

**APPROVED WORK PLAN**

A permanent public school capital outlay oversight task force was created by Laws 2005, Chapter 274, Sections 10 and 11. The task force consists of twenty-four members and includes the secretaries of public education and finance and administration; the state investment officer; the speaker of the house; the president pro tempore of the senate; the chairs of the house appropriations and finance and house education committees and the senate finance and senate education committees; four minority party members, two from each house; a member of the Indian affairs committee; seven public members, two appointed by the speaker; two appointed by the president pro tempore and three appointed by the governor; and three superintendents, two of whom must be from federal impact aid districts, appointed by the legislative council in consultation with the governor.

During the 2005 interim the task force will focus on the following activities:

1. Monitor the progress and effectiveness of programs administered pursuant to the Public School Capital Outlay Act and the Public School Capital Improvements Act.
2. Monitor the existing permanent revenue streams to ensure that they remain adequate long-term funding sources for public school capital outlay projects.
3. Monitor the overall progress of bringing all public schools up to the statewide adequacy standards developed pursuant to the Public School Capital Outlay Act.
4. Oversee the work of 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.
5. Appoint an advisory committee to study the feasibility of implementing a long-range planning process that will facilitate the interaction between charter schools and their school

districts on issues relating to facility needs.

6. Report the results of its analyses and oversight and any recommendations to the governor and the legislature before the start of the regular session.

**PROPOSED MEETING SCHEDULE**

<u>DATE</u>	<u>LOCATION</u>	<u>AMOUNT</u>
July 11	Santa Fe	\$5,633.82
September 19-20	Albuquerque	7,574.95
October 11-12	Albuquerque	7,574.95
November 9-10	Santa Fe	8,459.58
December 19	Santa Fe	<u>5,633.82</u>
		\$34,877.12

## **Appendix C**

# **Meeting Agendas and Minutes of Meetings**

**Revised: July 11, 2005**

**TENTATIVE AGENDA  
for the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**July 11, 2005  
Room 307, State Capitol  
Santa Fe**

**Monday July 11**

- 9:00 a.m.     **Call to Order**
- 9:05 a.m.     **Election of Co-Chairs**
- 9:30 a.m.     **Review of 2004 Task Force Work and Summary of 2005 Legislation**  
—Paula Tackett, Director, Legislative Council Service (LCS)  
—Doug Williams, LCS
- 10:30 a.m.    **Work Plan and Meeting Schedule Discussion**  
—Paula Tackett, LCS  
—Doug Williams, LCS
- 11:00 a.m.    **Committee Discussion of Future Agendas**
- 12:00 noon    **Adjourn**

**MINUTES  
of the  
FIRST MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**July 11, 2005  
Room 322, State Capitol  
Santa Fe**

The first meeting of the Public School Capital Outlay Oversight Task Force for the 2005 interim was called to order by Representative Rick Miera, co-chair, on Monday, July 11, 2005, at 9:15 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Rick Miera, Co-Chair  
Sen. Ben D. Altamirano  
Sen. Vernon D. Asbill  
Rep. Ray Begaye  
Pancho Guardiola  
James Jimenez  
Rep. Larry A. Larranaga  
Kilino Marquez  
Bud Mulcock  
Dr. Gloria Rendon  
Rep. Henry Kiki Saavedra  
Norman Suazo  
Mark Valdes  
Rep. W.C. "Dub" Williams

**Absent**

Sen. Cynthia Nava, Co-Chair  
Sen. Joseph A. Fidel  
Veronica Garcia  
Leonard Haskie  
Sen. Carroll H. Leavell  
Rep. Ben Lujan  
Elizabeth Marrufo  
Rey S. Medina  
Tony Monfiletto  
Dr. Moises Venegas

**Staff**

Sharon Ball, Legislative Education Study Committee (LESC)  
Robert Gorrell, Public School Facilities Authority (PSFA)  
David Harrell, LESC  
Elizabeth Holmes, Legislative Council Service (LCS)  
Linda Kehoe, Legislative Finance Committee (LFC)  
Paula Tackett, LCS  
Doug Williams, LCS

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

## **Monday, July 11**

### **Election of Co-Chairs**

Representative Rick Miera and Senator Cynthia Nava were unanimously elected co-chairs of the task force.

### **Review of 2004 Task Force Work and Summary of 2005 Legislation**

Ms. Tackett reviewed the work of the 2004 task force and the legislation that resulted.

- The statutory duties of the task force were:
  1. to 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. to review the condition index and the methodology used for ranking projects;
  3. to evaluate the existing permanent revenue streams as adequate long-term funding sources for public school capital outlay projects; and
  4. to monitor and 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.
- 2004 was the pilot year for development and implementation of the standards-based public school capital outlay process and the task force received testimony about the statewide assessment of school facilities prepared by 3D/International, the adoption of rules by the 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. In addition, the task force explored the relationship between the public school insurance authority (PSIA) and the PSFA, the volatility of the state-share formula, the impact of offsets for direct appropriations, maintenance and education technology issues, the debt capacity of small school districts and the status of charter school facilities and lease payments.

The task force made the following recommendations to the legislature and these recommendations were adopted unless so noted.

- On the subject of funding adequacy, the task force 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. The task force added a sweep of funds and will revisit this subject if funding becomes inadequate in the future.
- The task force recommended completion of the deficiencies correction program by funding those 2E roofs identified through the earlier assessment by the districts and creation of a statewide roof repair and replacement initiative.

- The task force recommended 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 included in the general obligation bond issue. This recommendation was not enacted into law.
- The task force recommended 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 would 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 recommended 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 provided 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. Additional criteria was added in the Senate Finance Committee related to high-growth districts.
- The task force recommended the following changes to the lease payment assistance program.
  1. 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.
  2. 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.
- The task force 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.
- The task force recommended a general fund appropriation of \$2.1 million to the PSFA for the purpose of developing and implementing a uniform, statewide web-based facility information management system (FIMS). Ultimately, \$1.56 million was appropriated from the Public School Capital Outlay Fund.
- The task force recommended 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.
- The task force recommended 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 Department of

Finance and Administration to develop the model in conjunction with the LFC, the Public Education Department (PED), the LESC and the PSFA. This recommendation was not enacted into law.

- The task force recommended 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.
- On the subject of charter schools, the task force recommended the following.
  1. 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.
  2. 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.
  3. 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: (1) 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 (2) 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.

## **Other Business**

Representative Larranaga inquired about the current provisions relating to offset of direct legislative appropriations for educational technology. Ms. Tackett explained that direct appropriations for educational technology are no longer offset against funding for educational technology. Instead, the offset applies to capital project grants.

Representative Saavedra observed that improvements to charter school facilities could result in improvements to privately owned property and asked about how that could occur.

Representative Williams indicated a desire to expand educational technology to rural schools.

Mr. Mulcock indicated that one of the task force meetings should be devoted to a roundtable discussion consisting of school superintendents.

Senator Asbill requested that the task force be kept informed concerning the status of impact aid lawsuits and the current 25 percent state credit.

Mr. Suazo requested that a list of programs administered by PSFA be presented to the task force at the September meeting.

Representative Miera requested that staff prepare a letter to the PED requesting a status report on the implementation of HB 511. It was suggested that a report be made to the task force at the September meeting.

### **Work Plan and Meeting Schedule Discussion**

The work plan and meeting schedule was unanimously adopted by the task force. Persons interested in serving on the Charter School Advisory Committee were advised to contact the co-chairs or Ms. Tackett.

### **Adjournment**

Representative Miera adjourned the meeting at 10:45 a.m.

Revised: September 7, 2005

**TENTATIVE AGENDA  
for the  
SECOND MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**September 19-20, 2005  
Pete McDavid Lounge, University of New Mexico  
Albuquerque**

**Monday, September 19**

- 10:00 a.m.     **Call to Order**
- 10:05 a.m.     **Approval of the July 11, 2005 Minutes**
- 10:10 a.m.     **Educational Technology Adequacy Standards Update (HB 511)**  
—Catherine Cross-Maple, Deputy Secretary, Learning and Accountability, Public  
Education Department (PED)
- 11:10 a.m.     **Status of Impact Aid Lawsuits**  
—Don Moya, Deputy Secretary, PED
- 11:40 a.m.     **Current-Year Direct Appropriation Offsets**  
—Antonio Ortiz, General Manager, Capital Outlay Bureau, PED
- 12:00 noon     **Lunch**
- 1:15 p.m.     **A Bird's-Eye View of the Public School Capital Outlay Annual Standards-  
Based Awards Process**  
—Pre-Award Process  
—Award Process  
—Post-Award Process  
—Ongoing Review and Monitoring  
    —Public School Facilities Authority (PSFA) Staff  
    —Bob Gorrell  
    —Tim Berry, Bob Bittner, John Manzanares, Pat McMurray, Bill Sprick
- 3:45 p.m.     **Public Comment**
- 4:00 p.m.     **Recess**

**Tuesday, September 20**

9:00 a.m.      **Call to Order**

9:05 a.m.      **PSFA Status Reports**

- Facility Information Management System (FIMS)
- Deficiencies Correction Program
- Public School Capital Outlay Council Awards
- Lease Payment Assistance
  - PSFA Staff

10:00 a.m.      **Appointment of Charter School Advisory Committee Members**

10:30 a.m.      **Committee Discussion of Future Issues**

- Review of Adequacy Standards and Related Issues
- Review of Ranking and Weighting Factors
- Adequacy of Permanent Revenue Stream
- Isolated, Rural and Very Small Schools; Adequacy Standards and Community Facilities
- Property Valuation
- Growth, Infrastructure and Related Costs for Public Schools
- FIMS Participation
- PSFA Time Line for "Milestones" in the Awards Process
- "Stumbling Blocks"
  - Paula Tackett, Legislative Council Service
  - Robert Gorrell, PSFA

12:00 noon      **Adjourn**

**MINUTES  
of the  
SECOND MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**September 19-20, 2005  
Pete McDavid Lounge  
University of New Mexico  
Albuquerque**

The second meeting of the Public School Capital Outlay Oversight Task Force for the 2005 interim was called to order by Senator Cynthia Nava, co-chair, on Monday, September 19, 2005, at 10:00 a.m. in the Pete McDavid Lounge at the University of New Mexico in Albuquerque.

**Present**

Rep. Rick Miera, Co-Chair  
Sen. Cynthia Nava, Co-Chair  
Sen. Vernon D. Asbill  
Rep. Ray Begaye  
Catherine Cross-Maple for Veronica Garcia  
Pancho Guardiola  
Leonard Haskie  
Rep. Larry A. Larranaga  
Speaker of the House Ben Lujan  
Kilino Marquez  
Elizabeth Marrufo  
Tony Monfiletto  
Bud Mulcock  
Rep. Henry Kiki Saavedra  
Norman Suazo  
Dr. Moises Venegas  
Rep. W. C. "Dub" Williams  
Peter Winnegrad for James Jimenez

**Absent**

Sen. Ben D. Altamirano  
Gary Bland  
Sen. Joseph A. Fidel  
Sen. Carroll H. Leavell  
Rey S. Medina  
Dr. Gloria Rendon

**Staff**

Sharon Ball, Legislative Council Service (LCS)  
Robert Gorrell, Public School Facilities Authority (PSFA)  
Jeremy LaFaver, LCS  
Dr. Pauline Rindone, LESC  
Paula Tackett, LCS  
Doug Williams, LCS

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

### **Monday, September 19**

The minutes of the July 11, 2005 meeting were approved.

#### **Educational Technology Adequacy Update**

Catherine Cross-Maple, deputy secretary, and Robert Piro, chief information officer, Public Education Department (PED), made a presentation concerning the progress that PED has made toward fulfilling the requirements of HB 511, explaining that HB 511 establishes a framework for creating a fund to deal with educational technology deficiencies. There are still performance gaps across the school districts and PED is directed to develop baseline standards.

A timeline for the project indicates that the PED began work on September 9, 2005 and will be ready to report to the Legislative Education Study Committee on December 12, 2005. They explained that they are trying to dovetail this process with the data warehouse to integrate systems at the state level with the district level.

PED has identified the following focus areas for effective technology use:

- student learning;
- data-driven decisions;
- capacity development; and
- community connectedness.

Senator Asbill asked if the PED would be able to meet the December 12, 2005 deadline for the report. Ms. Cross-Maple indicated that the PED would be ready.

Representative Saavedra stressed the need to know details on a school-by-school basis and asked if the methodology for rectifying deficiencies in technology would be in place. Representative Miera noted that the first priority is the development of standards to ensure equitable distribution of allocations and then to identify needs.

Ms. Cross-Maple indicated that it is unlikely that details of the technology needs at the school level will be available by December 12, 2005, but data gathered at the district level will be used to develop standards.

Representative Begaye expressed concern about those schools that are not meeting adequate yearly progress.

Ms. Cross-Maple responded that the PED feels it is necessary to include the entire community in decision-making while preparing the adequacy standards. Mr. Piro said

that, ideally, if a student moves from one school to another, that student would have the same access to technology.

Mr. Mulcock observed that HB 511 was to focus on infrastructure and student needs rather than human resource needs.

Senator Nava observed that the purpose of HB 511 was to identify the needs of students vis-à-vis technology and the PED appears to have expanded the project beyond the intent of the legislation.

The committee asked what requirements PED is expecting to be met by the districts; what role standards have for educational technology and what training needs to be provided; and how the technology plan will measure how well the district is fulfilling the department standards for technology.

Ms. Cross-Maple indicated that the department is getting assistance from Microsoft.

The committee raised issues regarding possible conflicts and the need to get expertise from consultants who are not vendors.

Speaker Lujan stated that the legislature gave districts the authority to impose a mill levy for technology without going to the voters. He also indicated that sometimes boards also need to take the responsibility for funding to improve education for students over and above the educational technology funding in their budgets so entities are not always piecemealing technology needs.

The committee asked how the educational technology council was relating to the CIO's Office; what access to technology do the students have and need; and what infrastructure is lacking.

Mr. Suazo asked how the PED defines "infrastructure". Mr. Piro said that infrastructure is defined as hardware and connectivity methodology. Ms. Cross-Maple said that the PED intended to develop standards that go beyond infrastructure needs and embrace teaching methods related to technology. Mr. Suazo said he feels that the PED is exceeding the intent of HB 511. Representative Saavedra agreed. Ms. Marrufo indicated that she feels the technology needs are assessed through student success processes.

Senator Nava recommended that the PED should regroup, set standards and identify the minimum needs of individual schools so the task force has the information it needs to translate the needs into dollars.

### **Status of Impact Aid Lawsuits**

Don Moya of the PED briefed the task force on the status of the impact aid lawsuit. On September 13, 2005, the Tenth Circuit Court met to address the challenge to the 1999-2000 disparity certification. The state is awaiting a decision from the Tenth Circuit Court in Denver. Mr. Moya explained that six years of impact aid at approximately \$50 million per year that the state has taken credit for is at risk. The state takes credit for 25 percent of the basic impact aid component when calculating the equalization guarantee payment. Of the \$90 million in impact aid received by a number of districts in the state, the state takes credit for approximately \$48 million. It does not take credit for special education, Indian education or capital outlay impact aid.

Plaintiffs challenging the state's authorization to take credit for a portion of the basic impact aid are the Gallup, Grants and Zuni school districts.

Mr. Moya then indicated that districts receive 100 percent of all impact aid, that the dollars do not flow through PED and that if the plaintiffs prevail, the entire equalization guarantee formula could be in jeopardy. He also explained the disparity calculation.

#### **Current-Year Direct Appropriation Offsets**

Antonio Ortiz of the PED made a presentation concerning the 2005 offset calculations and presented the following table:

<b>District</b>	<b>District Share</b>	<b>Total Offset for 2005-2006</b>	<b>District</b>	<b>District Share</b>	<b>Total Offset for 2005-2006</b>
ALAMOGORDO	31%	351,235	LAS CRUCES	33%	31,728
ALBUQUERQUE	53%	14,451,162	LAS VEGAS CITY	37%	177,137
ANIMAS	46%	0	LAS VEGAS WEST	25%	166,850
ARTESIA	87%	39,400	LOGAN	50%	0
AZTEC	90%	363,600	LORDSBURG	52%	0
BELEN	35%	180,250	LOS ALAMOS	78%	0
BERNALILLO	47%	40,776	LOS LUNAS	23%	90,850
BLOOMFIELD	46%	458,400	LOVING	53%	84,800
CAPITAN	90%	734,400	LOVINGTON	69%	269,613
CARLSBAD	79%	550,080	MAGDALENA	17%	0
CARRIZOZO	68%	118,982	MAXWELL	31%	52,350
CENTRAL	42%	29,400	MELROSE	35%	31,500
CHAMA	90%	90,000	MESA VISTA	45%	19,846
CIMARRON	90%	261,000	MORA	35%	17,500
CLAYTON	68%	17,250	MORIARTY	36%	133,100
CLOUDCROFT	90%	688,500	MOSQUERO	90%	0
CLOVIS	22%	44,947	MOUNTAINAIR	37%	13,438
COBRE	45%	84,501	PECOS	42%	4,200
CORONA	90%	46,500	PENASCO	26%	53,300
CUBA	21%	0	POJOAQUE	29%	105,180
DEMING	24%	0	PORTALES	24%	135,128
DES MOINES	54%	2,799	QUEMADO	90%	36,000

DEXTER	15%	37,136	QUESTA	88%	0
DORA	44%	0	RATON	35%	15,900
DULCE	90%	0	RESERVE	74%	168,750
ELIDA	61%	72,926	RIO RANCHO	35%	814,100
ESPANOLA	41%	211,150	ROSWELL	31%	467,313
ESTANCIA	37%	0	ROY	30%	0
EUNICE	90%	45,000	RUIDOSO	69%	83,100
FARMINGTON	42%	0	SAN JON	27%	0
FLOYD	20%	4,073	SANTA FE	90%	461,250
FORT SUMNER	52%	46,760	SANTA ROSA	48%	71,399
GADSDEN	13%	109,850	SILVER	50%	116,500
GALLUP	18%	0	SOCORRO	25%	37,297
GRADY	22%	19,550	SPRINGER	56%	50,400
GRANTS	27%	60,900	T or C	59%	0
HAGERMAN	19%	19,000	TAOS	84%	584,000
HATCH	12%	0	TATUM	90%	58,500
HOBBS	38%	275,500	TEXICO	35%	93,917
HONDO	67%	126,221	TUCUMCARI	28%	0
HOUSE	22%	0	TULAROSA	21%	105,304
JAL	90%	336,600	VAUGHN	90%	90,000
JEMEZ MOUNTAIN	90%	90,000	WAGON MOUND	44%	90,180
JEMEZ VALLEY	55%	0	ZUNI	0%	0
LAKE ARTHUR	41%	74,236	<b>GRAND TOTAL:</b>		<b>24,812,514</b>

Senator Asbill stressed that it is important for legislators to work with school boards in order to avoid disrupting the school district's capital priorities. To do otherwise can result in the offset provision reducing funding for a high priority project.

Representative Larranaga observed that ultimately it is the school district's choice to accept the direct appropriation, thus triggering the offset provision. Further, he noted that none of the school districts rejected a direct appropriation in 2005. The task force discussed other options related to special appropriations, including increasing the mill levy for educational technology, or changing the formula to take less credit if special appropriations are for projects that are ranked high on the list for state funding through the Public School Capital Outlay Council (PSCOC).

### **Bird's-Eye View of the Public School Capital Outlay Annual Standards-Based Awards Process**

Mr. Gorrell introduced the PSFA staff who were in attendance:

- Tim Berry;
- Bob Bittner;
- John Manzanares;
- Pat McMurray;
- Angela Robbins; and
- Bill Sprick.

The PSFA discussed the new standards-based process, indicating this is the second awards cycle, and the process provides an objective tool to measure priorities.

Mr. Berry made a brief presentation concerning the timeline associated with the standards-based capital outlay process (see Attachment A).

Mr. Sprick and Mr. Bittner discussed the Facilities Master Plan (FMP) process, indicating that although districts receiving funding from the PSCOC have always had to have a master plan, PSFA had developed a guideline for the districts to help them (see Attachment B). Ms. Robbins explained that the FMP is a road map and is very specific. The FMP is an eligibility criterion for receipt of a capital outlay award. A quality master plan sets out a capital strategy, including a needs analysis. Problems can arise when the application and the master plan do not match.

Mr. Sprick reviewed the current statewide adequacy standards.

Senator Asbill asked about the state's liability with respect to granting a variance from the standards for charter schools. Ms. Tackett responded that the Public School Capital Outlay Council (PSCOC) has not granted any variances that relate to life or safety issues. Further, Ms. Tackett noted that current law requires that charter schools must meet educational occupancy standards or they may not be chartered; however, existing charter schools will be brought up to the statewide adequacy standards along with all other schools.

Mr. Manzanares explained the COMET database and how it is used to identify adequacy needs and develop a priority ranking for projects. He explained that the database is continually upgraded throughout the year, at each point when the projects are reviewed and at 100 percent approval. The student count used is the 40-day count and PSFA tries to expedite the process. The districts get a rough draft of the ranking in November for their review. Additionally, staff provide training for the districts and field personnel on the database. It was also noted that the database is being changed from CITRIX to a web-based database. The issuance of the final rankings is expected to occur on December 21, 2005. PSFA anticipates moving the entire process forward so site visits can occur in the early part of the year.

Mr. Bittner described the school district preventive maintenance plan (PMP) and PSFA's requirements for a satisfactory PMP. The PMP is an eligibility criterion for receipt of a capital outlay award. He set out the six essential pieces: goals, training, setting out the organization, establishing maintenance priorities, documenting who is to do what, and establishing maintenance and inspection schedules.

Mr. McMurray described the application process, site visits and construction plans. In response to a question, it was explained that PSFA has coordinated all the "approvals process" so that all approvals are received before a district goes out to bid. Also, all

districts are on the CIMS system so they can see where their plans are and that they are on track. It is hoped that this will reduce change orders. It was explained that one of the greatest responsibilities was making sure the database is accurate so that the COMET truly reflects the actual condition.

Mr. McMurray explained that the district and PSFA are co-owners during the construction phase. The regional managers live and work in their districts. As part of the application process, the PSFA goes out to understand what the needs are in order to assist in prioritizing the funding.

Senator Nava asked about the FMP and whether school districts are preparing the plans in-house or contracting for the preparation of a plan. Ms. Robbins responded that most districts are contracting, with the typical cost being between \$50,000 and \$100,000 per plan. Senator Nava indicated that the task force might consider providing funding assistance for the preparation of FMPs.

### **Recess**

The task force recessed at 4:05 p.m.

### **Tuesday, September 20**

The task force was called to order by Representative Rick Miera, co-chair, on Tuesday, September 20, 2005, at 9:15 a.m. in the Pete McDavid Lounge at the University of New Mexico in Albuquerque.

### **PSFA Status Reports**

#### **-Facilities Information Management System (FIMS)**

Mr. Bittner provided a status report on FIMS. At present, 18 school districts are participating in the FIMS pilot program. FIMS is a web-based system that uses software provided by a company called School-Dude. Nine of the 18 districts in the pilot program were already using some form of School-Dude before the pilot began. Three modules of School-Dude are being used in the pilot project:

- maintenance direct (MD) — provides for documentation of maintenance expenditures;
- preventive maintenance direct (PMD) — provides for automatic generation of scheduled preventive maintenance; and
- utility direct (UD) — provides for analysis of utility bills.

Thus far, PSFA has expended \$89,000; when fully implemented statewide, the annual cost is anticipated to be \$300,000. The task force asked about the ability of rural, remote schools to access the web-based system and also make web-based data entry. Mr. Bittner responded that during the pilot, every district has been analyzed and some flexibility will be needed regarding how districts input and keep the data.

Mr. Haskie asked how long it would be before it can be determined if FIMS is actually saving money. He observed that sometimes energy saving means changing the ballast in fluorescent lights resulting in inferior candlepower, which is not conducive to learning. Mr. Bittner stated the UD is intended to document energy use and is not necessarily designed to save money; however, by engaging in statewide analysis of energy use, it is anticipated that savings may result.

Representative Miera asked what the current statewide energy expenditure is in schools. Mr. Bittner said that Albuquerque Public Schools spend approximately \$13 million per year. Mr. Moya estimated that approximately \$67 million per year is expended on utilities statewide.

Mr. Guardiola observed that some maintenance employees are computer illiterate, which represents a challenge in using FIMS. But he also explained that with the system, school districts can now account for how long it takes and the cost to do a job. By participating in the pilot project, the school district is now able to identify the utility cost involved in allowing the community to use the school gymnasium at no charge.

Mr. Monfiletto said that it is important for school districts to be educated as to the potential cost savings associated with using FIMS.

Mr. Suazo asked to what extent architects are being required to design to LEEDS certification, which is a very expensive component. Mr. Gorrell indicated that there is no LEEDS requirement, but PSFA is strongly encouraging good design, such as using natural daylight and alternative energy systems.

#### **-Deficiencies Correction Program**

Mr. Berry provided an update on the deficiencies correction program. From August 2002 through June 2005, Mr. Berry noted that 322 projects have been identified and that the PSCOC has made awards totaling \$242.5 million. To date, contracts have been entered into that total \$177.6 million and \$140.5 million has been expended.

Mr. Haskie asked who is responsible for addressing problems that arise after a project is completed. Mr. Gorrell stated that the design contractor is ultimately responsible even after the warranty period has expired.

#### **-PSCOC Awards**

Mr. Gorrell provided an update of PSCOC awards through September 2005 (see Attachment C).

Mr. Monfiletto asked if direct appropriations made during the 2006 legislative session would apply to the awards already made by the PSCOC. Ms. Tackett stated that the PSCOC has not yet determined if offsets would be applied to prior-approved projects

that come to the PSCOC for increased costs. Ordinarily, future offsets would not be applied to projects already approved, only added to cumulative past offsets.

**-Lease Payment Assistance**

Mr. Berry provided an update on the 2004-2005 lease payment awards (see Attachment D).

Mr. Suazo stated that if some lease arrangements include utilities and some do not, then the lease payment of \$600 per member is not equitable.

Representative Miera noted that lease assistance based upon the number of members is equitable.

Dr. Rindone noted that the total funds requested exceeds the \$4 million appropriation. Mr. Berry stated that the law provides for a pro rata reduction in the per member awards in the event that requested funds exceed the appropriation.

**Appointment of Charter School Advisory Committee Members**

Representative Miera appointed the following persons to the charter school advisory committee:

- Alan Armijo, Chair;
- Senator Vernon D. Asbill;
- Lisa Grover;
- Sandra Henson;
- Representative Larry A. Larranaga;
- Tony Monfiletto;
- Senator Cynthia Nava; and
- Jack Wiley.

Mr. Moya volunteered to provide staff support to the committee.

**Committee Discussion of Future Issues**

Ms. Tackett described some of the topics that the task force may wish to explore in future meetings. These include:

- review of adequacy standards and related issues;
- review of ranking and weighting factors;
- adequacy of permanent revenue stream;
- isolated, rural and very small schools;
- property valuation;
- growth, infrastructure and related costs for public schools;
- FIMS participation; and
- "stumbling blocks" such as:
  - exempt vs. classified PSFA staff;

- downsizing of PSFA staff;
- increased cost of construction;
- alternative building types in rural areas;
- prompt payment by districts for project work; and
- increased expectations on the PSFA.

Representative Saavedra asked about funding for PSFA staff. Mr. Gorrell responded that the law provides that up to five percent of the Public School Capital Outlay Fund may be used to fund the PSFA. At present the PSFA budget is substantially below the five percent level.

It was suggested that there needs to be better coordination between school board members and municipalities with respect to zoning changes and the plans of developers that will impact the need for new school construction. Senator Nava and Representative Williams concurred.

Mr. Moya indicated that Secretary Veronica Garcia would like for the PED to have a greater role in the development of adequacy standards.

The issue of charter schools utilizing public school building space was raised. It was explained that this is a local control issue. Mr. Gorrell stated that the law now requires charter schools to be included in school district facilities master plans.

The issue of sectarian schools seeking funding for technology hardware in the future and what assistance could be given to parochial schools was also raised for task force consideration.

### **Adjournment**

The task force adjourned at 11:45 a.m.

**PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL**  
**STANDARDS-BASED CAPITAL OUTLAY PROCESS**  
***Typical Award Cycle***

<b>November</b>	<b>PSCOC Meeting</b> <ul style="list-style-type: none"><li>➤ Weight/Rank Methodology – New Mexico Condition Index (NMCI)</li><li>➤ Variance Renewal – Charter &amp; Alternative Schools</li><li>➤ Preliminary NMCI Ranking</li><li>➤ PSCOC Standards-Based Capital Outlay Application/Timeline</li></ul>
<b>November</b>	<b>Letter to Districts explaining the Standards-Based Capital Outlay Process/Training &amp; Preliminary NMCI Ranking –Timeline &amp; Preliminary NMCI ranking to be distributed</b>
<b>November – December</b>	<b>PSFA Staff /District Representatives - Review/Refine NMCI Data</b>
<b>November – December</b>	<b>Facility Assessment Database - District Training</b>
<b>December</b>	<b>District Proposed Corrections to Facilities Assessment Database Due to PSFA</b>
<b>December</b>	<b>PSCOC Meeting</b> <ul style="list-style-type: none"><li>➤ Revised NMCI Ranking</li><li>➤ Standards-Based Application</li></ul>
<b>January</b>	<b>PSCOC Application Mail Out</b> <ul style="list-style-type: none"><li>➤ Standards-Based Process Description / Potential Funding Pool Explanation</li><li>➤ Model Master Plan Guideline &amp; Model Maintenance Plan Guideline</li><li>➤ Preliminary State/Local Match Percentage</li><li>➤ Local Share Reduction/Waiver Criteria</li><li>➤ Appeal Procedure</li></ul>
<b>January</b>	<b>Public School Capital Outlay Standards-Based Application Training</b>
<b>February Due</b>	<b>Public School Capital Outlay Standards-Based Applications</b>
<b>February PSFA</b>	<b>District Appeals of Facilities Assessment Database Due to</b>

<b>March</b>	<b>PSCOC Meeting</b> <ul style="list-style-type: none"> <li>➤ Standards-Based Applications Received</li> <li>➤ District Appeals Hearings/ PSFA recommendation/ PSCOC Determination</li> <li>➤ Revised Applicant Pool (% of Preliminary List and Approved Appeals)</li> </ul>
<b>March – May Schedule)</b>	<b>PSFA RM Site Visits and Assistance to Districts (Published</b>
<b>March</b>	<b>PED Spring Budget Workshop - PSFA Presentations</b> <ul style="list-style-type: none"> <li>➤ Model Master Facilities Plans &amp; Guidelines/ Model Maintenance Plans and Guidelines</li> <li>➤ Standards Based Grant Process/ Applications</li> <li>➤ PSFA Contracts / Plan Review Process</li> <li>➤ Facility Assessment Database - Individual Training (available)</li> <li>➤ Facilities Information Management System (FIMS) - Individual Training (available)</li> </ul>
<b>May</b>	<b>PED to Calculate State/Local Match Percentages for Award Cycle</b>
<b>May</b>	<b>Final Revised Standards-Based Applications Deadline (inc. Maintenance and Facility Master Plans)</b>
<b>June</b>	<b>PSCOC Presentation Meeting (TBD)</b>
<b>June</b>	<b>PSCOC Presentation Meeting (TBD)</b> 1Facilities Master Plan Status & Maintenance Plan Approvals
<b>August</b>	<b>PSCOC Grant Awards Meeting</b> 2Standards-Based Capital Outlay Awards
<b>September</b>	<b>Standards-Based Capital Outlay &amp; Roof Repair/Replacement Awards– Acceptance Letters due from Districts</b>

<b>Facilities Master Plan Checklist</b>	
Reference: School District Facility Master Plan Components and Guidance, PSFA, January 2004	
<b>District:</b>	
<b>General</b>	<b>Status</b>
<p>Is document a 5 year plan? Is there a record of Board Adoption?</p> <p><b>1.0 Goals/Process</b> 1.1 Goals 1.2 Process 1.3 Acronyms/Definitions</p> <p><b>2.0 Existing and Projected Conditions</b> 2.1 Programs 2.1.1 Number of schools, types, grade configurations</p> <p>2.0 Sites/Facilities 2.2.1 Maps, boundaries, locations 2.2.2 Site inventory summary</p> <p>2.3 District Growth</p> <p>2.4 Enrollment w/ influencing factors 2.4.1 Previous 5 years 2.4.2 Projected 5 years (including land use, development activity, educational policies)</p> <p>2.5 Utilization and Capacity 2.5.1 Existing adequate space and need for future adequacy compliance. 2.5.2 Special factors (PTRs, programs, transfers, boundaries, etc.) 2.5.3 Capacity (Existing facilities,site, educational program constraints) 2.5.4 Facility strategies for adequacy</p> <p>2.6 Technology equipment need/facility impact</p> <p>2.7 Capital Funding 2.7.1 History of prior capital funding 2.7.2 Summary of available funds or available funding mechanisms</p> <p><b>3.0 Capital Improvement Plan</b> 3.2.1 Total Capital Needs Summarize needs by growth, adequacy standards, renewal, preventive maintenance, technology, educational/programmatic, life, health, safety, code, local policy. 3.2.2 Financial strategies</p> <p>3.3 Capital Plan 3.3.1 Summary table of 5 year priorities, fund source, and implementation date</p> <p><b>4.0 Master Plan Support Material</b> 4.1 Site/School Detail 4.1.1 School/non-school site and facilities, facilities conditions assessment, compliance with adequacy standards and district policies, campus site plan, floor plans of existing space.</p>	

**Monthly Status of PSCOC 04-05 Awards  
For the period through 09/20/05**

<b>SCHOOL DISTRICT</b>	<b>SCHOOL</b>	<b>PROJECT DESCRIPTION</b>	<b>Amount Awarded</b>	<b>Current Balance</b>	<b>Total Expended</b>
Albuquerque	Bandelier Elementary School	Construct kindergarten classrooms and restrooms, kitchen/cafeteria addition, and renovate existing school facilities	2,376,357	2,376,357	0.00
Albuquerque	Carlos Rey Elementary	Improvements to meet NM Statewide Adequacy Standards	1,932,000	1,932,000	0.00
Albuquerque	Cibola High School	Improvements to meet NM Statewide Adequacy Standards	2,300,000	2,300,000	0.00
Albuquerque	Dennis Chavez Elementary School	Improvements to meet NM Statewide Adequacy Standards	2,249,400	2,249,400	0.00
Albuquerque	Far NE Heights Elementary Schools	Construct new far northeast heights elementary school	4,871,924	4,871,057	867.34
Albuquerque	Jimmy Carter Middle School	Construct seventh and eighth grade classrooms and restrooms, parking and other site improvements	3,175,969	3,175,969	0.00
Albuquerque	Los Ranchos Elementary School	Construct kindergarten classrooms and restrooms, media center, renovate existing classrooms and restrooms, and make site improvements	1,919,415	1,919,415	0.00
Albuquerque	Mary Ann Binford Elementary	Improvements to meet NM Statewide Adequacy Standards	1,610,000	1,610,000	0.00
Albuquerque	Navajo Elementary School	Classrooms, Restrooms, Support Spaces, Renovate & Make Site Improvements	2,153,981	2,153,981	0.00
Albuquerque	New Northwest High School	Construct New Northwest High School	23,299,644	23,299,644	0.00
Albuquerque	NW Elementary School / Ventana Ranch	Construct kindergarten classrooms, general classrooms, restrooms, multi-purpose rooms and additional site improvements	3,063,296	3,062,429	867.34
Albuquerque	Painted Sky Elementary	Improvements to meet NM Statewide Adequacy Standards	690,000	690,000	0.00
Albuquerque	Sierra Vista Elementary School	Improvements to meet NM Statewide Adequacy Standards	1,012,000	1,012,000	0.00
Albuquerque	Southwest Elementary School	Construct kindergarten classrooms, general classrooms, restrooms, multi-purpose rooms and additional site improvements	2,153,981	2,153,981	0.00
Belen	Belen High School Career Academy	Complete construction of new career academy	1,558,249	470,252	1,087,997.29
Central	Shiprock New Alt. High School	Construct new alternative high school facilities	2,940,787	2,940,787	0.00

Chama	Chama High School	Construct new high school facilities	634,971	634,971	0.00
Corona	Corona High School	Roof Repairs & Master Plan Development	0	0	0.00
Cuba	Cuba Middle School	Renovation of existing facilities and gym addition	1,600,000	1,600,000	0.00
Deming	Memorial Elementary School	Improvements to meet NM Statewide Adequacy Standards	988,000	988,000	0.00
Deming	New Deming Elem/Middle School	Construct middle school facilities	16,255,915	10,151,035	6,104,880.09
Dexter	Dexter High School	Complete Facility Master Plan and utilization study	0	0	0.00
Dora	Dora Schools	Construct new cafeteria and kitchen and renovate existing school facilities	3,400,000	3,400,000	0.00
Elida	Elida Schools	Construct new multipurpose appropriately sized for elementary school and reroofing	560,000	406,383	153,617.31
Espanola	San Juan Elementary School	Classroom Addition & Renovation to bring up to NM Statewide Adequacy Standards	2,015,169	1,988,960	26,208.74
Farmington	Heights Middle School	Improvements to meet NM Statewide Adequacy Standards	2,599,677	1,964,422	635,254.82
Ft. Sumner	Fort Sumner Schools	Remodel cafeteria; renovate, enlarge and equip kitchen; remodel existing metal building for vo-ag classrooms and restrooms; construct new metal building for vo-ag storage; demolish existing vo-ag building; and make site improvements	1,289,000	1,236,534	52,465.81
Gadsden	Chaparral High School	Construct new high school in the Chaparral area	22,000,000	22,000,000	0.00
Gadsden	New Northern Elementary School	Construct new northern elementary school	10,819,350	10,819,350	0.00
Gallup	New Navajo Middle School	Construct new Navajo Middle School	7,527,713	7,499,376	28,337.25
Gallup	New Ramah High School	Construct new Ramah High School	8,788,516	8,735,366	53,150.04
Gallup	Tse' Yi' Gai High School	Construct multi-purpose athletic fields	1,500,000	1,392,567	107,432.70
Grants/Cibola	Grants High School	Construct new gymnasium, renovations and site improvements to complete Grants High School	8,339,000	7,995,249	343,750.80
Hatch	New Hatch Elementary School	Construct new Hatch Elementary School	4,264,847	4,176,337	88,510.42
Jemez Mountain	Coyote Elementary	Improvements to Coyote Elementary School and complete district wide utilization study and consolidation plan	256,652	256,652	0.00
Jemez Valley	San Diego Riverside Charter School	Improvements to the San Diego Riverside Charter School	990,000	990,000	0.00
Las Cruces	Sierra Middle School	Construct classroom addition and correct NM Statewide Adequacy Standards deficiencies	1,297,204	1,238,782	58,422.00
Las Cruces	Vista Middle School	Construct music classrooms and make improvements to meet NM Statewide Adequacy Standards	2,190,753	2,089,210	101,543.00

Logan	Logan Schools	Finish construction of Logan Elementary School multi-purpose room and renovate old gym into K-12 library	1,000,000	1,000,000	0.00
Lordsburg	Central Elementary School	Renovate and make improvements to consolidate third through fifth grade into Central Elementary school	765,949	765,949	0.00
Lordsburg	New Dugan-Tarango Middle School	Construct a new 6-8 middle school facility to replace current Dugan-Tarango Middle School and restructure grade levels by moving 6th grade from Central	4,158,000	4,129,935	28,065.42
Los Lunas	Career Academy	Complete construction of the final phase for the Career Academy	5,000,000	4,953,250	46,750.42
Los Lunas	New Los Lunas High School	Construct additional facilities to convert existing Career Academy into second high school	6,312,734	6,312,734	0.00
Magdalena	Magdalena Schools	Completion of new K-12 Multipurpose Educational Complex	345,000	108,591	236,408.72
Mora	Mora Elementary School (1)	Construct new kindergarten facility at the main campus	1,082,583	1,079,167	3,416.00
Moriarty	Moriarty High School	Construct new science and general classrooms and restrooms	1,281,250	545,348	735,901.83
Mosquero	Mosquero Schools	Complete Facility Master Plan and utilization study	30,000	14,109	15,891.12
Pecos	Pecos Middle School	Construct new classrooms and restrooms and remodel administrative area	518,480	518,480	0.00
Pecos Emergency	Pecos Middle / High School	Cafeteria and Renovation	112,252	0	112,252.00
Portales	Brown Early Childhood Center	Construct new kindergarten classrooms and restrooms; renovate other core facilities for support of full day kindergarten; add kitchen and reroof at existing multi-purpose facility	2,500,000	2,500,000	0.00
Reserve	Glenwood Elementary School	Emergency allocation to investigate and correct water/well contamination issue.	50,000	50,000	\$0.00
Rio Rancho	Enchanted Hills, Colinas del Norte, Puesta del Sol & Rio Rancho Elem.'s	Additional funds to complete 2003-2004 PSCOC award due to cost overruns at Enchanted Hills Elementary School and increased cost to bring kindergarten classrooms up to NM Statewide Adequacy Standards at Colinas del Norte, Puesta del Sol, and Rio Rancho Ele	2,000,000	1,012,001	987,998.80
Rio Rancho	New Southwest Elementary School	Construct new Southwest Elementary School	3,193,271	3,193,271	0.00

Rio Rancho	Rio Rancho Elementary School	Improvements to Rio Rancho Elementary School to meet NM Statewide Adequacy Standards	416,000	416,000	0.00
Roswell	Vocational Technology High School	Renovations and improvements at old Sunset Elementary School to convert to vocational technology high school	5,000,000	4,813,780	186,219.74
San Jon	San Jon Schools	Additional funds to complete 2003 - 2004 PSCOC Award	300,000	300,000	0.00
T or C	New T or C High School	Complete construction of new high school facilities	5,545,148	5,545,148	0.00
Taos	New Taos Charter School	Construct new Taos Charter School	0	0	0.00
West Las Vegas	Valley Elementary/Middle School	Renovations and improvements at Valley Elementary/School, including appropriate cafeteria and physical education spaces.	3,663,892	2,895,002	768,890.47
West Las Vegas	West Las Vegas High School (2)	Drainage improvements; construct two additional classrooms; renovate existing or add art classroom; renovate existing band/industrial arts facility and HVAC improvements at current gymnasium	3,077,682	2,697,536	380,146.21

<b>200,976,011</b>	<b>188,630,765</b>	<b>12,345,245.68</b>
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PUBLIC SCHOOL CAPITAL OUTLAY  
2005-2006 LEASE PAYMENT ASSISTANCE APPLICATION SUMMARY

District	Facility Name	Charter (x for "yes")	Total Sq.Ft. of Leased Classroom Space	Prior Year Funded Membership	Sq. Ft. per Member	Total Annual Lease Payment	Maximum Allowable Lease Assist @ \$600/ME M	Total Amount of Funds Reque sted
Alamogordo	Lacy Simms Middle School	x	8,640	89	115	86,880	53,400	53,400
Albuquerque	Academia de Lengua y Cultura	x	14,538	134.67	114	126,113	80,802	80,802
Albuquerque	Amy Biehl High School	x	10,464	204	65	129,268	122,400	122,400
Albuquerque	Cesar Chavez	x	16,388	108	37	78,600	64,800	64,800
Albuquerque	Charter Vocational High School <sup>3</sup>	x	46,391	423.6	118	566,532	254,160	254,160
Albuquerque	Charter Vo-Tech Center <sup>3</sup>	x	18,658	161.66	119	142,343	96,996	96,996
Albuquerque	Creative Education Prep. Institute #1	x	9,740	161	93	160,200	96,600	96,600
Albuquerque	Creative Education Prep. Institute #2	x	8,269	142	99	164,100	85,200	85,200
Albuquerque	East Mountain High School	x	39,869	291.34	137	336,000	174,804	174,804
Albuquerque	High Tech High	x	12,402	90	111	136,422	54,000	54,000
Albuquerque	Horizon Academy Preparatory HS <sup>2</sup>	x	85,400	450	310	465,780	270,000	270,000
Albuquerque	Horizon Academy NW <sup>2</sup>	x	33,600	494	75	440,100	296,400	296,400
Albuquerque	Horizon Academy South ES <sup>2</sup>	x	29,512	532	59	478,548	319,200	319,200
Albuquerque	Horizon Academy West ES <sup>2</sup>	x	18,576	596	38	402,000	357,600	357,600
Albuquerque	La Academia de Esperanza	x	8,540	196	57	131,291	117,600	117,600
Albuquerque	La Luz Del Monte Charter School	x	11,520	60	205	122,640	36,000	36,000
Albuquerque	La Promesa Early Childhood Ctr.	x	6,186	166	38	95,205	99,600	95,205
Albuquerque	Los Puentes	x	8,467	128	75	77,790	76,800	76,800
Albuquerque	Montessori Elementary School	x	14,040	176	84	219,000	105,600	105,600
Albuquerque	Montessori of the Rio Grande	x	9,996	151	66	121,032	90,600	90,600
Albuquerque	Mountain Mahogany Community	x	5,376	88	71	52,800	52,800	52,800
Albuquerque	Nuestros Valores	x	5,444	145	38	36,488	87,000	36,488
Albuquerque	Public Academy, Performing Arts	x	21,660	327	2	261,155	196,200	196,200
Albuquerque	RFK Charter HS	x	23,788	238	95	187,920	142,800	142,800
Albuquerque	South Valley Academy	x	9,400	266	48	150,000	159,600	150,000
Albuquerque	SW Primary Learning Center	x	16,350	102	176	165,000	61,200	61,200
Albuquerque	SW Secondary Learning Center	x	32,452	310	111	297,594	186,000	186,000

Albuquerque	The Learning Community Charter	x	11,237	162	86	157,674	97,200	97,200
Albuquerque	YouthBuild Trade & Tech. HS	x	20,495	100	208	110,000	60,000	60,000
Carlsbad	Jefferson Montessori Academy	x	12,710	113	132	105,000	67,602	67,602
Cimarron	Moreno Valley High School	x	7,680	91	99	55,800	54,600	54,600
Cloudcroft	Cloudcroft High School		840	273	3	12,000	163,794	12,000
Clovis	Alternative Learning Center		11,590	162	78	90,000	97,200	90,000
Espanola	Espanola Military Academy	x	12,820	229	91	133,630	137,400	133,630
Gallup	Middle College High School	x	1,634	42	58	53,678	25,200	25,200
Jemez Valley	San Diego Riverside	x	11,775	93	216	63,000	55,800	55,800
Jemez Valley	Walatowa High Charter School	x	3,480	30	145	39,087	18,000	18,000
Las Cruces	La Academia de Idiomas y Cultura	x	9,257	112	89	96,000	67,200	67,200
Las Vegas City	Bridge Academy	x	5,546	32	175	27,600	19,002	19,002
Las Vegas West	Rio Gallinas School	x	6,008	57	151	48,000	34,200	34,200
Questa	Roots & Wings Community	x	1,240	24	62	21,600	14,400	14,400
Roswell	Sidney Gutierrez Middle School	x	5,380	58	161	15,450	34,800	15,450
Ruidoso	Gavilan Canyon School		3,420	17	202	20,400	10,398	10,398
Santa Fe	Academy for Technology/Classics	x	4,750	214	36	34,092	128,400	34,092
Santa Fe	Monte del Sol Charter	x	23,793	363	70	209,720	217,800	209,720
Silver	Aldo Leopold High School	x	5,180	50	151	36,000	30,000	30,000
Socorro	Cottonwood Valley Charter School	x	8,806	159	49	73,560	95,400	73,560
Socorro	Zimmerly Elementary		9,000	238	40	50,000	142,800	50,000
Taos	Anansi Charter School	x	4,497	49	107	54,165	29,400	29,400
Taos	Taos Municipal Charter School	x	14,786	189	82	102,100	113,400	102,100
Zuni	Zuni Middle School		75,377	300	19	19,500	180,000	19,500
<b>TOTAL</b>	<b>51</b>	<b>46</b>	<b>796,967</b>	<b>9387</b>	<b>99</b>	<b>7,258,857</b>	<b>5,632,158</b>	<b>4,996,709</b>
					<b>Avg.</b>			

Revised: October 28, 2005

**TENTATIVE AGENDA  
for the  
THIRD MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**October 31-November 1, 2005  
Pete McDavid Lounge  
University of New Mexico (UNM) "Pit"  
Albuquerque**

**Monday, October 31**

- 10:00 a.m. **Call to Order**  
**Approval of Agenda**  
**Approval of Minutes of September 19-20, 2005**
- 10:15 a.m. **Disaggregation of Direct Capital Outlay Appropriations—Response to Task Force Request**  
—Antonio Ortiz, General Manager, Capital Outlay Bureau, Public Education Department
- 10:30 a.m. **Property Valuations: "Current and Correct" and Other Statutory Requirements**  
—Al Maury, Senior Economist, Tax Research Office, Taxation and Revenue Department (TRD)  
—Tim Eichenberg, Director, Property Tax Division, TRD
- 12:00 noon **Lunch**
- 1:00 p.m. **Adequacy Standards and Related Issues**  
—Considerations for Isolated, Rural, Very Small and/or Old Schools and Local Community Values
- Bill Sprick, Planning and Design Manager, Public School Facilities Authority (PSFA)
  - Wally Feldman, Superintendent, Zuni Public Schools
- Growth and Infrastructure
- Jim Owen, Mayor, City of Rio Rancho
  - Alan Armijo, Chair, Bernalillo County Commission
  - Ed Adams, Chief Operations Officer, City of Albuquerque
  - Barry Bitzer, Chief of Staff, Office of the Mayor, City of Albuquerque
  - Kip Bobroff, Professor, UNM School of Law
- 3:00 p.m. **Procurement Alternatives and Other Procurement Issues**  
—Contractor/Subcontractor Statewide Qualification/Prequalification

—Alternative Building Types

- Bob Gorrell, Director, PSFA
- Jeffrey Eaton, Controller, PSFA

4:00 p.m. **Public Comment**

4:30 p.m. **Recess**

## **Tuesday, November 1**

9:00 a.m. **Call to Order**

9:05 a.m. **School Districts/Task Force Members Roundtable Discussion: Issues of Concern Related to FIMS Implementation**

—Pancho Guardiola, President, New Mexico School Superintendents Association

—Carolyn Franklin, Superintendent, Logan Municipal Schools

—Al Sena, Executive Director, Facilities, Rio Rancho Public Schools

—Barry Ward, Facilities Director, Silver Consolidated Schools

11:00 a.m. **Energy Efficiency and Renewable Energy Bonding Act (HB 32)**

—Harold Trujillo, Bureau Chief, Energy Conservation and Management  
Division, Energy, Minerals and Natural Resources Department

11:45 a.m. **Public School Capital Outlay Council Report**

—Report on 2005 PSCOC Grant Awards and Lease Payments

—Update on Deficiency Corrections

- James Jimenez, Chair, PSCOC
- Tim Berry, Deputy Director, PSFA

12:30 p.m. **Charter School Advisory Committee Report**

—Alan Armijo, Chair

1:00 p.m. **Adjourn**

**MINUTES  
of the  
THIRD MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**October 31-November 1, 2005  
Pete McDavid Lounge  
University of New Mexico  
Albuquerque**

The third meeting of the Public School Capital Outlay Oversight Task Force for the 2005 interim was called to order by Representative Rick Miera, co-chair, on Monday, October 31, 2005, at 10:10 a.m. in the Pete McDavid Lounge at the University of New Mexico (UNM) in Albuquerque.

**Present**

Representative Rick Miera, Co-Chair  
Senator Cynthia Nava, Co-Chair  
Senator Ben D. Altamirano  
Representative Ray Begaye  
Pancho Guardiola  
Leonard Haskie  
Scott Hughes for James Jimenez  
Senator Carroll H. Leavell  
Elizabeth Marrufo  
Tony Monfiletto  
Bud Mulcock  
Antonio Ortiz for Veronica Garcia  
Norman Suazo  
Mark Valdes for Gary Bland  
Dr. Moises Venegas  
Representative W. C. "Dub" Williams

**Absent**

Senator Vernon D. Asbill  
Senator Joseph A. Fidel  
Representative Larry A. Larranaga  
Speaker of the House Ben Lujan  
Kilino Marquez  
Rey S. Medina  
Dr. Gloria Rendon  
Representative Henry Kiki Saavedra

**Staff**

Sharon Ball, Legislative Council Service (LCS)  
Robert Gorrell, Public School Facilities Authority (PSFA)  
Linda Kehoe, Legislative Finance Committee (LFC)  
Jeremy LaFaver, LCS  
Dr. Pauline Rindone, Legislative Education Study Committee (LESC)  
Stephanie Schardin, LFC  
Paula Tackett, LCS  
Doug Williams, LCS

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Monday, October 19**

**Direct Capital Outlay Appropriations**

Antonio Ortiz, Public Education Department (PED), made a presentation concerning direct legislative appropriations for 2005. The following table sets out the distribution of appropriations by district and type of project.

DISTRICTS	CONSTRUCTION PROJECTS	EDUCATIONAL TECHNOLOGY	OTHER	TOTAL AMOUNT	TOTAL # OF PROJECTS
Alamogordo	\$0	\$0	\$495,000	\$495,000	3
Albuquerque	8,491,068	8,437,519	2,484,714	19,413,301	300
Artesia	0	0	20,000	20,000	1
Aztec	230,000	0	0	230,000	2
Belen	475,000	0	40,000	515,000	5
Bloomfield	340,000	0	0	340,000	1
Capitan	120,000	0	430,000	550,000	11
Carlsbad	185,000	0	110,000	295,000	5
Carrizozo	0	0	100,000	100,000	2
Central	0	70,000	0	70,000	1
Chama	100,000	0	0	100,000	1
Cimarron	290,000	0	0	290,000	2
Cloudcroft	150,000	0	10,000	160,000	3
Dexter	50,000	40,000	75,000	165,000	4
Elida	50,000	0	30,000	80,000	2
Espanola	295,000	130,000	90,000	515,000	7
Eunice	50,000	0	0	50,000	1
Gadsden	325,000	0	520,000	845,000	7
Grants	70,000	0	0	70,000	1
Hagerman	55,000	0	45,000	100,000	4
Hobbs	725,000	0	0	725,000	3
Hondo	0	0	125,000	125,000	2
Jalisco	75,000	0	0	75,000	1
Jemez Mountain	100,000	0	0	100,000	1
Lake Arthur	100,000	50,000	0	150,000	2
Las Cruces	0	96,146	0	96,146	3
Las Vegas City	0	34,500	245,000	279,500	7
Los Lunas	355,000	0	40,000	395,000	4
Loving	150,000	0	10,000	160,000	4
Lovington	315,000	0	0	315,000	3
Maxwell	80,000	0	45,000	125,000	2

Melrose	90,000	0	0	90,000	1
Mesa Vista	35,000	0	0	35,000	1
Mora	50,000	0	0	50,000	1
Mortarty	80,000	0	0	80,000	1
Other	0	20,000	0	20,000	2
Pecos	0	0	10,000	10,000	1
Penasco	205,000	0	0	205,000	3
Pojoaque	100,000	0	5,000	105,000	2
Portales	219,143	0	0	219,143	3
Quevado	0	0	40,000	40,000	1
Raton	30,000	0	0	30,000	1
Rio Rancho	131,000	200,000	1,995,000	2,326,000	9
Roswell	275,000	330,000	320,000	925,000	21
Ruidoso	30,000	0	60,000	90,000	4
Santa Fe	10,000	0	152,500	162,500	6
Santa Rosa	0	0	90,000	90,000	1
Silver City	80,000	0	0	80,000	1
Springer	0	0	45,000	45,000	1
Tatum	0	65,000	0	65,000	1
Texico	0	0	135,000	135,000	3
Tularosa	200,000	0	0	200,000	1
Wagon Mound	0	0	130,000	130,000	2
West Las Vegas	340,000	52,400	275,000	667,400	10
TOTALS	\$15,051,211	\$9,525,565	\$8,172,214	\$32,748,990	472

There was a request for comparative details regarding direct appropriations by charter school and the percentages of total capital outlay of charter schools. Mr. Ortiz said that he would provide that information to the task force.

Mr. Monfiletto stated that it is difficult for charter schools to secure private funding. Also, it is advantageous for charter schools to occupy public buildings because then it is possible to secure public funding.

Senator Leavell asked for an explanation of the offset. Mr. Ortiz explained that the state/local share formula takes into consideration the school district's (1) membership count, (2) land valuation and (3) mill levy and that the offset reflects the amount of the local share percentage of the appropriation taken off against future Public School Capital Outlay Council (PSCOC) awards.

### Property Valuation

Al Maury and Tim Eichenberg, Taxation and Revenue Department (TRD), made a presentation concerning the "current and correct" statutory requirement for property

valuation, explaining how "current and correct" is measured.

The basic property tax calculation is:

- Market Value - Appreciation +/- Appraisal Error = Assessed Value.
- Assessed Value/3 = Taxable Value.
- Taxable Value - Head of Family and Veterans Exemptions = Net Taxable Value.
- Net Taxable Value x Rate = Obligation.
- For the 2004 property tax year, the total state property tax base, rate and obligations were:
  - Assessed Value = \$107.35 billion;
  - Taxable Value = \$35.782 billion;
  - Exemptions = \$872.2 million;
  - Average Statewide Tax Rate = \$26.939/\$1,000; and
  - Total Obligations = \$940.4 million.
- Of the \$940.4 million, obligations were distributed as follows:
  - 32.6 percent counties;
  - 30.5 percent school districts;
  - 14.6 percent municipalities;
  - 9.5 percent higher education;
  - 8.9 percent health facilities;
  - 3.8 percent state debt service; and
  - 0.1 percent conservancy districts.

They explained a shift away from nonresidential rate. The growth trends show eight percent growth in residential property with only five percent growth in nonresidential property. The rationale they suggested is that development is driving this trend by taking vacant land and converting it into residential property.

The distribution of property values and obligations for tax year 2004 are shown in Attachment A.

Senator Altamirano asked about the cycle for property valuation. Mr. Eichenberg stated that some counties are on a one-year cycle and others are on a two-year cycle.

### **Adequacy Standards and Related Issues**

Bill Sprick, PSFA, made a presentation regarding standards for performing arts centers and gymnasiums and alternative construction materials. He explained that standards for performing arts centers are not required under the current adequacy standards, and PSCOC/PSFA is seeking guidance in this area from the task force. He presented several examples from other states. North Carolina's guidelines for performing arts centers specify using the largest class size multiplied by eight square feet plus approximately 4,000 square feet for stage, storage and lobby; and for gymnasiums, North Carolina recommends building bleachers sufficient to seat the student body. North Carolina partners with local parks and recreation departments for combined school-community use and sharing of bleacher maintenance costs. Minnesota recommends joint school-community partnerships with respect to construction and operation of bleachers.

Staff was directed to obtain copies of joint agreements from other states.

At present, New Mexico standards for gymnasiums call for bleacher capacity equal to the student population times 1.5. The task force discussed the need to look at shared use of space with the community, for example, in many of the rural communities the school space is the only space available that can accommodate the entire community. Representative Williams stressed the need for partnerships with communities in order to maximize the use of such facilities.

Wally Feldman, superintendent of the Zuni Public Schools, discussed the issues related to standards for isolated, rural and very small schools. He indicated that rural schools must provide all the services for the community. He explained that the costs are tremendously affected; he said he added an extra 10 percent contingency amount in addition to a 20 percent contingency amount just to get contractors to come to an isolated area. Then he explained that not only did he have to pay gross receipts taxes to the state, but the tribe imposed a TARO tax that must be paid and, in the case of Zuni, the district must get the approval of the tribe to do anything. The district pays for all infrastructure costs, such as lighting and sidewalks, and performs all environmental assessments and archaeological services as needed. Mr. Feldman said that if New Mexico focuses only on adequacy, then Zuni Public Schools will never be anything more than merely adequate.

It was noted that the equal application of adequacy standards to all schools may not be equitable because of the disparate needs of schools and the fact that costs are different from one region of the state to another.

Mr. Mulcock asked if the adequacy standards require a separate maintenance facility. Mr. Gorrell responded that the adequacy standards set forth the specifications for custodial and storage space but do not require a separate maintenance facility.

In terms of alternative building materials, prefabricated modular buildings were discussed as an option for use in some of the rural areas or in facilities where there is an ability to standardize.

## **Growth and Infrastructure**

Jim Owen, mayor of Rio Rancho, noted that 11,000 people per year are moving to Rio Rancho and the school district is growing at the rate of 16 percent per year. He indicated that a second high school will be required within the next two years and that Rio Rancho is the fastest growing city in the United States.

Mr. Owen said that the Chamber of Commerce has been a facilitator in promoting cooperation among the school district, city, county and businesses. The result has been an integration of city, school and county infrastructure projects and priorities in collaboration with the private sector.

Rio Rancho has a current population between 68,000 and 70,000, with a student population of approximately 12,000.

Barry Bitzer, chief of staff, Office of the Mayor, City of Albuquerque, described the efforts of the city to cooperate with the Albuquerque Public School (APS) district. He stated that Mayor Chavez is dedicated to excellence in education.

Dr. Venegas asked what the mayor's office means by "governance". Mr. Bitzer stated that the election cycle for school board members is out of sync with the general election and as a result most people do not know who their school board members are.

Dr. Venegas said that the APS charter schools seem to be focused on high achievers rather than disadvantaged populations. Mr. Bitzer described the "high tech high" initiative and stated that it is designed to assist all students.

Sandy Fish, Planning Commission for Bernalillo County, stated that the county is now working with APS in the construction of schools in the unincorporated areas of the county. This is a relatively new development because only recently did the county add the capacity to issue construction permits in the unincorporated areas of the county.

Kip Bobroff, professor, UNM School of Law, and a member of Albuquerque Inter-Faith, made a presentation concerning urban sprawl and impact fees. He also discussed the problem of how the current PSCOC process measures and incorporates growth into the rankings for projects. He recommended that the law be amended to (1) exempt school districts from paying impact fees and (2) allow charging developers impact fees when the creation of a new subdivision results in the need for a new school.

Senator Altamirano asked how to distinguish between impact fees for developers and other industries like Intel. Mr. Fish said that there is a formula that looks at services provided. A retail center is subject to certain fees, while residential construction is linked to schools and subject to other impact fees.

In response to a question about what schools are paying in impact fees, Mr. Fish said that there is a formula per student and that typically it results in about \$1 million per school. Developers currently pay \$2,500 in impact fees per individual residence.

If impact fees are imposed at the state level, it could be done in two possible ways: 1) amend the development fees, whereby it could be left to each municipality or county whether to impose such fees; and 2) impose impact fees on developers promoting subdivisions where there is not sufficient school capacity to support development.

Mr. Valdes suggested that if impact fees are imposed on developers and those fees are passed on to the home buyer, then there could be a negative impact on the creation of affordable housing.

Mr. Bobroff commented on the objections to impact fees, saying that it is not fair to impose them now on the west side of Albuquerque when they were not imposed when APS built La Cueva and Eldorado high schools, and that it would hurt efforts aimed at affordable housing. He stated that most states allow impact fees for schools and, although there was some increase in housing cost, there was a significant increase in profits for land speculation, thus recapturing the value. He contended that the state is building facilities because of the *Zuni* lawsuit, which developers should be paying for. The task force discussed industrial revenue bonds (IRBs) and who should "have a seat at the table".

### **Procurement Alternatives and Other Issues**

Mr. Gorrell indicated that PSFA is attempting to devise ways to speed up the planning, design and construction of projects. He explained that building costs have gone through the roof and, thus, PSFA is exploring alternative building types, such as preengineered structures. In rural areas where there is great need, it would be possible to use more local labor and more preengineered buildings. He also indicated that use of preengineered buildings might provide standardization and cost savings when used in construction of gymnasiums.

He identified the lack of availability of contractors and lack of competitive bids in certain geographic areas of the state as a problem and said that PSFA is considering prequalifying contractors so as to guarantee the availability of contractors. Mr. Suazo asked if prequalifying contractors is compatible with the Procurement Code. Mr. Gorrell responded that there is no conflict with the Procurement Code. Mr. Valdes endorsed the concept of prequalifying contractors.

It was suggested that PSFA meet with the trade associations and bring recommendations to the task force.

When asked if PSFA had explored design-build, Mr. Gorrell said "yes"; however, design-build can be problematic if the school does not have a good management staff to oversee the project.

Senator Leavell suggested that the legislature might revisit the issue of requiring bonds of subcontractors.

### **Recess**

The task force recessed at 4:15 p.m.

## **Tuesday, November 1**

The task force was called to order by Senator Nava on Tuesday, November 1, 2005, at 9:15 a.m. in the Pete McDavid Lounge at UNM in Albuquerque.

### **Roundtable Discussion**

Mr. Guardiola, president, New Mexico School Superintendents Association, Carolyn Franklin, superintendent, Logan Municipal Schools, Al Sena, executive director of facilities, Rio Rancho Public Schools, and Barry Ward, facilities director of Silver Consolidated Schools, provided an update on implementation of the Facilities Information Management System (FIMS). Mr. Guardiola stated that work on implementing the system was slow at first; however, PSFA was very helpful in assisting and educating the maintenance staff. There is a learning curve for the maintenance and custodial staff. The FIMS is very helpful in routine maintenance because the system provides prompts for when fire extinguishers or exit signs needs to be checked. Also, the system has helped identify such things as electricity consumption. This is particularly helpful since everyone uses the gymnasium and the board may decide to assess a small use fee. Ms. Franklin stated that it took three years to correct the 3D/I database for Logan schools. Regarding FIMS, Ms. Franklin noted that she had to provide maintenance information because the maintenance person did not have a computer and did not know how to use one. Logan schools maintenance information is now complete. She indicated that there may be a problem in getting FIMS used in small districts. She said that PED indicated that Logan schools were the cleanest it had been in years. Ms. Franklin indicated she felt that PSFA did not take suggestions from the smaller school districts and that suggestions would be difficult to implement, but that small districts will attempt to comply. She meets with the maintenance person weekly to determine what needs to be done. She indicated that it would help if her district could get assistance with inputting the data.

Mr. Ward stated that the "School Dude" component of FIMS was already being used by Silver before the PSFA adopted it. He said that his maintenance staff is computer illiterate, except for the supervisors; however, the maintenance staff has embraced FIMS. Mr. Ward indicated that FIMS is an excellent tool for maintaining the Silver facilities. The number of phone calls for emergency repairs has declined and more work is being accomplished because the system identifies tasks. Mr. Ward noted that FIMS has helped identify which tasks are truly maintenance and which are actually capital projects. The system also assists in assigning labor and material costs to projects. Prior to FIMS, the school was operating in a reactive mode with respect to maintenance; now the school is much more proactive. FIMS has helped identify which items of equipment should continue to be maintained and which should be scheduled for replacement, e.g., air conditioning equipment. Mr. Ward mentioned one downside of the FIMS utility expense module: Silver was already using a more powerful utility expense software, so inputting the same data into FIMS is duplicative and not helpful.

Mr. Sena stated that Rio Rancho is already using preventive maintenance software and is just now embarking on implementation of the FIMS "School Dude" module. He noted that there will be a seamless transition from its original software to FIMS. Mr. Sena noted that Rio Rancho is already tracking energy costs, but believes that the FIMS energy

cost module will be helpful. The PSFA staff has been very helpful in supporting implementation of FIMS. With respect to updating the 3D/I database, Mr. Sena indicated that he is not clear on whose responsibility it is to maintain it.

Representative Begaye asked about the applicability of FIMS to consolidated school districts. Bob Bittner, PSFA, stated that FIMS is scalable to both large and small districts.

Representative Begaye asked about maintenance problems encountered with the school's 1932 building. Ms. Franklin stated that this building is a gymnasium and is used by both the school and the community. She stated that the intention is to convert the gymnasium to a library. It is structurally sound and was built originally at a cost of \$11,000.

Representative Begaye asked if PSFA permission is needed to perform routine maintenance. Ms. Franklin stated that she does not want to wait for PSFA approval to fix a toilet. Mr. Bittner stated that PSFA does not want to approve or control maintenance activities. Mr. Ward said that the PSFA regional manager requires certain paper work to be filed with PSFA. Mr. Gorrell stated that he will be in touch with Mr. Ward's regional PSFA manager to correct the situation. PSFA is not in the business of approving maintenance work; PSFA is only interested in tracking maintenance activities and gathering data.

Mr. Mulcock asked if PSFA is placing an undue burden on small school districts. Mr. Bittner responded that FIMS is suited to both large and small districts, but he recognizes that in small districts it may be the superintendent or a secretary who inputs work-order information into the system rather than a facilities director, as would be the case in a large district.

How can FIMS be made to work in small districts? There is a fear that this is a first step toward consolidation, and districts have been told they have to get approval to do any maintenance work.

When asked if there is a minimum amount of information required by PSFA, Mr. Bittner stated that there is no minimum information required. Ideally, a district should input information on tasks that take more than one hour to accomplish.

Mr. Haskie said that instituting a systems approach allows all of the staff to "fly like eagles in a straight line" rather than focusing on minutiae. He also said that school districts should work with architects to design buildings that are easier to maintain.

Senator Nava asked if PSFA is examining fundamental issues, such as working with architects in designing energy-efficient, state-of-the-art construction. Mr. Gorrell responded that PSFA is actively engaged in these planning activities.

Senator Nava noted that the state needs to protect its investment because of the amount of money (\$229 million this year) being spent on construction and maintenance.

In a discussion about expediting projects, some of the issues included how much paperwork is necessary and the time it takes to get inspections.

Senator Leavell stated that he would actively oppose combining small school districts. He requested that a letter of concern be sent from the task force to the Construction Industries Division (CID), outlining the issue of lack of timeliness in accomplishing inspections and inviting CID to attend the next task force meeting.

Senator Altamirano suggested that the problem at CID is a lack of sufficient staff and computers.

It was also suggested that a problem at CID is that all employees are classified and are not paid sufficiently to ensure retention, and that CID employees holding multiple licenses would improve the efficiency of inspections.

Senator Nava requested that staff evaluate the cost of increasing the SB 9 guarantee to \$80.00.

### **Energy Efficiency and Renewable Energy Bonding**

Harold Trujillo and Susie Marbury of the Energy, Minerals and Natural Resources Department (EMNRD) made a presentation concerning "green buildings".

- A "green building" is a high-performance building, involving site selection, water, energy, atmosphere, materials and indoor environment considerations.
- Characteristics of high-performance school buildings include: (1) daylighting and connection to the outdoors; (2) a tight building envelope; (3) efficient heating, ventilating and air conditioning; and (4) individual control of the environment.
- High-performance buildings are good for students because they improve learning, save money on utilities and improve teacher productivity.
- The cost of high-performance buildings is typically two percent higher than conventional construction. This cost is recovered in the first few years of the life of the building.

Mr. Haskie asked about candlepower. He said that the federal government mandates 55 candlepower for the Navajo. Mr. Trujillo cited a minimum standard of 50 candlepower.

Senator Leavell asked about systems that serve to backup solar energy. Mr. Trujillo responded that solar energy systems are presently intended to support one classroom and assist with heating water. Senator Leavell suggested that if solar energy systems are going to be installed, they should be meaningful.

Mr. Guardiola noted that Vermont has sophisticated biomass energy systems.

Mr. Suazo asked about wind turbine applications in schools. Mr. Trujillo indicated that there are several geothermal applications currently in schools and that EMNRD is investigating the use of small wind turbines in schools.

Mr. Haskie asked if EMNRD can subsidize any PSFA projects. Mr. Trujillo stated that EMNRD would like to use its funding to supplement, not supplant, PSCOC funding. EMNRD makes energy conservation grants to schools in cooperation with PSFA.

### **PSCOC Report**

Tim Berry, PSFA, and Linda Kehoe, LFC, made a presentation concerning the status of PSCOC awards and the deficiencies correction program (see handouts).

Mr. Berry noted that approximately \$1.8 million in surplus SB 9 funds have been identified by school districts, which will be applied to roof deficiency correction.

Ms. Kehoe stated that the latest revenue forecast indicates that approximately \$198 million will be available for senior severance tax bonds in 2006. The amount available for supplemental severance tax bonds is approximately \$160.3 million.

Mr. Mulcock requested that the lease payment assistance presentation compare current year to prior year in terms of square footage being leased and the cost of the lease.

Representative Williams asked if the recent hurricanes are driving up costs in New Mexico. Mr. Gorrell noted that one current roof repair estimate has just doubled.

### **Charter School Advisory Committee Report**

Alan Armijo provided an update on the activities of the Charter School Advisory Committee. Key points discussed by the committee were:

- Santa Fe County's issuance of industrial revenue bonds for the Academy for Technology and the Classics;
- establishment of a process to locate charter schools in public facilities by 2010;
- inclusion of charter schools in a school district's master plan;
- the New Mexico Facilities Condition Index as it applies to charter schools;
- representation of charter schools on school district planning committees;
- proration of FY 2006 lease payment assistance; and
- creation of a state loan fund to finance charter school projects.

Mr. Monfiletto noted that there is a serious question about strategies needed to move charter schools into public space.

Dr. Rindone indicated that the LESC has been examining the issue of moving charter schools into public facilities.

### **Adjournment**

The task force adjourned at 12:30 p.m.

**Attachment A**

**New Mexico Property Tax Values and Obligations by County: Tax Year 2004 (\$ in millions)**

County	..... Net Taxable Values .....				..... Obligations .....			
	Residential	Non-Residential	Other	Total	Residential 1	Non-Residential	Other	Total
Bernalillo	7,266,947.6	2,825,013.0	0.0	10,091,960.6	260,812.1	120,733.3	0.0	381,545.4
Catron	27,248.6	47,279.9	0.0	74,528.5	417.8	566.6	0.0	984.4
Chaves	331,805.7	294,467.6	93,834.4	720,107.7	8,388.6	7,996.6	2,091.9	18,477.1
Cibola	85,501.8	133,619.0	0.0	219,120.7	2,212.7	4,163.7	0.0	6,376.4
Colfax	249,450.7	150,186.9	39,802.3	439,440.0	3,988.6	3,088.0	762.2	7,838.8
Curry	238,555.2	188,853.5	0.0	427,408.7	5,903.5	4,399.5	0.0	10,302.9
DeBaca	8,724.0	27,347.6	0.0	36,071.6	240.6	732.7	0.0	973.3
Dona Ana	1,428,829.1	824,663.5	0.0	2,253,492.7	36,101.3	25,515.1	0.0	61,616.4
Eddy	299,066.1	434,034.4	1,233,590.6	1,966,691.1	5,871.9	8,529.4	21,972.1	36,373.5
Grant	256,532.4	170,688.8	65,157.3	492,378.5	3,724.6	3,568.7	1,363.3	8,656.6
Guadalupe	22,557.7	68,794.5	0.0	91,352.2	597.3	2,156.9	0.0	2,754.2
Harding	3,469.1	14,857.4	8,313.4	26,639.9	73.0	354.1	198.0	625.1
Hidalgo	17,028.3	103,858.4	0.0	120,886.6	342.7	2,098.2	0.0	2,440.9
Lea	233,518.4	328,616.4	1,133,639.6	1,695,774.4	6,272.8	8,996.2	28,654.3	43,923.3
Lincoln	437,133.7	178,169.5	0.0	615,303.2	8,755.4	4,512.4	0.0	13,267.8
Los Alamos	520,368.1	89,700.7	0.0	610,068.7	8,785.4	1,753.9	0.0	10,539.3
Luna	140,214.4	147,167.7	0.0	287,382.0	2,596.6	3,224.5	0.0	5,821.1
McKinley	198,732.3	358,511.2	381.3	557,624.8	5,985.9	12,636.6	12.2	18,634.7
Mora	40,131.3	27,062.9	0.0	67,194.2	702.5	681.8	0.0	1,384.3
Otero	426,009.7	203,955.4	0.0	629,965.1	10,220.2	5,924.6	0.0	16,144.8
Quay	44,358.8	67,550.9	1,262.5	113,172.1	931.9	1,809.3	28.8	2,770.1
Rio Arriba	303,251.0	274,742.9	799,260.2	1,377,254.0	5,366.7	5,844.0	17,663.1	28,873.7
Roosevelt	91,735.1	115,182.3	9,406.1	216,323.5	1,755.2	2,300.0	161.8	4,217.0
San Juan	688,355.2	1,285,536.7	1,279,494.7	3,253,386.7	14,939.1	30,618.3	27,170.3	72,727.7
San Miguel	242,753.2	127,219.3	0.0	369,972.5	5,432.0	3,953.6	0.0	9,385.5
Sandoval	1,220,143.9	364,789.6	3,896.2	1,588,829.7	31,107.6	10,449.9	95.9	41,653.4
Santa Fe	3,228,093.5	1,146,501.2	0.0	4,374,594.7	56,088.3	27,723.5	0.0	83,811.8
Sierra	116,562.3	75,677.6	0.0	192,239.9	2,371.6	1,825.3	0.0	4,196.8
Socorro	93,885.0	69,077.6	0.0	162,962.6	2,435.7	2,111.5	0.0	4,547.1
Taos	470,340.9	264,820.2	0.0	735,161.1	6,228.4	5,301.4	0.0	11,529.8
Torrance	105,175.3	125,653.9	0.0	230,829.2	2,604.1	3,118.5	0.0	5,722.6
Union	23,786.2	65,229.8	9,009.7	98,025.7	492.2	1,466.0	178.0	2,136.2
Valencia	535,657.5	235,626.1	0.0	771,283.6	12,875.7	7,258.9	0.0	20,134.7
<b>Totals</b>	<b>19,395,922.0</b>	<b>10,834,456.4</b>	<b>4,677,048.4</b>	<b>34,907,426.8</b>	<b>514,621.7</b>	<b>325,413.1</b>	<b>100,351.7</b>	<b>940,386.5</b>



9:00 a.m.

**Cooperative Maintenance Options**

- Role of Regional Education Cooperatives
- School District Consortia
  - Sandy Gladden, Executive Director, Regional Education Cooperative #9, Ruidoso
  - Stephen Aguirre, Executive Director, Regional Education Cooperative #3, Raton
  - Gene Bieker, Director of Operations, Clovis Municipal Schools
  - Jack Burch, Superintendent, Elida Municipal Schools

10:00 a.m.

**Obstacles and Stumbling Blocks to the Standards-Based Process**

- Effective Delivery of Projects
- Public/Community Partnerships
- Roofs and Public School Insurance Authority
- Schools' Cash Balances
- Status of Public School Facilities Authority (PSFA) Employees
- Centralized Purchasing Authority
- Abandoned Building Demolition Funding
  - Tim Berry, Deputy Director, PSFA
  - Pat McMurray, Senior Facilities Manager, PSFA
  - John Horton, Associated General Contractors

12:00 noon

**Discussion of Potential Legislation — Direction to Staff**

—Task Force Staff

**Adjourn**

**MINUTES  
of the  
FOURTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**November 21-22, 2005  
Room 317, State Capitol  
Santa Fe**

The fourth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) for the 2005 interim was called to order by Representative Rick Miera, co-chair, on Monday, November 21, 2005, at 10:15 a.m. in Room 317 of the State Capitol in Santa Fe.

**Present**

Rep. Rick Miera, Co-Chair  
Sen. Cynthia Nava, Co-Chair  
Sen. Vernon D. Asbill  
Rep. Ray Begaye  
Cecilia Grimes (replacement for Rey S. Medina)  
Pancho Guardiola  
Dr. Jim Holloway (for Veronica Garcia)  
James Jimenez  
Rep. Larry A. Larrañaga  
Sen. Carroll H. Leavell  
Rep. Ben Lujan, Speaker of the House  
Elizabeth Marrufo  
Tony Monfiletto  
Bud Mulcock  
Antonio Ortiz (for Veronica Garcia)  
Rep. Henry Kiki Saavedra  
Norman Suazo  
Dr. Moises Venegas

**Absent**

Sen. Ben D. Altamirano  
Gary Bland  
Sen. Joseph A. Fidel  
Leonard Haskie  
Kilino Marquez  
Rep. W.C. "Dub" Williams

**Staff**

Sharon Ball, Legislative Council Service (LCS)  
Tim Berry, Public School Facilities Authority (PSFA)  
Jeffery Eaton, PSFA  
Kathy Forrer, Legislative Education Study Committee (LESC)  
Jeremy LaFaver, LCS  
Pauline Rindone, LESC  
Paula Tackett, LCS  
Doug Williams, LCS

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

## Monday, November 21

### **HB 511 Status Report**

Tom Ryan, executive director of technology for Albuquerque Public Schools, presented information to the task force regarding implementation of the 2005 legislature's amendments to the Technology for Education Act that establish a framework for creating a fund to address educational technology deficiencies (HB 511). He pointed out that these amendments to the Technology for Education Act had been recommended by the PSCOOTF's predecessor, the Public School Capital Outlay Task Force (PSCOTF) (which was established in 2000 to address capital outlay issues raised by the *Zuni* lawsuit).

Mr. Ryan said that, during the 2004 interim, the PSCOTF became aware of serious deficiencies in educational technology infrastructure in some public schools. Noting that some schools and districts seem to have more access to various types of capital resources than others, he said that he has seen some schools with state-of-the-art equipment while other schools seem to have barely entered the computer age. He expressed his opinion that passage of HB 511 will help the state avoid another lawsuit by a district seeking equity and adequacy of educational technology funding. The bill requires the Public Education Department (PED) Education Technology Bureau (now called the Literacy, Technology and Standards Bureau) with the advice of the Council on Technology in Education (CTE) and the state's chief information officer, to develop and define minimum educational technology adequacy standard's. Once the standards have been established, the bill requires each school district to assess all of its schools to identify deficiencies from the minimum standards, as well as cost projections to correct the deficiencies.

To meet the requirements of HB 511, Mr. Ryan said that volunteers from the CTE are working with the PED Literacy, Technology and Standards Bureau staff to accomplish the following:

- research existing technology standards and models in leading New Mexico districts and other states;
- conduct a statewide computer census to determine the numbers and capabilities of computers presently in New Mexico schools;
- develop a set of standards for educational technology systems that set minimum specifications for 21st century learning environments;
- integrate these technology adequacy standards into the New Mexico State Educational Technology Plan;
- develop a model based upon the current capital outlay standards-based process to identify, prioritize and correct deficiencies in schools throughout the state;
- develop an initial estimate to correct the most serious deficiencies; and
- identify strategies and develop recommendations to leverage multiple sources of funding to most effectively support the educational technology needs of schools.

Mr. Ryan said that the goal of HB 511 is to ensure that all students in the state benefit from educational technology systems that meet baseline adequacy standards no matter where they live; therefore, the learning environments must include adequate access to reliable, capable systems that support teaching and learning in the digital age. He added that a key component to implementing HB 511 is ensuring that the proper infrastructure (networks) exists so that the system upon which the hardware is running is efficient.

Some of the other recommendations that Mr. Ryan discussed were for dependable annual funding to the Educational Technology Fund (which has been the primary statewide source to fund provisions of the Technology for Education Act); establishment of statewide technology infrastructure standards; and incorporation of technology infrastructure standards in all new construction and remodels.

Mr. Ryan then gave the task force information regarding the statewide student to computer statistics. It was noted that the statewide average of students per computer is 3.01. He said that the ideal ratios for computer use would be 1:1 for staff and 1:4 for students, and that all computers and network devices five years of age or older are considered obsolete due to software upgrades and other issues.

Several task force members questioned whether a computer that is five years old is truly obsolete given its uses for most students. Mr. Ryan responded, saying that upgrading machines that were purchased more than five years ago is more expensive than replacement because of both labor and upgrade costs. Mr. Ryan also said that software for video conferencing and multimedia use is the primary reason for high upgrade costs and that the use of Microsoft Office is not creating undue upgrade costs.

Upon a question from Senator Nava, Mr. Ryan said that the goal in the next five years is to have a 1:1 computer use ratio for each school. One aspect of reaching this goal is to give higher priority to those schools that are further behind the state ratio average, much in the same manner that Public School Capital Outlay Council (PSCOC) grants are currently awarded.

Secretary Jimenez said that he was unsure whether the goals that are being established meet actual needs of students and districts. He said that he believes the task force should be looking at proving that the ratio goals can contribute toward student success. Senator Leavell concurred with the secretary's concerns.

Mr. Ryan discussed access issues to the internet along with network issues that need to be addressed within each district. He stated that computers are a recurring budgetary need, with networks needing the highest priority. Mr. Ryan also said that preliminary data from the 1:1 laptop program indicates an increase in the length of the learning day and, as well, an improvement in student performance. Secretary Jimenez questioned whether a 1:1 ratio is necessary for a kindergarten or first grade class. Mr. Ryan said that decisions about student-computer ratios at specific grade levels would be site- or district-based but that the access ratio should be at least 1:1.

Representative Miera said that it would be a "hard sell" to advocate providing computers to administration and teachers before giving access to children. Mr. Ryan said the issue was providing opportunities to learn and that teachers' access to computers is critical in achieving that objective. He added that most teachers' computers are available for student use.

Mr. Ryan was asked if the data are available to estimate costs to fund the statewide educational technology deficiencies program required in HB 511. He said that the data are being worked on and that he expects that information to be available by the time he makes the December report to the LESC as required in HB 511.

In response to task force questions, Ms. Tackett said that Roy Soto is the state's chief information officer and that Robert Piro is the PED chief information officer.

### **Charter Schools Advisory Committee Status Report**

Substituting for Alan Armijo, chair of the PSCOOTF Charter School Advisory Committee who was out of town, Ms. Ball presented a status report to the task force on the work of the Charter School Advisory Committee. Ms. Ball indicated that in their discussions, members of the advisory committee had expressed concerns about trying to address only charter school capital outlay issues without also considering governance issues. The committee's consensus was that the capital outlay issues are so closely bound up with governance issues that considering the first without the latter might not be productive. Mr. Monfiletto added that, as a charter school operator, he believes that solving governance issues would help address capital outlay problems.

Ms. Ball also said that the committee had indicated it may not make recommendations for specific legislation for the 2006 session because the committee has been meeting only since October 2005 and the committee members felt confident that they would be able to produce more substantive legislative recommendations for the 2007 session.

Representative Larranaga pointed out that the governor appears to be considering a change in charter school governance, perhaps creating a so-called "90th district" that would be under the supervision of the PED. He said that this type of governance proposal could affect the recommendations of the advisory committee.

Secretary Jimenez indicated his concern that the advisory committee might not be able to make recommendations for the 2006 session. He stressed the importance of the committee's recommendations to the PSCOOTF notwithstanding the executive's proposals. Senator Nava agreed and noted that perhaps the reason that the executive is moving forward on this issue is that the legislature has not yet been able to resolve the concerns of charter schools and districts related to both governance and capital outlay.

Mr. Monfiletto stated that his organization, the New Mexico Coalition for Charter Schools, would have recommendations ready for the advisory committee's December 5 meeting and for the LESC meeting on December 12.

Ms. Ball expressed the hope that the advisory committee would be able to consider the executive's proposal at its next meeting as it puts together its recommendations. Co-chair Miera indicated that the sooner the various interim committees can examine any proposal or recommendations, the more likely those proposals and recommendations can receive careful consideration—especially prior to and during a 30-day session. Ms. Ball reiterated that the advisory committee will meet again on December 5 and will work to come to a consensus on legislative recommendations at that time.

### **New Mexico School for the Deaf (NMSD)/New Mexico School for the Blind and Visually Impaired (NMSBVI)**

Miguel Hidalgo, deputy secretary, Higher Education Department (HED), explained that he would be leading the presentation because HED Secretary McClure had been called away this morning. He said that these two institutions, the NMSD and the NMSBVI, are established in the state constitution, and both serve a K-12 student population. He noted that, perhaps because of their

constitutional status, both of these schools have been under the oversight of the former Commission on Higher Education (now HED) and, as a result, have been forced to compete through the legislative process with all of the state's institutions of higher education and the New Mexico Military Institute for sometimes scarce capital outlay appropriations. He suggested that, because these two state schools serve K-12 students, they should be included in the Public School Capital Outlay Act standards-based process. He emphasized, however, that HED is not recommending that the two schools be placed under the PED for administrative purposes but only for capital outlay appropriations in the standards-based process.

Mr. Hidalgo introduced representatives from the NMSD to provide information to the committee regarding capital outlay needs for NMSD facilities.

Rosemary Griegos, director of early childhood outreach, NMSD, provided a historical and statistical overview of NMSD. She said that in October 2000, the NMSD Board of Regents voted to retain its main campus presence along Cerrillos Road creating a number of challenges based on the age and historical significance of its buildings. Currently, the buildings do not conform to today's accessibility, safety, learning and other standards. Given the buildings' poor insulation and antiquated utility infrastructure for water, sewage, heating and cooling, the school's resources cannot be managed effectively and efficiently.

Ms. Griegos explained that the school had commissioned a long-range facilities master plan for the main campus in Santa Fe (the school also has a preschool facility in Albuquerque), which was completed in February 2001. The plan included three phases to be constructed over a period of eight years at an estimated total cost of \$33.8 million. She said that NMSD had received a total of \$11 million from the past two statewide general obligation bond elections, \$5 million of which was used to fund Phase I of the design and construction of a new residential complex with a student activity center on the Santa Fe campus. The remaining \$6 million will fund design and construction of a new classroom facility in Santa Fe, which is scheduled for completion in October 2006.

Ms. Griegos provided task force members with a copy of the NMSD's current five-year capital master plan update for the main campus and noted that it identifies and prioritizes specific improvements while preserving the historic integrity of the campus. She said the cost would be approximately \$31 million over the next five years; however, the school has approximately \$2.5 million in immediate serious health and safety and code capital outlay requirements.

Dianna Jennings, superintendent, NMSBVI, provided information about her institution. Founded in 1906 with a student population of 21 students, she said that the school now serves more than 800 students throughout the state with approximately 60 resident students on the Alamogordo campus. She said that the remainder of those 800 students are served either at an early childhood center in Albuquerque or through the use of itinerant teachers who work under joint powers agreements with more than 40 local districts.

Ms. Jennings also provided the task force with a copy of the current NMSBVI facilities. She said that prior funding of approximately \$4 million from statewide general obligation bonds had funded upgrading and remodeling some of the school's facilities for federal Americans with Disabilities Act (ADA) compliance and fire code requirements. She noted that for the remaining facilities, however, the facilities master plan projects approximately \$8.5 million for remodeling for

serious safety and fire code requirements, ADA compliance, mechanical upgrades and more efficient space utilization.

Senator Leavell asked whether, because the two schools are constitutionally created, passage of a constitutional amendment would be necessary to include them in the Public School Capital Outlay Act standards-based process. Ms. Tackett indicated that including these institutions would require only amendments to current statute. She added that the task force could determine specifics of these amendments.

Senator Nava suggested that establishing a deficiency correction fund specifically to correct health and safety and code deficiencies for these two institutions might be the best approach. She noted that, after the deficiencies are corrected, they could become part of the regular standards-based process.

In response to a task force question, Mr. Hidalgo indicated that placing these two institutions under the administration of HED had been a past legislative decision. He reiterated that HED does not wish to relinquish its current relationship with these schools but would like for them to have the same access to public school capital outlay funds that the schools in the state's other 89 districts have. Task force members expressed some concerns about how these schools would meet local matches required by the Public School Capital Outlay Act and agreed by consensus to consider supporting a one-time \$40 million appropriation for the two schools to be administered by the PSCOC over the next five years of implementation of the institutions' respective facility master plans.

#### **Financing Options and Issues — Impact on Equalization Tax Increment Financing**

Robert Desiderio, former dean, University of New Mexico School of Law, presented information to the task force regarding tax increment financing (TIF). Mr. Desiderio explained that TIF is a financing tool used to create new increased tax revenue for public capital projects within a community. Under Mr. Desiderio's scenario, the developer is responsible for the purchase of the land and then the construction is paid for through bonds that are paid back through gross receipts tax. Mr. Desiderio expressed concerns about the effect of the TIF program on the equity issues brought out in the *Zuni* lawsuit. The PSCOOTF would need to address that problem before schools are constructed without the funding being channeled through the PSCOC.

In response to task force questions, Mr. Desiderio stated that the new tax revenue is generated from the new development and is not, in effect, a tax rate increase.

Senator Nava said that an argument could be made that revenue would not exist without the development, and therefore, one might be able to entice development by making the TIF in lieu of impact fees. Mr. Desiderio said that a TIF is not a revenue source in lieu of impact fees. He added that the new revenue comes from new commercial businesses, homes and other economic development. The increase in tax revenues would be from those sources and not from a tax rate increase.

Ms. Grimes asked if the TIF proposal would conflict with the state funding formula. PSFA staff indicated that since TIF funding is for capital projects, it would not conflict with the equity of the operational funding formula. However, staff noted possible issues with the TIF proposal in respect to the *Zuni* lawsuit.

## **Industrial Revenue Bonds**

Russell Caldwell, senior vice president of public finance, Kirkpatrick Pettis Division, D.A. Davidson & Co., gave a brief overview to the task force of the basic Industrial Revenue Bond (IRB) structure to finance capital outlay expenditures for charter schools. He stated that his firm has underwritten bonds for 44 charter schools totaling more than \$400 million while he has served in his current position. Mr. Caldwell further noted that in order for a charter school's bonds to be marketable, the charter school must have facility and maintenance plans similar to what the PSFA requires currently and must illustrate that its program is viable and its fiscal operation is sound.

Regarding the recently negotiated proposed issuance of IRBs for Santa Fe's Academy for Technology and the Classics (ATC) Charter School, Mr. Caldwell explained that the term of the bonds would be for 30 years, with level lease payments and the operating lease payment decreasing over time. In response to a question from Mr. Mulcock, Mr. Caldwell said the bonds would not be rated and that they are predominantly for industrial investors with approximately a six percent return rate to the investor.

In response to Ms. Tackett's question regarding the source of the bonds' repayment, Mr. Caldwell said that the school would have a lease payment as a line item within its operating budget and the bond payback would come from that revenue. Lee Pittard, ATC Board president, emphasized that the charter school's 501(c)3 foundation, created solely for that purpose, is legally responsible for repayment of the bonds. Both he and Mr. Caldwell assured task force members that neither Santa Fe County nor the state would ever be responsible for repayment of these bonds.

Representative Miera asked where in the plan was financing for maintenance, and Mr. Caldwell said that, like the lease payments, maintenance is a line item in the budget. Mr. Pittard added that some of the initial financing is for cash reserves and that money could be used for maintenance.

Ms. Tackett expressed concerns about who would be responsible for oversight when a foundation acquires IRB funds to build a charter school facility: the contractor, the school's foundation, the school's governing board or the PSFA. Mr. Mulcock reminded the task force that the initial capital plan was developed when charter schools said they would never need capital money.

In response to a question from Dr. Pauline Rindone, LESC director, about ownership of the facility, Mr. Caldwell said that the county and the foundation of the school would be the owner, with the county having no liability after the 30-year lease payment is over. After that, the school and the foundation would be the primary owners of the property. It was further noted that having the foundation be the primary owner of the property does not conflict with the provision in the current statute requiring all charter schools to be in a public building by 2010 since the foundation is a 501(c)3 nonprofit organization; however, the foundation would have to assume responsibility for keeping the building at adequacy standards.

## **Public Comment**

Stephen Fox, Santa Fe resident, expressed concerns to the task force about school officials prescribing medication to students.

## **Recess**

The task force recessed at 4:10 p.m.

## **Tuesday, November 22**

### **Cooperative Maintenance Options**

Co-chair Miera recognized several speakers who, he said, had been invited to talk to the task force about issues related to implementation of the facility information management system (FIMS) through cooperative maintenance options. Jack Burch, superintendent, Elida Municipal Schools, said he would like to work with a regional education cooperative (REC) to assume responsibility for the large amount of data per district that must be input for district and PSFA use. Stephen Aguirre, executive director, Regional Education Cooperative #3, said he believes that data entry duties would be an appropriate and possible service that RECs could provide to districts.

Representative Miera asked how an REC could help with the work order process, and Mr. Burch said that it may not be of much assistance with that particular function but that it could assist with FIMS implementation and also with the preventative maintenance checklist. Representative Miera said that before a legislative recommendation could be made, it would be helpful to have a consensus among the state's 10 RECs regarding the assumption of such duties.

Co-chair Nava expressed concerns about the need to hire additional staff for RECs if they took on these responsibilities for districts and asked what staff support an REC would need. Mr. Aguirre initially said he thought an REC would need one additional full-time equivalent (FTE) to accomplish this type of task for the eight districts his REC serves.

Mr. Mulcock talked about the benefits for an REC to contract with major repair specialists, such as electricians or boiler repair contractors, to be shared among school districts. Mr. Burch said this would be a great benefit for the districts and could specifically assist with maintenance of fire alarm systems.

In response to task force questions, Ms. Tackett said that while working with an REC does not require any legislative changes, authorization for the districts to work with an REC on these maintenance support issues may expedite the cooperation of some districts. Mr. Mulcock asked if the small districts feel that working with an REC is a threat for consolidation. Mr. Burch said that his district is always concerned about consolidation, but due to budget crunches, an efficient solution must be reached, and an REC is one potential solution.

Mr. Guardiola asked if it would be possible for Dr. Jim Holloway, PED assistant secretary for rural education, to work with the rural superintendents to explore this option collectively. Mr. Aguirre said the RECs are meeting with Dr. Holloway on December 12 and would bring this issue to his attention.

Gene Bieker, director of operations, Clovis Municipal Schools, told the task force that not only is there a data entry problem, but there is also a preventative maintenance issue that needs to be addressed, and that a single FTE is not enough to sufficiently address the problem. Mr. Bieker said he believes that having RECs contract for preventative maintenance would be of added assistance. He further said that actual data entry is one of the toughest issues facing his district. Once the data

are entered for the first time and the system is working efficiently, this possibility might be helpful, but getting the data entered is a current challenge for most rural districts.

Mr. Burch continued his comments, saying that the "SchoolDude" software program currently being implemented statewide through the PSFA is working well. He said that the training and support from the PSFA and SchoolDude software personnel have been outstanding and that he is looking forward to moving forward with the implementation of the program.

Co-chair Miera told the presenters that he would like to have some specific direction regarding which districts need the funding and direction to facilitate REC development. Co-chair Nava stated that she believes that funding for the FTEs or contracts needs to be equitable across all districts and not simply for small districts. Mr. Mulcock concurred, saying that middle and large districts need to be a part of the conversation and consensus.

Mr. Mulcock questioned who was responsible for paying for the REC services and whether those costs should be paid from capital dollars or operational funds. Ms. Tackett replied that, during the discussion of legislation later in the meeting, the task force might look at increasing the SB 9 match and clarifying that this money is available for contractual services. Mr. Berry said that the PSFA has some money to put into this process and would be willing to look into that option.

### **Obstacles and Stumbling Blocks to the Standards-Based Process**

John Horton, director of public policy and government relations, Associated General Contractors of New Mexico, presented information to the task force regarding alternative project delivery options relating to school building construction. The various delivery methods discussed were:

- ▶ design/bid/build ("low bid");
- ▶ construction manager/agency (CM/Agency);
- ▶ construction manager at risk;
- ▶ design/build; and
- ▶ competitive sealed proposals.

He said that the design/bid/build method is the most common method of construction, with the contractor assuming the risk of completing the project for the bid amount.

Construction manager/agency is a method whereby the district contracts with a construction manager (CM) to perform as the owner's agent in oversight of the overall construction project. While a CM monitors the costs, time, quality and safety of the project, the CM takes no financial responsibility and is paid a fee by the building owner and therefore assumes no risk. He noted that one challenge to this scenario is the quality of the CM's oversight and liability. Mr. Berry said that some rural districts and Albuquerque's Amy Biehl Charter High School have used this method and reiterated concerns about the CM's quality of oversight and liability. Pat McMurray, PSFA staff member, said that one important reason that the CM/Agency method is a viable option in rural areas is a lack of bidders for those small projects. He also said problems occur when the district does not realize the liability and responsibility it assumes with this method. If the CM does not perform adequately or appropriately, the liability then falls back on the district. This situation has caused many superintendents to become CMs, which takes time away from their other duties as

superintendents. He also stated that the fact that most superintendents are not qualified to be CMs presents problems as well. Mr. Horton noted that this construction method was used to build the Bernalillo County Detention Center.

Mr. Horton then discussed the design/build method. The key element that this method provides, he said, is quicker delivery since there is no bid process. It was mentioned that a downside of this method is that the process moves along so quickly, the design may or may not be exactly what the initial conception was. Mr. McMurray noted that this process cannot be used in all cases because of current state law.

The next delivery method discussed by Mr. Horton was the CM at risk method. He said that this method is similar to the CM/Agency method with the CM assuming some of the risk. There are separate contracts for the design and construction, and the CM holds trade contracts and performance risk. The CM also commits to a guaranteed maximum price contract and schedule. Mr. McMurray said this method helps involve more local contractors.

In the next portion of the presentation, Mr. McMurray and Mr. Berry, PSFA, presented some other obstacles and stumbling blocks to the standards-based process. The first issue they discussed was public-community partnerships. Mr. McMurray stated that schools are increasingly becoming community centers and that the PSFA's hands are tied when it comes to financing some of these projects since many of these joint-use facilities do not fall under the adequacy standards adopted by the PSCOC.

There was also discussion regarding roofs throughout the districts in the state. Last year, \$9.3 million was lost due to issues surrounding bad roofs. The task force then engaged in discussion about who pays for what repairs or replacements, whether it is the insurance company, the initial contractor or the state who is responsible.

Mr. Berry mentioned the operational cash balance caps currently in statute and said that this statute has hindered districts' abilities to pay for a variety of maintenance items because, without adequate cash balances on hand, for example, districts no longer have the ability to pay for maintenance items "up front" and then wait for reimbursement.

Mr. Berry also discussed the issue of keeping the PSFA employees under state personnel "exempt" status. He noted that the current arrangement is satisfactory to the PSCOC and the PSFA staff. He also noted that, once deficiencies throughout the state have been corrected, the PSFA would no longer need as many employees and that reductions in force can be expensive and time-consuming when the employees are classified as nonexempt under the state personnel system.

Mr. Berry said another concern is the PSFA's current inability to act as a centralized purchasing authority under the Procurement Code, so that districts can get the best prices on necessary building materials. It was suggested that the PSFA could become the central purchasing authority for schools. Mr. Mulcock urged caution with this approach. Other task force members added that they would prefer control for day-to-day operational items to be in the hands of the local districts.

The final stumbling block presented was the need for abandoned building demolition funding. Mr. Berry explained that the old buildings are now owned by the districts and present a liability issue for them. In response to a question from Senator Nava about the cost to demolish all abandoned school buildings in the state, Mr. Berry said that the data regarding the final costs were not complete yet. He added that currently PSFA has identified seven buildings that need to be demolished and is continuing to attempt to identify others that need to be demolished.

### **Discussion of Potential Legislation**

By consensus, the task force agreed to ask staff to draft bills on the following items and that the task force would consider formal adoption at its December 19 meeting in Santa Fe:

- authorize funding from the Public School Capital Outlay Fund for qualifying districts for the development and updating of district facility master plans;
- increase for one year the general fund appropriation to the Educational Technology Fund;
- provide special funding for correcting deficiencies identified under the 3-D International (3DI) assessments for the NMSD and the NMSBVI and establish rules for distribution of those funds;
- review the TIF bill to ensure school districts are protected from sanctions because of disequalization issues related to the *Zuni* lawsuit;
- allow school districts greater flexibility in maintaining cash balances;
- HB 511 response: (1) when educational technology standards are established, provide funding to those standards in a phased approach with network infrastructure and basic workstations for districts with a student-computer ratio of more than 3:1; and (2) provide additional funding for an in-depth, third-party assessment of educational technology needs at individual schools similar to the 3DI assessment;
- use statewide general obligation bonds to fund capital outlay needs of charter schools;
- allow PSFA employees to retain the exempt status under the state personnel system;
- provide additional funding for implementation of FIMS;
- create a special fund from the general fund surplus to be used during, the period that charter schools are moving into public spaces to provide the district's local match under the standards-based process;
- increase SB 9 match to \$90.00 and allow districts to use SB 9 dollars specifically to contract for maintenance support services;
- exclude the PSCOC and the PSFA from the requirement of procurement through the state purchasing agent; and
- request that representatives of local governments, public school districts and the state discuss the effect of such issues as IRBs and impact aid fees to school districts and determine ways to work together to mitigate the effect of these issues on school district revenues and make recommendations to the PSCOOTF.

There being no further business, the PSCOOTF adjourned at 12:10 p.m.

Revised: December 16, 2005

**TENTATIVE AGENDA  
for the  
FIFTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**December 19, 2005  
Room 307, State Capitol  
Santa Fe**

**Monday, December 19**

- 9:00 a.m.     **Call to Order**  
                  **Approval of Minutes of November 21-22, 2005**
- 9:05 a.m.     **Charter School Issues**  
                  Charter School Advisory Committee Report and Recommendations  
                  —Alan Armijo, Chair
- Jemez Valley Public School Match for 2004-2005 San Diego Riverside  
Charter School Grant Award**  
                  —Tim Berry, Deputy Director, Public School Facilities Authority (PSFA)  
                  —Sandra Henson, Superintendent, Jemez Valley Public Schools  
                  —Idalee Vogel, Development Director, San Diego Riverside Charter School
- 10:00 a.m.    **FY06 and Future Funding for Inspections of Public School Capital Outlay  
Projects**  
                  —Tim Berry, Deputy Director, PSFA  
                  —Lisa Martinez, Director, Construction Industries Division, Regulation  
                  and Licensing Department
- 10:45 a.m.    **High-Growth Schools—Issues and Discussion**  
                  —James Jimenez, Secretary, Department of Finance and Administration  
                  —Bob Gorrell, Director, PSFA  
                  —Paula Tackett, Director, Legislative Council Service
- 11:15 a.m.    **"Tools for Schools" Indoor Air Quality Program**  
                  —Matthew Baca, State Director, "Tools for Schools" Indoor Air Quality, U.S.  
                  Environmental Protection Agency
- 12:00 noon    **Lunch**
- 1:00 p.m.     **Discussion and Adoption of Recommendations for Legislation**  
                  —Task Force Members and Staff

**UNAPPROVED  
MINUTES  
of the  
FIFTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**December 19, 2005  
Room 307, State Capitol  
Santa Fe**

The fifth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) for the 2005 interim was called to order by Representative Rick Miera, co-chair, on Monday, December 19, 2005, at 9:05 a.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Rep. Rick Miera, Co-Chair  
Sen. Cynthia Nava, Co-Chair  
Sen. Ben D. Altamirano  
Sen. Vernon D. Asbill  
Rep. Ray Begaye  
Sen. Joseph A. Fidel  
Cecilia Grimes  
Pancho Guardiola  
Leonard Haskie  
James Jimenez  
Rep. Larry A. Larranaga  
Sen. Carroll H. Leavell  
Adam Levine for Gary Bland  
Rep. Ben Lujan  
Elizabeth Marrufo  
Tony Monfiletto  
Don Moya for Veronica Garcia  
Bud Mulcock  
Rep. Henry Kiki Saavedra  
Norman Suazo  
Moises Venegas

**Absent**

Robbie Heyman  
Kilino Marquez  
Rep. W.C. "Dub" Williams

**Staff**

David Abbey, Legislative Finance Committee (LFC)  
Sharon Ball, Legislative Council Service (LCS)  
Tim Berry, Public School Facilities Authority (PSFA)  
Bob Bittner, PSFA  
Bob Gorrell, PSFA  
Linda Kehoe, LFC

Jeremy LaFaver, LCS  
Frances Maestas, Legislative Education Study Committee (LESC)  
Antonio Ortiz, Public Education Department (PED)  
Pauline Rindone, LESC  
Bill Sprick, PSFA  
Paula Tackett, LCS  
Doug Williams, LCS

### **Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

### **Monday, December 19**

#### **Charter School Issues**

Alan Armijo, chair of the Charter School Advisory Subcommittee, reported that the eight-member subcommittee had met three times from October through December. He said that the subcommittee appreciated having staff support from the LCS, with additional assistance as needed from the PSFA, the LESC and the PED. He said that the subcommittee reached consensus on the following recommendations to the PSCOOTF:

- increase the appropriation for the lease payment assistance program to guarantee \$600 per MEM;
- require all charter schools to be included in their respective districts' master plans regardless of whether the district plans to apply for a Public School Capital Outlay Council (PSCOC) grant;
- study the feasibility of establishing a "90th school district" for authorization and oversight of charter schools; and
- explore the use of industrial revenue bonds (IRBs) and tax increment financing (TIF) for charter school capital needs.

In response to a task force question about the projected cost to fully fund the lease payment assistance program, Mr. Berry responded that all lease payment applications for the current school year totaled \$5.6 million. He said that the number of students statewide for FY06 that were funded through the lease assistance program was 8,341 charter school students and 990 non-charter school students, for a total of 9,331 students.

Representative Miera asked if the charter schools are actively working with school districts regarding planning for the 2010 deadline for locating charter schools in public facilities. Mr. Armijo said that the Albuquerque Public Schools (APS) have been discussing the issues, but no definitive decisions have yet been made. Mr. Gorrell said that the first step in the process is to identify the basic space requirements of charter schools and then to identify what space is available. PSFA is currently working to identify those requirements.

Senator Asbill said he believes that school districts should be encouraged to use their local bond capacity to provide for charter school capital needs.

Mr. Monfiletto noted that APS has not included any projects for charter schools in the bond issue it is presenting to voters in February 2006. He added that, while APS has indicated an interest in including charter schools in the capital planning process, no formal structure for that involvement has been established yet. Mr. Gorrell pointed out that the current bond issue will fund projects that are part of the APS master plan that has been in effect for a number of years, and charter schools will be included in the master plan update that is currently being developed. He added that the first phase of including charters in this process was to include them in the district's facilities master plans (FMP). Once the charter schools are included in the FMP and their projects are approved, their projects can be included in the bond elections since a project cannot be approved if it is not in the district's FMP.

Mr. Guardiola suggested that APS may find it difficult to pass a bond election if projects are included to meet current growth needs and repair and replacement needs, as well as charter school capital outlay needs, especially if charter schools are not housed in public buildings.

Senator Asbill suggested that a district might designate charter schools as a separate question on a local bond issue ballot. Mr. Monfiletto observed that districts and charter schools need to work to avoid the "zero-sum" game that creates winners and losers, thus pitting charter schools against their districts.

#### **Jemez Valley Public School Match for 2004-2005 San Diego Riverside Charter School Grant Award**

Sandra Henson, superintendent, Jemez Valley Public Schools, and Idalee Vogel, development director, San Diego Riverside Charter School, talked about the local match requirement and the Jemez Valley district's inability to fund the match for a prior year PSCOC grant. It was stated that the charter school is currently occupying a tribal building on tribal land. The district has offered the charter school alternate space in a public school building and the charter school has declined to use that space.

Ms. Henson mentioned that her district was the first district to include its charter school in its FMP and that the district had assisted the charter with its 2004-2005 cycle PSCOC grant application. In response to a question from Senator Nava, Ms. Henson said that the reason the district has been reluctant to accept the PSCOC grant is that the district does not have the necessary funds to provide the match required by law.

Ms. Tackett clarified that the dilemma that confronted the PSCOC in considering waiver of the match requirement had to do with the utilization of school district facilities. She said that the current availability of adequate district space is the conundrum. The PSCOC is seeking guidance from the task force regarding this issue. Mr. Gorrell added that the district has space available for the charter school to use but that the charter school does not wish to move from its current location within the pueblo. He noted that, while statute requires a district to offer its

charter school or schools available space under certain circumstances, nothing in statute or rule stipulates the consequences if the charter school declines the offer.

Ms. Vogel stated that at the time the charter school applied for the PSCOC award, the district had not made the space available. She said that the first time they were formally issued an invitation to share the space was December 5, 2005.

In response to a question from Senator Altamirano regarding ownership of the current charter school building, Ms. Vogel said the tribal government owns the building. A discussion ensued regarding whether that arrangement is allowed under the requirement that all charter schools be in public buildings by 2010. Ms. Vogel stated that, according to the statute, tribal governments are listed as an appropriate public entity to own a facility that a charter school uses. She explained that the charter school does not wish to relocate, because it has been in the same location since its inception and changing facilities would require busing the charter students to the district's campus.

Senator Leavell asked for a summary of the charter school capital needs and the distance between the current location and the public space. Mr. Berry said that the PSCOC grant was for \$2.5 million and the local share is \$1.2 million. He said that the space offered by the district already meets adequacy requirements as a result of a PSCOC grant awarded to the district in a previous awards cycle. He also said the distance between the two locations is approximately five miles.

Senator Asbill opined that allowing a waiver for the local match portion of the PSCOC grant award would fly in the face of the *Zuni* lawsuit remedies and perhaps undermine the match portion of the standards-based process as well.

In response to Senator Asbill's comments, Ms. Tackett stated that if a district receiving a PSCOC grant meets certain criteria established in statute, the PSCOC can provide for a waiver of the local match. Some of the examples Ms. Tackett mentioned included districts with fewer than 800 MEM and in which the district voters have approved imposition of more than seven mills to fund the district's capital outlay program.

Mr. Gorrell said PSFA staff initially consider utilization factors when they make recommendations to the PSCOC to grant a district a waiver from providing the match. Ms. Tackett reiterated that the PSCOC is looking for guidance to determine at what point an assessment of utilization factors is required and when it is not.

Ms. Henson said another issue is related to personnel overlap. The two charter schools and the district schools themselves include four principals, three business managers and a variety of other duplicative personnel that are serving only 500 students.

Mr. Moya reinforced Ms. Henson's point and stated it may be beneficial for administration groups within the district to have proximity during the work day and that it may

alleviate some of the concerns regarding exceptions related to the charter schools in the district's 2005 audit.

Mr. Suazo stated that, while the district makes some pertinent points, the most important issue is what is best for the students, and he believes that they should stay in the tribal space, which is the reason the original charter was applied for and granted. Both Senator Altamirano and Representative Begaye endorsed Mr. Suazo's position.

Ms. Henson said that she does not understand the reasoning that makes it a problem for the students in a clearly inadequate charter school facility to move to a facility that currently meets adequacy standards. Mr. Suazo said he believes it is a location issue. The charter school is a community facility on tribal land that serves a tribal population. Forcing students to get rides or to be bused to school as opposed to being able to walk is an undue burden on those students. Representative Saavedra stated he disagrees with Mr. Suazo's argument that it is bad for the students to have to ride a bus five miles to school. He mentioned that there are numerous areas throughout the state where students are bused many more miles than that. He noted the importance of having a diverse student population rather than establishing separate, isolated facilities.

It was stated that the current district population (without the charter school students) is approximately 365 and approximately 55 percent Native American. The charter school has a population of approximately 100 students and is 100 percent Native American. Ms. Henson closed by saying the district is not currently in a place financially to be able to match the PSCOC grant if it is not awarded a waiver by PSCOC.

Senator Nava noted that the other charter school in the district, Walatowa Charter High School, is currently housed in portable buildings and that perhaps the space on the district campus would be better utilized by the high school rather than San Diego Riverside, which is a K-8 school.

### **FY06 and Future Funding for Construction Industries Division (CID) Inspections of Public School Capital Outlay Projects**

Mr. Berry and Lisa Martinez, director, CID of the Regulation and Licensing Department (RLD), reported on the progress made by CID in achieving adequate staff levels to accomplish inspections of public school capital outlay construction projects.

Ms. Martinez stated that approximately 15 percent of CID's work involves PSCOC-funded projects. CID has been authorized for two new inspector positions but, because of budget constraints, has been unable to fill those positions. Senator Leavell asked how many positions are needed, and Ms. Martinez said CID is hoping to add four more inspectors in January and another four in April or May 2006. These eight inspectors will be funded by PSCOC funds, not general fund dollars. In response to a question from Senator Leavell, she said that the FY07 budget will not include a request for additional positions.

Senator Nava asked about the possibility of inspectors being certified in multiple disciplines. Ms. Martinez said that CID is attempting to increase the number of inspectors with multiple certifications. To this end, CID has established a new job position that will compensate persons with multiple certifications at a higher salary.

Mr. Suazo asked if CID has looked at the option of having the inspections performed by contract personnel. Ms. Martinez said CID does not currently have the funding to be able to contract for these services.

### **High-Growth Schools: Issues and Discussion**

Mr. Jimenez made a presentation concerning the governor's proposal for addressing growth. The governor is proposing to dedicate \$290 million (\$145 million each year for two years) to address high-growth school district needs. He said that the administration will seek an appropriation from the legislature.

Mr. Jimenez presented a memorandum to the task force outlining recommendations of the PSCOC's Awards Subcommittee to the task force. They are as follows:

- consider retroactive awards to APS for projects for which APS did not previously apply;
- consider waiver of APS match on all 2005 awards;
- consider waiver of match on all 2005 awards;
- create a moratorium on offsets, for a period of time, for awards related to "significant growth". Significant growth criteria would be developed by the PSCOC;
- require that growth dollars not be considered from PSCOC unless the district has implemented a policy that any school that enrolls its first student over design capacity will, as of the next school year, become a "year-round school". (A multitrack year-round schedule can increase student capacity at a school by as much as 20 percent.);
- require that growth dollars not be considered from PSCOC unless the district has first implemented all options, including boundary changes, that would spread students across available facilities;
- consider PSCOC tax imposition upon APS to raise needed match for high-needs school projects;
- adjust growth awards by reducing local match by, for example, 20 percent (.8 x calculated required local match amount) conditional upon a district's having a certain minimum indebtedness relative to a community "doing its best";
- allow PSCOC to lend funding to districts for match dollars and require repayment by a certain date;
- increase outside input of capital into schools, such as from developers;
  - ▶ impact fees for school construct; and
  - ▶ lease purchase option (after November 2006 – if passed); and
- review the weighting factor of three for the growth factor with the NMCI ranking formula so that growth issues would minimize making analysis of space needs simply reactive to present need.

Representative Miera said that impact fees for schools are a serious issue and that passing a measure to exempt schools from local governments' imposition of impact fees or to allow a school district to impose impact fees on developers would be difficult.

Ms. Tackett noted that retroactive awards to APS, a waiver of APS match requirements and a moratorium on offsets for direct appropriations would probably compromise or conflict with the *Zuni* remedies. New legislation would be required for PSCOC to be able to impose a property tax on a district whose voters had approved a mill levy or bond issue when the amount of the levies is insufficient to pay the district's match as part of the state-district share formula at the time of the award. Imposition of the "recalcitrant district" provisions of the Public School Capital Outlay Act requires that a district's voters refuse to pass a mill levy or bond issue to cover its share under the formula. She suggested that the task force might wish to consider a type of sliding scale loan program based on the state-local share formula, which would be determined by district wealth and/or its local tax burden.

Senator Asbill stated that waiving all district matches would anger districts that have already "paid their dues" over the past three years.

In response to a question from Senator Leavell, Mr. Armijo stated that APS is currently busing some students to less crowded schools as a partial solution to the growth on Albuquerque's west side. Secretary Jimenez pointed out that because of the high rate of growth, even with busing and boundary changes, ultimately it will be necessary to build new schools in Albuquerque.

### **"Tools for Schools" Indoor Air Quality Program**

Matthew Baca, state director of the "tools for schools" indoor air quality program, provided the task force with information on the implementation of the program in New Mexico.

Mr. Baca explained that six state entities\* have signed a memorandum of understanding to establish and implement this program, which is based on a federal Environmental Protection Agency (EPA) program designed to enable a committee of stakeholders to address air quality issues within schools. He explained that the program consists of a variety of checklists that various personnel must complete. Once the checklists are reviewed, problem areas are evaluated and assigned for correction to the appropriate entity within the school or district.

Mr. Baca explained that funding for the first year of the program came from the Department of Health, APS and the Department of Environment. During the first year, checklists and corrections took place in 40 schools. The second year will include nine schools from Deming, 40 from APS, six from the Bernalillo public schools and eight from the Rio

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\*The participating state entities include the Department of Health, the Public Education Department, the Public School Facilities Authority, the Department of Environment, the Energy, Minerals and Natural Resources Department and the Children, Youth and Families Department.

Rancho public schools.

Mr. Baca also said one of the advantages of the program is to standardize the diagnosis of indoor air quality issues statewide, which will work toward allowing for economies of scale by standardizing solutions for improving air quality in schools statewide.

Noting that her district, the Gadsden Independent Schools, participated in the implementation of the program during its first year, Senator Nava said that the "tools for schools" indoor air quality program is a low-cost way of reducing absenteeism and improving education. She said that she would recommend state funding for expansion of the program.

### **Discussion and Adoption of Recommendations for Legislation**

Ms. Tackett and Gary Carlson, LCS drafter, presented discussion drafts of potential legislation that the task force had requested to be drafted for its consideration for endorsement. The task force took action on the following issues.

- On a motion by Senator Leavell, seconded by Mr. Guardiola, the task force agreed to endorse legislation to approve the use of public school capital outlay funds for demolition of certain abandoned school buildings. The motion passed unanimously.
- Task force members agreed by consensus to provide public school capital outlay funds to address the correction of identified facilities deficiencies at the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired.
- Task force members discussed the appointment by the task force co-chairs of a work group to include representatives from local governments, public schools, municipalities, counties and the state to work during the 2006 interim to address issues related to providing school districts a "seat at the table" during discussions of such issues as the approval of IRBs, zoning decisions and assessment of impact fees by and on school districts. On a motion by Representative Larranaga, seconded by Mr. Mulcock, the task force agreed unanimously to endorse this legislation.
- On a motion by Senator Leavell, seconded by Senator Asbill, the task force agreed to allow the use of public school capital outlay funds to fund certain districts' facilities master plans under certain conditions. Voting in the negative on this motion were Speaker Lujan, Representative Saavedra, Representative Miera and Representative Begaye.
- On a motion by Senator Asbill, seconded by Mr. Guardiola, the task force unanimously voted to approve an appropriation of \$94.4 million from the general fund for educational technology statewide and an additional appropriation of \$24.2 million from the general fund to replace functionally obsolete school computers and network hardware in accordance with the state technology plan. The motion included

the requirement that each district requesting funding from this appropriation must have a PED-approved educational technology plan in place and also must provide a match on the same basis as that used for PSCOC grant awards in the standards-based process. Task force members noted that this legislation follows up on legislation endorsed by the former Public School Capital Outlay Task Force to establish an educational technology deficiencies correction program based upon the principles of the previous deficiencies correction program for public schools that is currently in its final stages of being completed.

- On a motion by Senator Asbill, seconded by Dr. Venegas, the task force agreed to endorse legislation to eliminate the operational cash balance restrictions on school districts that were imposed in 2003. Senator Nava voted in the negative.
- On a motion by Mr. Mulcock, seconded by Representative Miera, the task force voted unanimously to endorse legislation to increase the state guarantee amount in the Public School Capital Improvements Act (also called "SB 9" or the "two-mill levy") from \$60.00 per mill per unit to \$90.00 per mill per unit to provide additional funding for maintenance of public school facilities and public school grounds statewide. The motion included the provision to maintain the language already in statute that requires a yearly adjustment (beginning in FY08) to the state guarantee based on yearly consumer price increases.
- On a motion by Senator Leavell, seconded by Mr. Mulcock, the task force voted unanimously to continue the status of PSFA employees as exempt rather than classified to retain quality employees and remain competitive with the public sector.
- On a motion by Mr. Mulcock, seconded by Ms. Marrufo, the task force voted to allow the PSFA to be its own purchasing agent to facilitate the awarding of contracts and to expedite capital projects throughout the state.
- On a motion by Representative Larranaga, seconded by Mr. Monfiletto, the majority of the task force voted to endorse legislation to change the limitation on the funds available to make lease payments and fully fund the lease assistance program at \$600 per MEM for charter schools. The recommendation was amended to reflect MEM data on the eightieth school day as reported by the charter schools. Representatives Miera, Saavedra and Begaye and Speaker Lujan voted in the negative.
- On a motion by Representative Larranaga, seconded by Dr. Venegas, the task force voted unanimously to endorse legislation to study the feasibility of allowing other entities, in addition to local school boards, to approve the establishment of charter schools. Task force members had some discussion about the efficacy of this proposal given the governor's announced legislative proposal to establish an independent chartering authority during this session of the legislature. Representative Larranaga noted that, in his experience over the past six or so years, the legislature has

considered several proposals like the one currently being proposed by the governor, but legislators have discovered that "the devil is in the details" when it comes to getting something passed through both houses. He emphasized that the task force's proposal would be a good "fallback" position in case the governor's proposed legislation does not make it through during this 30-day session. The proposed measure was amended by Representative Begaye to include specific language to address the needs of charter schools on tribal land.

- On a motion by Senator Asbill, seconded by Ms. Marrufo, the task force voted unanimously to approve a \$2.5 million appropriation to PSFA to fully implement the facility information management system (FIMS).
- On a motion by Representative Larranaga, seconded by Dr. Venegas, the task force voted to require all school districts to submit a five-year facilities plan that includes any charter schools located in the district as part of the required approval process for any school construction. Representative Begaye voted in opposition to the motion.
- By consensus, the task force directed staff to draft legislation containing an appropriation to expand the "tools for schools" indoor air quality program for final approval by a legislative subcommittee appointed by the task force chairs.

#### **Creation of a PSCOOTF Subcommittee**

On a motion by Mr. Mulcock, seconded by Ms. Grimes, the task force voted unanimously to create a subcommittee, whose members would be appointed by the task force co-chairs to review final legislation and any additional legislation before the upcoming legislative session along with the revisions adopted at the current meeting.

#### **Approval of the Minutes**

On a motion by Representative Miera, seconded by Mr. Mulcock, the task force approved the minutes of the fourth meeting of the PSCOOTF.

#### **Adjourn**

The task force adjourned at 4:05 p.m.

**TENTATIVE AGENDA  
for the  
LEGISLATION SUBCOMMITTEE  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**January 11, 2006  
Room 303, State Capitol  
Santa Fe**

**Wednesday, January 11**

1:30 p.m.      **Call to Order**

1:35 p.m.      **Consideration and Adoption of Public School Capital Outlay Oversight Task  
Force Legislation for Endorsement**

3:00 p.m.      **Adjourn**

**UNAPPROVED  
MINUTES  
of the  
LEGISLATION SUBCOMMITTEE  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**January 11, 2006  
Room 303, State Capitol  
Santa Fe**

**Members Present**

Representative Rick Miera, Co-chair  
Senator Cynthia Nava, Co-chair  
Senator Vernon D. Asbill  
Representative Ray Begaye  
Senator Joseph A. Fidel  
Secretary James Jimenez, Department of Finance and Administration  
Representative Larry A. Larranaga  
Bud Mulcock  
Representative Henry Kiki Saavedra

**Staff**

Sharon Ball, Legislative Council Service (LCS)  
Robert Gorrell, Public School Facilities Authority (PSFA)  
Linda Kehoe, Legislative Finance Committee (LFC)  
Frances Maestas, Legislative Education Study Committee (LESC)  
Pauline Rindone, LESC  
Paula Tackett, LCS  
Doug Williams, LCS

**Guests**

The guest list is in the meeting file.

Copies of all handouts are in the meeting file.

**Call to Order**

Representative Miera, co-chair, called the meeting to order at 1:40 p.m.

**Consideration and Adoption of Public School Capital Outlay Oversight Task Force Legislation for Endorsement**

Staff provided subcommittee members with bill discussion drafts related to the following issues to which the task force had agreed at its December meeting would require further consideration, reconsideration, modification or alternatives.

**Assistance for High-Growth Districts and Areas in Districts:** Staff presented task force members with three alternative options to address critical capital outlay needs that currently exist in districts with high-growth rates and districts with high-growth areas.

- Option 1, Ms. Tackett explained, is a straightforward grant program with the estimated required \$290.0 million entirely funded with state dollars. Subcommittee members expressed a number of concerns about this option. In response to questions from the subcommittee members, Ms. Tackett stated that, in her opinion, adopting this approach might create problems with the *Zuni* lawsuit remedies. She reminded task force members that, in adopting the report of the special master, state district Judge Rich retained the right to hold status conferences as the state continues to implement the *Zuni* remedies to determine if the state is still making a good-faith effort to address the concerns in the lawsuit, and he could possibly change his acceptance of the special master's report.
- Option 2 would provide up-front, state funding for a growth project and would require the district to repay an amount equal to the district's share of the local share at some point in the future. In response to committee questions, Ms. Tackett indicated that although this approach would not create an outright "gift" to the recipient district, it would require the state to absorb part of the district's share and, again, could lead to problems with the *Zuni* remedies.
- Option 3 would provide up-front funding and would require the district to pay the customary local share at a time in the future. After extensive discussion, subcommittee members agreed to adopt this proposal with several additions:
  - Include a definition of "high growth area" as one that, within five years of the grant allocation decision, would have an estimated occupancy rate for the proposed new school of 70 percent or more of the design capacity and that, in terms of the existing schools in the area from which students attending the new school will be drawn, at the time of the application, the attendance at these schools is above design capacity.
  - Require the Public School Capital Outlay Council to establish criteria for the project that include completion of the project within a 30-month construction period.
  - Require an advance to be repaid in full within a period not to exceed 10 years.
  - Allow for repayment of the advance by the school district with cash balances or offsets of future allocations that would otherwise be made for projects within the school district.
  - Establish a mechanism for repayment of the advance if, at some time, the district refuses to do so.
  - Establish a "sunset" for the program by the end of FY08.

In response to subcommittee questions, Mr. Gorrell stated that establishing some sort of requirement for districts to maintain existing facilities at design capacity is important in discouraging a school district from artificially inflating the population of a new facility by moving students from schools that are at or below capacity to the new facility.

**Lease Assistance Payments:** After some discussion, the subcommittee agreed to increase the allocation set aside each year for lease assistance funding for school districts from a maximum of \$4.0 million to \$7.5 million for FY06 through FY10. The subcommittee requested that this measure

be included in the "omnibus" bill.

**New School Development Fund:** The subcommittee considered endorsement of legislation to create a "new school development fund" with a \$1.0 million appropriation from the general fund for FY06 and subsequent fiscal years to provide funding to supplement district funds needed to pay for supplies, equipment and operating costs unique to the first year of operation of a new school. The subcommittee agreed to endorse the legislation and changed the language in the draft to make the distribution of the funds the responsibility of the Public Education Department. The subcommittee directed that this measure be included in the omnibus bill.

**Indoor Air Quality:** After consideration of proposed legislation to appropriate \$300,000 from the general fund to the Public School Facilities Authority for FY06 and 07 to make "tools for schools" grants to school districts to improve indoor air quality in public schools, the subcommittee agreed to endorse the legislation and include it in the task force-endorsed omnibus capital outlay bill.

**Educational Technology:** The subcommittee discussed proposed educational technology legislation that would appropriate \$94.4 million from the general fund to the Educational Technology Deficiency Correction Fund for expenditure in FY06 and subsequent fiscal years to make allocations to school districts to correct serious deficiencies in educational technology infrastructure. The proposed legislation would also appropriate \$24.2 million from the general fund to the Public Education Department to be allocated to districts based upon priorities established by the Public Education Department to raise all schools to the minimum educational technology adequacy standards developed by the department and the Council on Technology in Education. After some discussion and expression of concerns about the large size of the appropriation, the subcommittee voted to adopt the legislation and directed that it be drafted as a separate bill from the omnibus bill.

### **Adjourn**

The subcommittee adjourned at 4:25 p.m.

## Appendix D

### Legislation Endorsed by the Task Force

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SENATE BILL

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

AN ACT

RELATING TO SCHOOLS; REQUIRING A FACILITIES PLAN FOR ALL SCHOOL DISTRICTS; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO ALLOW EXPENDITURES FOR CERTAIN ABANDONED FACILITIES, FIVE-YEAR FACILITIES PLANS AND CORRECTION OF DEFICIENCIES AT CERTAIN STATE EDUCATIONAL INSTITUTIONS, TO CHANGE THE LIMITATIONS ON EXPENDITURES FOR CERTAIN LEASE PAYMENTS AND TO PROVIDE A LOAN PROGRAM FOR NEW SCHOOLS IN HIGH-GROWTH AREAS; AMENDING THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT TO INCREASE THE STATE DISTRIBUTION AND AUTHORIZE ADDITIONAL EXPENDITURES; EXEMPTING CERTAIN EMPLOYEES FROM THE PERSONNEL ACT; REMOVING CERTAIN RESTRICTIONS ON SCHOOL DISTRICT CASH BALANCES; PROVIDING START-UP COSTS FOR NEW SCHOOLS; PROVIDING FUNDING TO IMPROVE THE INDOOR AIR QUALITY OF PUBLIC SCHOOLS; PROVIDING FOR STUDIES OF CERTAIN LOCAL GOVERNMENT ACTIONS ON SCHOOL REVENUE AND OF ADDITIONAL CHARTERING AUTHORITIES FOR CHARTER SCHOOLS; ALLOWING

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1 THE PUBLIC SCHOOL FACILITIES AUTHORITY TO BE A CENTRAL  
2 PURCHASING OFFICE; PROVIDING FOR AN ONGOING FACILITY  
3 INFORMATION MANAGEMENT SYSTEM; MAKING APPROPRIATIONS; DECLARING  
4 AN EMERGENCY.

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

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

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

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

- 24 (1) a statement of need;

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- 1                   (2) the anticipated number of students  
2 affected by the construction;  
3                   (3) the estimated cost;  
4                   (4) a description of the proposed construction  
5 project;  
6                   (5) a map of the area showing existing school  
7 attendance centers within a five-mile radius and any  
8 obstructions to attending the attendance centers, such as  
9 railroad tracks, rivers and limited-access highways; and  
10                  (6) such other information as may be required  
11 by the director.

12                  B. The director or the director's designee shall  
13 give approval to an application if the director or designee  
14 reasonably determines that:

- 15                   (1) the construction will not cause an  
16 unnecessary proliferation of school construction;  
17                   (2) the construction is needed in the school  
18 district;  
19                   (3) the construction is feasible;  
20                   (4) the cost of the construction is  
21 reasonable;  
22                   (5) the school district has submitted a five-  
23 year facilities plan that includes:  
24                           (a) enrollment projections;  
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underscored material = new  
[bracketed material] = delete

1                    (b) a current preventive maintenance  
2 plan;

3                    (c) the capital needs of charter schools  
4 located in the school district; and

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

7                    [~~(5)~~] (6) the construction project:

8                    (a) is in compliance with the statewide  
9 adequacy standards adopted pursuant to the Public School  
10 Capital Outlay Act; and

11                    (b) [~~if relevant~~] is appropriately  
12 integrated into the school district [~~master~~] five-year  
13 facilities plan;

14                    [~~(6)~~] (7) the school district is financially  
15 able to pay for the construction; and

16                    [~~(7)~~] (8) the secretary has certified that the  
17 construction will support the educational program of the school  
18 district.

19                    C. Within thirty days after the receipt of an  
20 application filed pursuant to this section, the director or the  
21 director's designee shall in writing notify the local school  
22 board making the application and the department of approval or  
23 disapproval of the application.

24                    D. A local school board shall not enter into a  
25 contract for the construction of a public school facility,

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1 including contracts funded with insurance proceeds, unless the  
2 contract contains provisions requiring the construction to be  
3 in compliance with the statewide adequacy standards adopted  
4 pursuant to the Public School Capital Outlay Act, provided  
5 that, for a contract funded in whole or in part with insurance  
6 proceeds:

7 (1) the cost of settlement of any insurance  
8 claim shall not be increased by inclusion of the insurance  
9 proceeds in the construction contract; and

10 (2) insurance claims settlements shall  
11 continue to be governed by insurance policies, memoranda of  
12 coverage and rules related to them.

13 E. Public school facilities shall be constructed  
14 pursuant to state standards or codes promulgated pursuant to  
15 the Construction Industries Licensing Act and rules adopted  
16 pursuant to Section 59A-52-15 NMSA 1978 for the prevention and  
17 control of fires in public occupancies. Building standards or  
18 codes adopted by a municipality or county do not apply to the  
19 construction of public school facilities, except those  
20 structures constructed as a part of an educational program of a  
21 school district.

22 F. The provisions of Subsection E of this section  
23 relating to fire protection shall not be effective until the  
24 public regulation commission has adopted the International Fire  
25 Code and all standards related to that code.

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1           G. 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 2. Section 22-8-41 NMSA 1978 (being Laws 1967,  
5 Chapter 16, Section 99, as amended) is amended to read:

6           "22-8-41. RESTRICTION ON OPERATIONAL FUNDS--EMERGENCY  
7 ACCOUNTS--CASH BALANCES.--

8           A. A school district shall not expend money from  
9 its operational fund for the acquisition of a building site or  
10 for the construction of a new structure, unless the school  
11 district has bonded itself to practical capacity or the  
12 secretary determines and certifies to the legislative finance  
13 committee that the expending of money from the operational fund  
14 for this purpose is necessary for an adequate public  
15 educational program and will not unduly hamper the school  
16 district's current operations.

17           B. A school district or charter school may budget  
18 out of cash balances carried forward from the previous fiscal  
19 year an amount not to exceed five percent of its proposed  
20 operational fund expenditures for the ensuing fiscal year as an  
21 emergency account. Money in the emergency account shall be  
22 used only for unforeseen expenditures incurred after the annual  
23 budget was approved and shall not be expended without the prior  
24 written approval of the secretary.

25           C. In addition to the emergency account:

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1                   (1) school districts or charter schools may  
2 also budget operational fund cash balances carried forward from  
3 the previous fiscal year for operational expenditures,  
4 exclusive of salaries and payroll, upon specific prior approval  
5 of the secretary. The secretary shall notify the legislative  
6 finance committee in writing of ~~[his]~~ the secretary's approval  
7 of such proposed expenditures ~~[For fiscal years 2004 and 2005,~~  
8 ~~with the approval of the secretary];~~ and

9                   (2) a school district or charter school may  
10 budget so much of its operational cash balance as is needed for  
11 nonrecurring expenditures, including capital outlay, the school  
12 district's portion of the cost of capital outlay projects  
13 funded pursuant to the Public School Capital Outlay Act,  
14 development of five-year facilities plans and nonrecurring  
15 school district costs associated with charter schools.

16                   ~~[D. Notwithstanding the provisions of Subsection C~~  
17 ~~of this section, beginning with fiscal year 2006, prior to~~  
18 ~~approval of a school district's or charter school's budget, the~~  
19 ~~secretary shall verify that the reductions from the state~~  
20 ~~equalization guarantee distribution have been taken pursuant to~~  
21 ~~this section.~~

22                   ~~E. The allowable limit for a school district's or~~  
23 ~~charter school's ending operational cash balance is:~~

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1                   ~~(1) if the current year program cost is less~~  
2 ~~than five million dollars (\$5,000,000), nine percent of the~~  
3 ~~budgeted expenditures;~~

4                   ~~(2) if the current year program cost is five~~  
5 ~~million dollars (\$5,000,000) but less than ten million dollars~~  
6 ~~(\$10,000,000), seven and one-half percent of the budgeted~~  
7 ~~expenditures;~~

8                   ~~(3) if the current year program cost is ten~~  
9 ~~million dollars (\$10,000,000) but less than twenty-five million~~  
10 ~~dollars (\$25,000,000), six percent of the budgeted~~  
11 ~~expenditures;~~

12                   ~~(4) if the current year program cost is~~  
13 ~~twenty-five million dollars (\$25,000,000) but less than two~~  
14 ~~hundred million dollars (\$200,000,000), four and one-half~~  
15 ~~percent of the budgeted expenditures; and~~

16                   ~~(5) if the current year program cost is two~~  
17 ~~hundred million dollars (\$200,000,000) or more, for fiscal year~~  
18 ~~2004, two and one-half percent of the budgeted expenditures~~  
19 ~~and, for subsequent fiscal years, three percent of the budgeted~~  
20 ~~expenditures.~~

21                   ~~F. Except as otherwise provided in this section,~~  
22 ~~for the 2006 and subsequent fiscal years, the secretary shall~~  
23 ~~reduce the state equalization guarantee distribution,~~  
24 ~~calculated pursuant to Section 22-8-25 NMSA 1978, to each~~  
25 ~~school district or charter school by an amount equal to the~~

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1 ~~school district's or charter school's excess cash balance. As~~  
2 ~~used in this section, "excess cash balance" means the~~  
3 ~~difference between a school district's or a charter school's~~  
4 ~~actual operational cash balance and the allowable limit~~  
5 ~~calculated pursuant to Subsection E of this section. Provided,~~  
6 ~~however, that:~~

7 ~~(1) for a school district or charter school~~  
8 ~~with a current year program cost that exceeds two hundred~~  
9 ~~million dollars (\$200,000,000), if the excess cash balance is~~  
10 ~~greater than twenty percent of the allowable, unrestricted,~~  
11 ~~unreserved operational cash balance and the emergency reserve,~~  
12 ~~then the reduction pursuant to this subsection shall equal~~  
13 ~~twenty percent of the allowable, unrestricted, unreserved~~  
14 ~~operational cash balance and the emergency reserve; and~~

15 ~~(2) for other school districts and charter~~  
16 ~~schools, if the excess cash balance is greater than eighteen~~  
17 ~~percent of the allowable, unrestricted, unreserved operational~~  
18 ~~cash balance and the emergency reserve, then the reduction~~  
19 ~~pursuant to this subsection shall equal eighteen percent of the~~  
20 ~~allowable, unrestricted, unreserved operational cash balance~~  
21 ~~and the emergency reserve.~~

22 ~~G. In developing budgets, school districts and~~  
23 ~~charter schools shall not budget current year cash balances~~  
24 ~~without the approval of the secretary.~~

underscored material = new  
[bracketed material] = delete

1           ~~H. A school district or charter school whose~~  
2           ~~enrollment growth exceeds one percent from the prior year and~~  
3           ~~whose facility master plan includes the addition of a new~~  
4           ~~school within two years may request from the secretary a waiver~~  
5           ~~of up to fifty percent of the reduction otherwise required by~~  
6           ~~Subsection F of this section.~~

7           ~~I. Notwithstanding the provisions of Subsection F~~  
8           ~~of this section, for fiscal year 2004, the reduction from the~~  
9           ~~state equalization guarantee distribution shall be the greater~~  
10          ~~of the amount calculated pursuant to that subsection or ten~~  
11          ~~dollars (\$10.00) per MEM.~~

12          ~~J. For the purposes of this section, "operational~~  
13          ~~cash balance" means the allowable, unrestricted, unreserved~~  
14          ~~operational cash balance and the emergency reserve.~~

15          ~~K. For the purposes of this section, "allowable,~~  
16          ~~unrestricted, unreserved operational cash balance and the~~  
17          ~~emergency reserve" means the proportional share not~~  
18          ~~attributable to revenue derived from the school district~~  
19          ~~property tax, forest reserve funds and impact aid for which the~~  
20          ~~state takes credit in determining a school district's or~~  
21          ~~charter school's state equalization guarantee distribution.]"~~

22                 Section 3. A new section of the Public School Code is  
23                 enacted to read:

24                 "22-24-11. [NEW MATERIAL] NEW SCHOOL DEVELOPMENT FUND--  
25                 DISTRIBUTION.--

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1           A. The "new school development fund" is created in  
2 the state treasury. The fund shall consist of appropriations,  
3 gifts, grants, donations and bequests made to the fund. Income  
4 from the fund shall be credited to the fund, and money in the  
5 fund shall not revert or be transferred to any other fund at  
6 the end of a fiscal year. Money in the fund is appropriated to  
7 the department for the purposes of making distributions  
8 pursuant to Subsection B of this section. Expenditures from  
9 the fund shall be made on warrant of the secretary of finance  
10 and administration pursuant to vouchers signed by the  
11 secretary.

12           B. Upon application to the department by a school  
13 district and subject to the availability of funds, the  
14 department may approve a distribution to the school district  
15 from the new school development fund to supplement district  
16 funds needed to pay for supplies, equipment and operating costs  
17 unique to the first year of operation of a new school, provided  
18 that the department shall not approve a distribution unless it  
19 determines that there are no other reasonably available  
20 federal, private or other public sources for the needed  
21 funding."

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

24           "22-24-4. FUND CREATED--USE.--  
25

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

4           B. Except as provided in Subsections G through [~~K~~]  
5 L of this section, money in the fund may be used only for  
6 capital expenditures deemed by the council necessary for an  
7 adequate educational program.

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

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1           D. Applications for assistance from the fund shall  
2 be made by school districts to the council in accordance with  
3 requirements of the council. Except as provided in Subsection  
4 K of this section, the council shall require as a condition of  
5 application that a school district have a current five-year  
6 facilities plan, which shall include a current preventive  
7 maintenance plan to which the school adheres for each public  
8 school in the school district.

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

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

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

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

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

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

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

17 ~~[H. Up to one million two hundred fifty thousand~~  
18 ~~dollars (\$1,250,000) of the balances of the fund may be~~  
19 ~~expended in fiscal years 2003 and 2004 by the council for the~~  
20 ~~purpose of updating and refining the statewide assessment study~~  
21 ~~required by Section 22-24-5 NMSA 1978 and for the training of~~  
22 ~~state and local officials on the use of the database and other~~  
23 ~~data-management-related issues identified by the council.~~

24 ~~F.]~~ H. Up to thirty million dollars (\$30,000,000)  
25 of the fund may be allocated annually by the council in fiscal

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1 years 2006 and 2007 for a roof repair and replacement  
2 initiative with projects to be identified by the council  
3 pursuant to Section 22-24-4.3 NMSA 1978; provided that all  
4 money allocated pursuant to this subsection shall be expended  
5 prior to September 1, 2008.

6 ~~[J.]~~ I. Up to ~~[four million dollars (\$4,000,000)]~~  
7 seven million five hundred thousand dollars (\$7,500,000) from  
8 the fund may be expended annually by the council in fiscal  
9 years ~~[2005]~~ 2006 through ~~[2009]~~ 2010 for grants to school  
10 districts for the purpose of making lease payments for  
11 classroom facilities, including facilities leased by charter  
12 schools. The grants shall be made upon application by the  
13 school districts and pursuant to rules adopted by the council;  
14 provided that, an application on behalf of a charter school  
15 shall be made by the school district but, if the school  
16 district fails to make an application on behalf of a charter  
17 school, the charter school may submit its own application. The  
18 following criteria shall apply to the grants:

19 (1) the amount of a grant to a school district  
20 shall not exceed:

21 (a) the actual annual lease payments  
22 owed for leasing classroom space for schools, including charter  
23 schools, in the district; or

24 (b) ~~[three hundred dollars (\$300) for~~  
25 ~~fiscal year 2005 and]~~ six hundred dollars (\$600) ~~[for fiscal~~

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1 ~~years 2006 through 2009]~~ multiplied by the number of MEM using  
2 the leased classroom facilities; provided that, if the total  
3 grants awarded pursuant to this paragraph would exceed the  
4 total annual amount available, the rate specified in this  
5 subparagraph shall be reduced proportionately;

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

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

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

14 (a) the average full-time-equivalent  
15 enrollment using leased classroom facilities on the [~~fortieth~~]  
16 eightieth and one hundred twentieth days of the prior school  
17 year; or

18 (b) in the case of an approved charter  
19 school that has not commenced classroom instruction, the  
20 estimated full-time-equivalent enrollment that will use leased  
21 classroom facilities in the first year of instruction, as shown  
22 in the approved charter school application; provided that,  
23 after the [~~fortieth~~] eightieth day of the school year, the MEM  
24 shall be adjusted to reflect the full-time-equivalent  
25 enrollment on that date.

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1                   [~~K-~~] J. In addition to other authorized  
2 expenditures from the fund, up to one percent of the average  
3 grant assistance authorized from the fund during the three  
4 previous fiscal years may be expended in each fiscal year by  
5 the public school facilities authority to reimburse the state  
6 fire marshal, the construction industries division of the  
7 regulation and licensing department and local jurisdictions  
8 having authority from the state to permit and inspect projects  
9 for expenditures made to permit and inspect projects funded in  
10 whole or in part under the Public School Capital Outlay Act.  
11 The authority shall enter into contracts with the state fire  
12 marshal, the construction industries division or the  
13 appropriate local authorities to carry out the provisions of  
14 this subsection.

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

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

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1 the fund shall be determined pursuant to the methodology in  
2 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978; or

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

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

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

24 L. Upon application by a school district,  
25 allocations from the fund may be made by the council for the

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1 purpose of demolishing abandoned school district facilities  
2 provided that:

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

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

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

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

16 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--  
17 APPLICATION--GRANT ASSISTANCE.--

18 A. Applications for grant assistance, the approval  
19 of applications, the prioritization of projects and grant  
20 awards shall be conducted pursuant to the provisions of this  
21 section [~~provided, however, that the order of priority in the~~  
22 ~~two years beginning July 1, 2004 shall first reflect those~~  
23 ~~specific projects that were partially funded by the council in~~  
24 ~~September 2003 but are not as yet completed, excluding any~~  
25 ~~expansion of the scope of those projects and contingent upon~~

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1 maintenance of the required local support. In that transition  
2 period, such projects shall be funded regardless of any  
3 deviation from the statewide adequacy standards; provided that  
4 the amount of the award received shall not exceed the amount  
5 necessary to meet the statewide adequacy standards, including  
6 projected enrollment growth].

7 B. Except as provided [~~in Subsection A of this~~  
8 ~~section and~~] in Sections 22-24-4.3 [~~and~~], 22-24-5.4 and  
9 22-24-5.6 NMSA 1978, the following provisions govern grant  
10 assistance from the fund for a public school capital outlay  
11 project not wholly funded pursuant to Section 22-24-4.1 NMSA  
12 1978:

13 (1) all school districts are eligible to apply  
14 for funding from the fund, regardless of percentage of  
15 indebtedness;

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

19 (a) the council shall apply the  
20 standards to charter schools to the same extent that they are  
21 applied to other public schools; and

22 (b) in an emergency in which the health  
23 or safety of students or school personnel is at immediate risk  
24 or in which there is a threat of significant property damage,

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1 the council may award grant assistance for a project using  
2 criteria other than the statewide adequacy standards;

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

7 (a) the feasibility of using design,  
8 build and finance arrangements for public school capital outlay  
9 projects;

10 (b) the potential use of more durable  
11 construction materials that may reduce long-term operating  
12 costs; and

13 (c) any other financing or construction  
14 concept that may maximize the dollar effect of the state grant  
15 assistance;

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

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

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1 (a) the final prior year net taxable  
2 value for a school district divided by the MEM for that school  
3 district is calculated for each school district;

4 (b) the final prior year net taxable  
5 value for the whole state divided by the MEM for the state is  
6 calculated;

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

13 (d) the lowest value listed pursuant to  
14 Subparagraph (c) of this paragraph is subtracted from the  
15 highest value listed pursuant to that subparagraph;

16 (e) the value calculated pursuant to  
17 Subparagraph (a) of this paragraph for the subject school  
18 district is subtracted from the highest value listed in  
19 Subparagraph (c) of this paragraph;

20 (f) the result calculated pursuant to  
21 Subparagraph (e) of this paragraph is divided by the result  
22 calculated pursuant to Subparagraph (d) of this paragraph;

23 (g) the sum of the property tax mill  
24 levies for the prior tax year imposed by each school district  
25 on residential property pursuant to Chapter 22, Article 18 NMSA

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1 1978, the Public School Capital Improvements Act, the Public  
2 School Buildings Act, the Education Technology Equipment Act  
3 and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978  
4 is calculated for each school district;

5 (h) the lowest value calculated pursuant  
6 to Subparagraph (g) of this paragraph is subtracted from the  
7 highest value calculated pursuant to that subparagraph;

8 (i) the lowest value calculated pursuant  
9 to Subparagraph (g) of this paragraph is subtracted from the  
10 value calculated pursuant to that subparagraph for the subject  
11 school district;

12 (j) the value calculated pursuant to  
13 Subparagraph (i) of this paragraph is divided by the value  
14 calculated pursuant to Subparagraph (h) of this paragraph;

15 (k) if the value calculated for a  
16 subject school district pursuant to Subparagraph (j) of this  
17 paragraph is less than five-tenths, then, except as provided in  
18 Subparagraph (n) or (o) of this paragraph, the value for that  
19 school district equals the value calculated pursuant to  
20 Subparagraph (f) of this paragraph;

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

25

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1 (m) if the value calculated for a  
2 subject school district pursuant to Subparagraph (j) of this  
3 paragraph is five-tenths or greater, then the value calculated  
4 pursuant to Subparagraph (l) of this paragraph is added to the  
5 value calculated pursuant to Subparagraph (f) of this  
6 paragraph. Except as provided in Subparagraph (n) or (o) of  
7 this paragraph, the sum equals the value for that school  
8 district;

9 (n) in those instances in which the  
10 calculation pursuant to Subparagraph (k) or (m) of this  
11 paragraph yields a value less than one-tenth, one-tenth shall  
12 be used as the value for the subject school district;

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

17 (p) except for amounts loaned pursuant  
18 to Section 22-24-5.7 NMSA 1978 and except as reduced pursuant  
19 to Paragraph (6) of this subsection, the amount to be  
20 distributed from the fund for an approved project ~~(1) in~~  
21 ~~calendar year 2005, shall equal the total project cost~~  
22 ~~multiplied by a fraction the numerator of which is the value~~  
23 ~~calculated for the subject school district in 2005 plus the~~  
24 ~~value calculated for that district in 2004 and the denominator~~  
25 ~~of which is two; and 2) in calendar year 2006 and each~~

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

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

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

18 (a) the total of all legislative  
19 appropriations made after January 1, 2003 for nonoperating  
20 purposes either directly to the subject school district or to  
21 another governmental entity for the purpose of passing the  
22 money through directly to the subject school district, and not  
23 rejected by the subject school district, but excluding  
24 educational technology appropriations made prior to January 1,  
25 2005 and reauthorizations of appropriations previously made to

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

13 (b) the applicable fraction used for the  
14 subject school district and the current calendar year for the  
15 calculation in Subparagraph (p) of Paragraph (5) of this  
16 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) the council may adjust the amount of local  
10 share otherwise required if it determines that a school  
11 district has used all of its local resources. Before making  
12 any adjustment to the local share, the council shall consider  
13 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 residential property tax rate of at  
18 least ten dollars (\$10.00) on each one thousand dollars  
19 (\$1,000) of taxable value, as measured by the sum of all rates  
20 imposed by resolution of the local school board plus rates set  
21 to pay interest and principal on outstanding school district  
22 general obligation bonds;

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

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

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

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

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

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

6 (d) the school district has submitted a  
7 five-year facilities plan that includes: 1) enrollment  
8 projections; 2) a current preventive maintenance plan that has  
9 been approved by the council pursuant to Section 22-24-5.3 NMSA  
10 1978 and that is followed by each public school in the  
11 district; 3) the capital needs of charter schools located in  
12 the school district; and 4) projections for the facilities  
13 needed in order to maintain a full-day kindergarten program;

14 (e) the school district is willing and  
15 able to pay any portion of the total cost of the public school  
16 capital outlay project that, according to Paragraph (5), (6) or  
17 (8) of this subsection, is not funded with grant assistance  
18 from the fund; provided that school district funds used for a  
19 project that was initiated after September 1, 2002 when the  
20 statewide adequacy standards were adopted, but before September  
21 1, 2004 when the standards were first used as the basis for  
22 determining the state and school district share of a project,  
23 may be applied to the school district portion required for that  
24 project;

25

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1 (f) the application includes the capital  
2 needs of any charter school located in the school district or  
3 the school district has shown that the facilities of the  
4 charter school [~~has~~] have a smaller deviation from the  
5 statewide adequacy standards than other district facilities  
6 included in the application; and

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

11 C. After consulting with the public school capital  
12 outlay oversight task force and other experts, the council  
13 shall regularly review and update statewide adequacy standards  
14 applicable to all school districts. The standards shall  
15 establish the acceptable level for the physical condition and  
16 capacity of buildings, the educational suitability of  
17 facilities and the need for technological infrastructure.  
18 Except as otherwise provided in the Public School Capital  
19 Outlay Act, the amount of outstanding deviation from the  
20 standards shall be used by the council in evaluating and  
21 prioritizing public school capital outlay projects.

22 D. It is the intent of the legislature that grant  
23 assistance made pursuant to this section allows every school  
24 district to meet the standards developed pursuant to Subsection  
25 C of this section; provided, however, that nothing in the

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1 Public School Capital Outlay Act or the development of  
2 standards pursuant to that act prohibits a school district from  
3 using local funds to exceed the statewide adequacy standards.

4 E. Upon request, the council shall work with, and  
5 provide assistance and information to, the public school  
6 capital outlay oversight task force.

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

15 G. Upon the recommendation of the public school  
16 facilities authority, the council shall develop building  
17 standards for public school facilities and shall promulgate  
18 other such rules as are necessary to carry out the provisions  
19 of the Public School Capital Outlay Act.

20 H. No later than December 15 of each year, the  
21 council shall prepare a report summarizing its activities  
22 during the previous fiscal year. The report shall describe in  
23 detail all projects funded, the progress of projects previously  
24 funded but not completed, the criteria used to prioritize and  
25 fund projects and all other council actions. The report shall

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1 be submitted to the public education commission, the governor,  
2 the legislative finance committee, the legislative education  
3 study committee and the legislature."

4 Section 6. A new section of the Public School Capital  
5 Outlay Act, Section 22-24-5.6 NMSA 1978, is enacted to read:

6 "22-24-5.6 [NEW MATERIAL] OUTSTANDING DEFICIENCIES AT  
7 CERTAIN STATE EDUCATIONAL INSTITUTIONS.--

8 A. In consultation with the higher education  
9 department and the applicable board of regents, and after  
10 reviewing the existing five-year facilities plan and the  
11 facilities condition assessment, the public school facilities  
12 authority shall verify the assessed outstanding health, safety  
13 or infrastructure deficiencies at the New Mexico school for the  
14 blind and visually impaired and the New Mexico school for the  
15 deaf and shall develop a plan to correct the deficiencies.

16 B. To the extent that money is available in the  
17 fund for such purposes, the council may approve allocations  
18 from the fund and, working with the higher education department  
19 and the applicable board of regents, enter into construction  
20 contracts to correct the deficiencies.

21 C. The council shall establish oversight functions  
22 for the public school facilities authority and such other  
23 guidelines and conditions as it deems necessary to ensure that  
24 the allocations from the fund pursuant to this section are  
25

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1 expended in the most prudent manner possible and consistent  
2 with the original purpose.

3 D. As used in the Public School Capital Outlay Act,  
4 "public school capital outlay project", "capital outlay  
5 project" or "project" includes a program for the correction of  
6 deficiencies at the New Mexico school for the blind and  
7 visually handicapped or at the New Mexico school for the deaf  
8 pursuant to this section."

9 Section 7. A new section of the Public School Capital  
10 Outlay Act, Section 22-24-5.7 NMSA 1978, is enacted to read:

11 "22-24-5.7. [NEW MATERIAL] LOAN PROGRAM FOR NEW SCHOOLS  
12 IN HIGH-GROWTH AREAS.--During the 2006-2007 and 2007-2008 award  
13 cycles, if a new school, approved for funding pursuant to  
14 Section 22-24-5 NMSA 1978, will be located in a high-growth  
15 area as determined by the council and if the council finds that  
16 the school district is likely to develop and complete the  
17 construction of the new school within thirty months of the  
18 grant allocation decision, the following provisions apply:

19 A. balances in the fund may be used to make an  
20 interest-free loan to the school district, for a period set by  
21 the council but not to exceed ten years, in an amount not  
22 exceeding the total project cost less the amount otherwise to  
23 be paid from the fund as calculated by Paragraphs (5) and (6)  
24 of Subsection B of Section 22-24-5 NMSA 1978;

25

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1           B. if a loan is made pursuant to Subsection A of  
2 this section:

3                   (1) a loan agreement shall be entered into  
4 between the council and the school district;

5                   (2) the loan may be paid by the school  
6 district with cash balances, other available district resources  
7 or offsets of future allocations from the fund otherwise made  
8 for projects in the school district; and

9                   (3) loan payments shall be deposited into the  
10 fund;

11           C. if the school district refuses to pay the loan  
12 pursuant to the loan agreement:

13                   (1) future distributions from the public  
14 school capital improvements fund pursuant to Section 22-25-9  
15 NMSA 1978 shall not be made to the school district but shall be  
16 made to the public school capital outlay fund until the loan is  
17 fully repaid; and

18                   (2) until the loan is fully repaid, the  
19 council may offset future allocations from the fund otherwise  
20 made for projects in the school district; and

21           D. the council may designate an area that equals a  
22 contiguous attendance area of one or more existing schools as a  
23 "high-growth area" if the council determines that:

24  
25

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1 (1) within five years of the grant allocation  
2 decision, the estimated occupancy rate of the proposed new  
3 school would be seventy percent or more of the design capacity;

4 (2) at the time of the application, the  
5 attendance at the existing schools in the high-growth area from  
6 which students at the new school will be drawn is above design  
7 capacity; and

8 (3) for the period of five years after the  
9 grant allocation decision, the attendance at those existing  
10 schools will be maintained at ninety-five percent or greater of  
11 design capacity."

12 Section 8. Section 22-24-9 NMSA 1978 (being Laws 2003,  
13 Chapter 147, Section 1, as amended) is amended to read:

14 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--  
15 CREATION--POWERS AND DUTIES.--

16 A. The "public school facilities authority" is  
17 created under the council. The authority shall be headed by a  
18 director, selected by the council, who shall be versed in  
19 construction, architecture or project management. The director  
20 may hire no more than two deputies with the approval of the  
21 council, and, subject to budgetary constraints set out in  
22 Subsection G of Section 22-24-4 NMSA 1978, shall employ or  
23 contract with such technical and administrative personnel as  
24 are necessary to carry out the provisions of this section. The  
25 director, [~~and~~] deputies and all other employees of the

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1 authority shall be exempt from the provisions of the Personnel  
2 Act [~~after July 1, 2006, all other employees of the authority~~  
3 ~~shall be subject to the provisions of the Personnel Act~~].

4 B. The authority shall:

5 (1) serve as staff to the council;

6 (2) as directed by the council, provide those  
7 assistance and oversight functions required of the council by  
8 Section 22-24-5.1 NMSA 1978;

9 (3) assist school districts with:

10 (a) the development and implementation  
11 of five-year facilities plans and preventive maintenance plans;

12 (b) procurement of architectural and  
13 engineering services;

14 (c) management and oversight of  
15 construction activities; and

16 (d) training programs;

17 (4) conduct ongoing reviews of five-year  
18 facilities plans, preventive maintenance plans and performance  
19 pursuant to those plans;

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

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

25

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1 (7) conduct on-site inspections as necessary  
2 to ensure that the construction specifications are being met  
3 and periodically inspect all of the documents related to  
4 projects;

5 (8) require the use of standardized  
6 construction documents and the use of a standardized process  
7 for change orders;

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

10 (10) after consulting with the department,  
11 recommend building standards for public school facilities to  
12 the council and ensure compliance with building standards  
13 adopted by the council;

14 (11) notwithstanding the provisions of  
15 Subsection D of Section 22-24-6 NMSA 1978, account for all  
16 distributions of grant assistance from the fund for which the  
17 initial award was made after July 1, 2004, and make annual  
18 reports to the department, the governor, the legislative  
19 education study committee, the legislative finance committee  
20 and the legislature;

21 (12) maintain a database of the condition of  
22 school facilities and maintenance schedules; and

23 (13) ensure that outstanding deficiencies are  
24 corrected pursuant to Section 22-24-4.1 NMSA 1978. In the  
25 performance of this duty, the authority:

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1 (a) shall work with school districts to  
2 validate the assessment of the outstanding deficiencies and the  
3 projected costs to correct the deficiencies;

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

7 (c) shall oversee all aspects of the  
8 contracts entered into by the council to correct the  
9 outstanding deficiencies;

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

15 (e) may require the use of standardized  
16 construction documents and the use of a standardized process  
17 for change orders;

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

20 (g) shall maintain, track and account  
21 for deficiency correction projects separately from other  
22 capital outlay projects funded pursuant to the Public School  
23 Capital Outlay Act.

24 C. All actions taken by the authority shall be  
25 consistent with educational programs conducted pursuant to the

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1 Public School Code. In the event of any potential or perceived  
2 conflict between a proposed action of the authority and an  
3 educational program, the authority shall consult with the  
4 secretary.

5 D. A school district, aggrieved by a decision or  
6 recommendation of the authority, may appeal the matter to the  
7 council by filing a notice of appeal with the council within  
8 thirty days of the authority's decision or recommendation.

9 Upon filing of the notice:

10 (1) the decision or recommendation of the  
11 authority shall be suspended until the matter is decided by the  
12 council;

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

16 (3) at the hearing, the school district, the  
17 authority and other interested parties may make informal  
18 presentations to the council; and

19 (4) the council shall finally decide the  
20 matter within ten days after the hearing."

21 Section 9. Section 22-25-2 NMSA 1978 (being Laws 1975  
22 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

23 "22-25-2. DEFINITIONS.--As used in the Public School  
24 Capital Improvements Act:

25

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

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

8                   (1) erecting, remodeling, making additions to,  
9 providing equipment for or furnishing public school buildings;

10                   (2) purchasing or improving public school  
11 grounds;

12                   (3) maintenance of public school buildings or  
13 public school grounds, including payments under contracts for  
14 maintenance support services and expenditures for technical  
15 training and certification for maintenance and facilities  
16 management personnel, but excluding salary expenses of school  
17 district employees;

18                   (4) purchasing activity vehicles for  
19 transporting students to extracurricular school activities; and

20                   (5) purchasing computer software and hardware  
21 for student use in public school classrooms."

22           Section 10. Section 22-25-9 NMSA 1978 (being Laws 1975  
23 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

24           "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING  
25 TAX UNDER CERTAIN CIRCUMSTANCES.--

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

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1           B. In calculating the state distribution pursuant  
2 to Subsection A of this section, the following amounts shall be  
3 used:

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

6                   (2) [~~for fiscal year 2006 and thereafter~~] an  
7 additional amount certified to the secretary by the public  
8 school capital outlay council. No later than June 1 [~~2005 and~~  
9 ~~each June 1 thereafter~~] of each year, the council shall  
10 determine the amount needed in the next fiscal year for public  
11 school capital outlay projects pursuant to the Public School  
12 Capital Outlay Act and the amount of revenue, from all sources,  
13 available for the projects. If, in the sole discretion of the  
14 council, the amount available exceeds the amount needed, the  
15 council may certify an additional amount pursuant to this  
16 paragraph; provided that the sum of the amount calculated  
17 pursuant to this paragraph plus the amount in Paragraph (1) of  
18 this subsection shall not result in a total statewide  
19 distribution that, in the opinion of the council, exceeds one-  
20 half of the total revenue estimated to be received from taxes  
21 imposed pursuant to the Public School Capital Improvements Act.

22           C. For any fiscal year [~~2004 and thereafter~~]  
23 notwithstanding the amount calculated to be distributed  
24 pursuant to Subsections A and B of this section, except as  
25 provided in Subsection G or H of this section, a school

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1 district, the voters of which have approved a tax pursuant to  
2 Section 22-25-3 NMSA 1978, shall not receive a distribution  
3 less than the amount calculated pursuant to Subsection E of  
4 this section, multiplied by the school district's first forty  
5 days' total program units and further multiplying the product  
6 obtained by the approved tax rate.

7 D. For purposes of calculating the distribution  
8 pursuant to Subsection B of this section, the amount used in  
9 Paragraph (1) of that subsection shall equal [~~fifty dollars~~  
10 ~~(\$50.00) through fiscal year 2005~~] sixty dollars (\$60.00) in  
11 fiscal year 2006, ninety dollars (\$90.00) in fiscal year 2007  
12 and in each subsequent fiscal year shall equal the amount for  
13 the previous fiscal year adjusted by the percentage increase  
14 between the next preceding calendar year and the preceding  
15 calendar year of the consumer price index for the United  
16 States, all items, as published by the United States department  
17 of labor.

18 E. For purposes of calculating the minimum  
19 distribution pursuant to Subsection C of this section, the  
20 amount used in that subsection shall equal five dollars (\$5.00)  
21 through fiscal year 2005 and in each subsequent fiscal year  
22 shall equal the amount for the previous fiscal year adjusted by  
23 the percentage increase between the next preceding calendar  
24 year and the preceding calendar year of the consumer price  
25

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1 index for the United States, all items, as published by the  
2 United States department of labor.

3 F. In expending distributions made pursuant to this  
4 section, school districts shall give priority to maintenance  
5 projects, including payments under contracts for maintenance  
6 support services. In addition, distributions made pursuant to  
7 this section may be expended by school districts for the school  
8 district portion of the total project cost for roof repair or  
9 replacement required by Section 22-24-4.3 NMSA 1978.

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

19 H. If the school district has entered into a loan  
20 agreement pursuant to Section 22-24-5.7 NMSA 1978 and the  
21 school district has refused to make payments under the  
22 agreement, until the loan is paid in full, the distribution  
23 calculated pursuant to this section shall not be made to the  
24 school district but shall be made to the public school capital  
25 outlay fund.

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1           [~~H.~~] I. In making distributions pursuant to this  
2 section, the secretary shall include such reporting  
3 requirements and conditions as are required by rule of the  
4 public school capital outlay council. The council shall adopt  
5 such requirements and conditions as are necessary to ensure  
6 that the distributions are expended in the most prudent manner  
7 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 11. Section 13-1-99 NMSA 1978 (being Laws 1984,  
12 Chapter 65, Section 72, as amended) is amended to read:

13           "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE  
14 STATE PURCHASING AGENT.--Excluded from the requirement of  
15 procurement through the state purchasing agent but not from the  
16 requirements of the Procurement Code are the following:

- 17           A. procurement of professional services;
- 18           B. small purchases having a value not exceeding one  
19 thousand five hundred dollars (\$1,500);
- 20           C. emergency procurement;
- 21           D. procurement of highway construction or  
22 reconstruction by the department of transportation;
- 23           E. procurement by the judicial branch of state  
24 government;
- 25

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1 F. procurement by the legislative branch of state  
2 government;

3 G. procurement by the boards of regents of state  
4 educational institutions named in Article 12, Section 11 of the  
5 constitution of New Mexico;

6 H. procurement by the state fair commission of  
7 tangible personal property, services and construction under ten  
8 thousand dollars (\$10,000);

9 I. purchases from the instructional material fund;

10 J. procurement by all local public bodies;

11 K. procurement by regional education cooperatives;

12 L. procurement by charter schools; ~~and~~

13 M. procurement by each state health care  
14 institution that provides direct patient care and that is, or a  
15 part of which is, medicaid certified and participating in the  
16 New Mexico medicaid program; and

17 N. procurement by the public school facilities  
18 authority."

19 Section 12. TEMPORARY PROVISION--SCHOOL DISTRICT REVENUE  
20 IMPACT STUDY GROUP--CREATION--STAFF.--

21 A. The "school district revenue impact study group"  
22 is created. The study group consists of sixteen members as  
23 follows:

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

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

3 (3) the director of the public school  
4 facilities authority or the director's designee;

5 (4) two majority party members and one  
6 minority party member of the house of representatives,  
7 appointed by the New Mexico legislative council;

8 (5) two majority party members and one  
9 minority party member of the senate, appointed by the New  
10 Mexico legislative council;

11 (6) two representatives of developers,  
12 appointed by the New Mexico legislative council;

13 (7) a member of the Indian education advisory  
14 council, appointed by the chair of the council;

15 (8) a representative of the New Mexico  
16 municipal league;

17 (9) a representative of the New Mexico  
18 association of counties;

19 (10) a representative of the New Mexico school  
20 boards association; and

21 (11) a representative of the New Mexico  
22 superintendents association.

23 B. The chair of the study group shall be elected by  
24 the study group. The study group shall meet at the call of the  
25 chair.

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1 C. Members of the study group shall serve from the  
2 time of their appointment through December 31, 2006. On  
3 January 1, 2007, the study group is terminated.

4 D. Public members of the study group shall receive  
5 per diem and mileage pursuant to the Per Diem and Mileage Act.

6 E. The study group shall:

7 (1) examine how actions by local governments  
8 in the acquisition of property that will be exempt from  
9 property taxes, such as acquiring projects with proceeds of  
10 industrial revenue bonds, affect school district revenues;

11 (2) examine whether the purposes of the  
12 Development Fees Act are served by the imposition of impact  
13 fees against school districts;

14 (3) examine whether, in communities where  
15 school facilities are often used by local governments, the  
16 school districts and local governments should share the cost of  
17 building and maintaining the facilities;

18 (4) examine alternatives that will ensure that  
19 local governments consider the interests of school districts  
20 when making decisions that will impact school district revenues  
21 and expenditures; and

22 (5) no later than December 31, 2006, report  
23 its findings and recommendations for policy and statutory  
24 changes to the public school capital outlay oversight task  
25

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1 force, the legislative education study committee and the  
2 legislative finance committee.

3 F. The legislative council service, with assistance  
4 from the public education department, the public school  
5 facilities authority, the legislative education study committee  
6 and the legislative finance committee, shall provide staff for  
7 the study group.

8 Section 13. APPROPRIATIONS.--

9 A. Forty million dollars (\$40,000,000) is  
10 appropriated from the general fund to the public school capital  
11 outlay fund for expenditure in fiscal years 2006 through 2011  
12 for the purpose of correcting outstanding health, safety or  
13 infrastructure deficiencies in the buildings and grounds of the  
14 New Mexico school for the blind and visually impaired and the  
15 New Mexico school for the deaf pursuant to Section 22-24-5.6  
16 NMSA 1978. Any unexpended or unencumbered balance remaining at  
17 the end of fiscal year 2011 shall not revert to the general  
18 fund but shall remain in the public school capital outlay fund  
19 and be expended pursuant to the Public School Capital Outlay  
20 Act.

21 B. Two million five hundred thousand dollars  
22 (\$2,500,000) is appropriated from the general fund to the  
23 public school facilities authority for expenditure in fiscal  
24 years 2006 through 2008 for continuing the development and  
25 implementation of a uniform, statewide web-based facility

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1 information management system for the public schools pursuant  
2 to the provisions of Section 22-24-5.3 NMSA 1978. Any  
3 unexpended or unencumbered balance remaining at the end of  
4 fiscal year 2008 shall revert to the general fund.

5 C. Two million dollars (\$2,000,000) is appropriated  
6 from the general fund to the public school capital outlay fund  
7 for expenditure in fiscal years 2006 through 2010 for the  
8 purpose of making allocations to school districts to demolish  
9 abandoned school district facilities pursuant to Subsection L  
10 of Section 22-24-4 NMSA 1978. Any unexpended or unencumbered  
11 balance remaining at the end of fiscal year 2010 shall not  
12 revert to the general fund but shall remain in the public  
13 school capital outlay fund and be expended pursuant to the  
14 Public School Capital Outlay Act.

15 D. Two hundred ninety million dollars  
16 (\$290,000,000) is appropriated from the general fund to the  
17 public school capital outlay fund for expenditure in fiscal  
18 years 2006 through 2010 for the purpose of making grants and  
19 loans for new facilities in high-growth areas pursuant to  
20 Section 22-24-5.7 NMSA 1978. Any unexpended or unencumbered  
21 balance remaining at the end of fiscal year 2010 shall not  
22 revert to the general fund but shall remain in the public  
23 school capital outlay fund and be expended pursuant to the  
24 Public School Capital Outlay Act.

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1           E. One million dollars (\$1,000,000) is appropriated  
2 from the general fund to the new school development fund for  
3 expenditure in fiscal year 2006 and subsequent fiscal years for  
4 the purpose of making distributions to school districts to pay  
5 costs unique to the first year of operation of new schools.  
6 Any unexpended or unencumbered balance of the appropriation  
7 remaining at the end of a fiscal year shall not revert to the  
8 general fund.

9           F. Seven million five hundred thousand dollars  
10 (\$7,500,000) is appropriated from the general fund to the  
11 public school capital outlay fund for expenditure in fiscal  
12 years 2006 and 2007 for the purpose of making lease payments  
13 pursuant to Subsection I of Section 22-24-4 NMSA 1978. Any  
14 unexpended or unencumbered balance remaining at the end of  
15 fiscal year 2007 shall not revert to the general fund but shall  
16 remain in the public school capital outlay fund and be expended  
17 pursuant to the Public School Capital Outlay Act.

18           G. Three hundred thousand dollars (\$300,000) is  
19 appropriated from the general fund to the public school  
20 facilities authority for expenditure in fiscal years 2006 and  
21 2007 for the purpose of making grants to school districts to  
22 improve the indoor air quality of the public schools. Upon  
23 application to the public school capital outlay council, the  
24 council shall award the grants pursuant to criteria developed  
25 by the public school facilities authority in consultation with

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1 the department of environment, the public education department,  
2 the department of health, the energy, minerals and natural  
3 resources department and the children, youth and families  
4 department. Any unexpended or unencumbered balance remaining  
5 at the end of fiscal year 2007 shall revert to the general  
6 fund.

7 H. Fifty thousand dollars (\$50,000) is appropriated  
8 from the general fund to the public education department for  
9 expenditure in fiscal years 2006 and 2007 for the purpose of  
10 entering into a contract to study the feasibility of allowing  
11 additional entities, including universities, tribal  
12 governments, the public education department and a separate  
13 chartering board, to approve the establishment of charter  
14 schools. The contract and the feasibility study shall be  
15 managed by the department in coordination with the legislative  
16 council service, the legislative finance committee, the  
17 legislative education study committee and the department of  
18 finance and administration. No later than December 15, 2006,  
19 the results of the study shall be presented to the public  
20 school capital outlay oversight task force, the legislative  
21 finance committee and the legislative education study  
22 committee. Any unexpended or unencumbered balance remaining at  
23 the end of fiscal year 2007 shall revert to the general fund.

24 I. Fifty thousand dollars (\$50,000) is appropriated  
25 from the general fund to the legislative council service for

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1 expenditure in fiscal years 2006 and 2007 for the purpose of  
2 paying per diem and mileage to the members of the school  
3 district revenue impact study group and other expenses incurred  
4 in carrying out the provisions of Section 11 of this act. Any  
5 unexpended or unencumbered balance remaining at the end of  
6 fiscal year 2007 shall revert to the general fund.

7 Section 14. DELAYED REPEAL.--On July 1, 2009, Section  
8 22-24-5.7 NMSA 1978, as enacted by Section 7 of this act, is  
9 repealed.

10 Section 15. EMERGENCY.--It is necessary for the public  
11 peace, health and safety that this act take effect immediately.

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HOUSE BILL

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

AN ACT

RELATING TO EDUCATIONAL TECHNOLOGY; MAKING AN APPROPRIATION TO THE EDUCATIONAL TECHNOLOGY DEFICIENCY CORRECTION FUND; MAKING AN APPROPRIATION TO REPLACE FUNCTIONALLY OBSOLETE COMPUTERS AND NETWORK DEVICES IN THE PUBLIC SCHOOLS.

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

Section 1. APPROPRIATIONS--EDUCATIONAL TECHNOLOGY DEFICIENCIES--UPGRADES.--

A. Ninety-four million four hundred thousand dollars (\$94,400,000) is appropriated from the general fund to the educational technology deficiency correction fund for expenditure in fiscal year 2006 and subsequent fiscal years for the purpose of making allocations to correct serious deficiencies in educational technology infrastructure pursuant to Section 22-15A-11 NMSA 1978. Any unexpended or unencumbered .159378.4

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1 balance remaining at the end of a fiscal year shall not revert  
2 to the general fund. No allocation of this appropriation shall  
3 be made unless:

4 (1) the method for prioritizing projects  
5 developed by the education technology bureau of the public  
6 education department has been reviewed and approved by the  
7 council on technology in education; and

8 (2) the council on technology in education has  
9 approved the proposed allocations.

10 B. Twenty-four million two hundred thousand dollars  
11 (\$24,200,000) is appropriated from the general fund to the  
12 public education department for expenditure in fiscal years  
13 2006 and 2007 for the purpose of making distributions to school  
14 districts to replace functionally obsolete computers and  
15 network devices in accordance with the statewide plan for the  
16 integration of educational technology into the public schools.  
17 Any unexpended or unencumbered balance remaining at the end of  
18 fiscal year 2007 shall revert to the general fund. No  
19 distribution of this appropriation shall be made to a school  
20 district unless:

21 (1) the education technology bureau of the  
22 public education department, after requesting and obtaining the  
23 advice and approval of the council on technology in education,  
24 has approved the school district's technology plan pursuant to  
25 the Technology for Education Act; and

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1 (2) the school district has agreed to match  
2 the distribution with an amount determined pursuant to the  
3 procedures of Paragraph (5) of Subsection B of Section 22-24-5  
4 NMSA 1978.

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