

1 AN ACT

2 RELATING TO SCHOOLS; REQUIRING A FACILITIES PLAN FOR ALL
3 SCHOOL DISTRICTS; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY
4 ACT TO ALLOW EXPENDITURES FOR CERTAIN ABANDONED FACILITIES,
5 FIVE-YEAR FACILITIES PLANS AND CORRECTION OF DEFICIENCIES AT
6 CERTAIN STATE EDUCATIONAL INSTITUTIONS, TO CHANGE THE
7 LIMITATIONS ON EXPENDITURES FOR CERTAIN LEASE PAYMENTS AND TO
8 PROVIDE, UNDER CERTAIN CIRCUMSTANCES, A LOCAL MATCH PROVISION
9 FOR QUALIFIED HIGH PRIORITY PROJECTS; AMENDING THE PUBLIC
10 SCHOOL CAPITAL IMPROVEMENTS ACT TO INCREASE THE STATE
11 DISTRIBUTION AND AUTHORIZE ADDITIONAL EXPENDITURES; EXEMPTING
12 CERTAIN EMPLOYEES FROM THE PERSONNEL ACT; EASING CERTAIN
13 RESTRICTIONS ON SCHOOL DISTRICT CASH BALANCES; CREATING A
14 FUND TO PROVIDE START-UP COSTS FOR NEW SCHOOLS; PROVIDING
15 FUNDING TO IMPROVE THE INDOOR AIR QUALITY OF PUBLIC SCHOOLS;
16 PROVIDING FOR STUDIES OF CERTAIN LOCAL GOVERNMENT ACTIONS ON
17 SCHOOL REVENUE AND OF ADDITIONAL CHARTERING AUTHORITIES FOR
18 CHARTER SCHOOLS; ALLOWING THE PUBLIC SCHOOL FACILITIES
19 AUTHORITY TO BE A CENTRAL PURCHASING OFFICE; PROVIDING FOR AN
20 ONGOING FACILITY INFORMATION MANAGEMENT SYSTEM; MAKING
21 APPROPRIATIONS; DECLARING AN EMERGENCY.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

1 "22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC
2 SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE
3 ADEQUACY STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS
4 APPLICABLE.--

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

- 18 (1) a statement of need;
- 19 (2) the anticipated number of students
20 affected by the construction;
- 21 (3) the estimated cost;
- 22 (4) a description of the proposed
23 construction project;
- 24 (5) a map of the area showing existing
25 school attendance centers within a five-mile radius and any

1 obstructions to attending the attendance centers, such as
2 railroad tracks, rivers and limited-access highways; and

3 (6) such other information as may be
4 required by the director.

5 B. The director or the director's designee shall
6 give approval to an application if the director or designee
7 reasonably determines that:

8 (1) the construction will not cause an
9 unnecessary proliferation of school construction;

10 (2) the construction is needed in the school
11 district;

12 (3) the construction is feasible;

13 (4) the cost of the construction is
14 reasonable;

15 (5) the school district has submitted a
16 five-year facilities plan that includes:

17 (a) enrollment projections;

18 (b) a current preventive maintenance
19 plan;

20 (c) the capital needs of charter
21 schools located in the school district; and

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

24 (6) the construction project:

25 (a) is in compliance with the statewide

1 adequacy standards adopted pursuant to the Public School
2 Capital Outlay Act; and

3 (b) is appropriately integrated into
4 the school district five-year facilities plan;

5 (7) the school district is financially able
6 to pay for the construction; and

7 (8) the secretary has certified that the
8 construction will support the educational program of the
9 school district.

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

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

23 (1) the cost of settlement of any insurance
24 claim shall not be increased by inclusion of the insurance
25 proceeds in the construction contract; and

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

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

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

17 G. As used in this section, "construction" means
18 any project for which the construction industries division of
19 the regulation and licensing department requires permitting."

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

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

24 A. A school district shall not expend money from
25 its operational fund for the acquisition of a building site

1 or for the construction of a new structure, unless the school
2 district has bonded itself to practical capacity or the
3 secretary determines and certifies to the legislative finance
4 committee that the expending of money from the operational
5 fund for this purpose is necessary for an adequate public
6 educational program and will not unduly hamper the school
7 district's current operations.

8 B. A school district or charter school may budget
9 out of cash balances carried forward from the previous fiscal
10 year an amount not to exceed five percent of its proposed
11 operational fund expenditures for the ensuing fiscal year as
12 an emergency account. Money in the emergency account shall
13 be used only for unforeseen expenditures incurred after the
14 annual budget was approved and shall not be expended without
15 the prior written approval of the secretary.

16 C. In addition to the emergency account, school
17 districts or charter schools may also budget operational fund
18 cash balances carried forward from the previous fiscal year
19 for operational expenditures, exclusive of salaries and
20 payroll, upon specific prior approval of the secretary. The
21 secretary shall notify the legislative finance committee in
22 writing of the secretary's approval of such proposed
23 expenditures. For fiscal years 2004 and 2005, with the
24 approval of the secretary, a school district or charter
25 school may budget so much of its operational cash balance as

1 is needed for nonrecurring expenditures, including capital
2 outlay.

3 D. Beginning with fiscal year 2007, prior to
4 approval of a school district's or charter school's budget,
5 the secretary shall verify that the reductions from the state
6 equalization guarantee distribution have been taken pursuant
7 to this section.

8 E. The allowable limit for a school district's or
9 charter school's ending operational cash balance is:

10 (1) if the current year program cost is less
11 than five million dollars (\$5,000,000), fifteen percent of
12 the budgeted expenditures;

13 (2) if the current year program cost is five
14 million dollars (\$5,000,000) or more but less than ten
15 million dollars (\$10,000,000), twelve percent of the budgeted
16 expenditures;

17 (3) if the current year program cost is ten
18 million dollars (\$10,000,000) or more but less than
19 twenty-five million dollars (\$25,000,000), nine percent of
20 the budgeted expenditures;

21 (4) if the current year program cost is
22 twenty-five million dollars (\$25,000,000) or more but less
23 than two hundred million dollars (\$200,000,000), seven
24 percent of the budgeted expenditures; and

25 (5) if the current year program cost is two

1 hundred million dollars (\$200,000,000) or more, five percent
2 of the budgeted expenditures.

3 F. Except as otherwise provided in this section,
4 for the 2006 and subsequent fiscal years, the secretary shall
5 reduce the state equalization guarantee distribution,
6 calculated pursuant to Section 22-8-25 NMSA 1978, to each
7 school district or charter school by an amount equal to the
8 school district's or charter school's excess cash balance.

9 As used in this section, "excess cash balance" means the
10 difference between a school district's or a charter school's
11 actual operational cash balance and the allowable limit
12 calculated pursuant to Subsection E of this section.

13 Provided, however, that:

14 (1) for a school district or charter school
15 with a current year program cost that exceeds two hundred
16 million dollars (\$200,000,000), if the excess cash balance is
17 greater than twenty percent of the allowable limit calculated
18 pursuant to Subsection E of this section, then the reduction
19 pursuant to this subsection shall equal twenty percent of the
20 allowable limit; and

21 (2) for other school districts and charter
22 schools, if the excess cash balance is greater than eighteen
23 percent of the allowable limit, then the reduction pursuant
24 to this subsection shall equal eighteen percent of the
25 allowable limit.

1 G. In developing budgets, school districts and
2 charter schools shall not budget current year cash balances
3 without the approval of the secretary.

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

10 I. Upon application by a school district, the
11 secretary may waive all or a portion of the reduction
12 otherwise required by Subsection F of this section if the
13 secretary finds that the school district's excess balance is
14 needed to provide the local match required under the Public
15 School Capital Outlay Act or to recoup an amount paid as the
16 district's share pursuant to Section 22-24-5.7 NMSA 1978.

17 J. Notwithstanding the provisions of Subsection F
18 of this section, for fiscal year 2004, the reduction from the
19 state equalization guarantee distribution shall be the
20 greater of the amount calculated pursuant to that subsection
21 or ten dollars (\$10.00) per MEM.

22 K. For the purposes of this section, "operational
23 cash balance" means the allowable, unrestricted, unreserved
24 operational cash balance and the emergency reserve.

25 L. For the purposes of this section, "allowable,

1 unrestricted, unreserved operational cash balance and the
2 emergency reserve" means the proportional share not
3 attributable to revenue derived from the school district
4 property tax, forest reserve funds and impact aid for which
5 the state takes credit in determining a school district's or
6 charter school's state equalization guarantee distribution."

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

9 "22-24-11. NEW SCHOOL DEVELOPMENT FUND--DISTRIBUTION.--

10 A. The "new school development fund" is created in
11 the state treasury. The fund shall consist of
12 appropriations, gifts, grants, donations and bequests made to
13 the fund. Income from the fund shall be credited to the
14 fund, and money in the fund shall not revert or be
15 transferred to any other fund at the end of a fiscal year.
16 Money in the fund is appropriated to the department for the
17 purposes of making distributions pursuant to Subsection B of
18 this section. Expenditures from the fund shall be made on
19 warrant of the secretary of finance and administration
20 pursuant to vouchers signed by the secretary.

21 B. Upon application to the department by a school
22 district and subject to the availability of funds, the
23 department may approve a distribution to the school district
24 from the new school development fund to supplement district
25 funds needed to pay for supplies, equipment and operating

1 costs unique to the first year of operation of a new school,
2 provided that the department shall not approve a distribution
3 unless it determines that there are no other reasonably
4 available federal, private or other public sources for the
5 needed funding."

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

8 "22-24-4. FUND CREATED--USE.--

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

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

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

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

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

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

22 F. Money in the fund shall be disbursed by warrant
23 of the department of finance and administration on vouchers
24 signed by the secretary of finance and administration
25 following certification by the council that an application

1 has been approved or an expenditure has been ordered by a
2 court pursuant to Section 22-24-5.4 NMSA 1978. At the
3 discretion of the council, money for a project shall be
4 distributed as follows:

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

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

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

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

24 (2) any unexpended or unencumbered balance
25 remaining at the end of a fiscal year from the expenditures

1 authorized in this subsection shall revert to the fund.

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

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

22 (1) the amount of a grant to a school
23 district shall not exceed:

24 (a) the actual annual lease payments
25 owed for leasing classroom space for schools, including

1 charter schools, in the district; or

2 (b) six hundred dollars (\$600)
3 multiplied by the number of MEM using the leased classroom
4 facilities; provided that, if the total grants awarded
5 pursuant to this paragraph would exceed the total annual
6 amount available, the rate specified in this subparagraph
7 shall be reduced proportionately;

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

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

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

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

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

1 enrollment on that date.

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

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

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

1 subsection, the portion of the total cost to be paid with the
2 allocation from the fund shall be determined pursuant to the
3 methodology in Paragraph (5) of Subsection B of Section
4 22-24-5 NMSA 1978; or

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

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

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

1 obligation bonds.

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

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

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

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

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

19 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
20 APPLICATION--GRANT ASSISTANCE.--

21 A. Applications for grant assistance, the approval
22 of applications, the prioritization of projects and grant
23 awards shall be conducted pursuant to the provisions of this
24 section.

25 B. Except as provided in Sections 22-24-4.3,

1 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions
2 govern grant assistance from the fund for a public school
3 capital outlay project not wholly funded pursuant to Section
4 22-24-4.1 NMSA 1978:

5 (1) all school districts are eligible to
6 apply for funding from the fund, regardless of percentage of
7 indebtedness;

8 (2) priorities for funding shall be
9 determined by using the statewide adequacy standards
10 developed pursuant to Subsection C of this section; provided
11 that:

12 (a) the council shall apply the
13 standards to charter schools to the same extent that they are
14 applied to other public schools; and

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

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

25 (a) the feasibility of using design,

1 build and finance arrangements for public school capital
2 outlay projects;

3 (b) the potential use of more durable
4 construction materials that may reduce long-term operating
5 costs; and

6 (c) any other financing or construction
7 concept that may maximize the dollar effect of the state
8 grant assistance;

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

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

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

23 (b) the final prior year net taxable
24 value for the whole state divided by the MEM for the state is
25 calculated;

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

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

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

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

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

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

1 from the highest value calculated pursuant to that
2 subparagraph;

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

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

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

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

20 (m) if the value calculated for a
21 subject school district pursuant to Subparagraph (j) of this
22 paragraph is five-tenths or greater, then the value
23 calculated pursuant to Subparagraph (l) of this paragraph is
24 added to the value calculated pursuant to Subparagraph (f) of
25 this paragraph. Except as provided in Subparagraph (n) or

1 (o) of this paragraph, the sum equals the value for that
2 school district;

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

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

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

20 (q) as used in this paragraph:

21 1) "MEM" means the average full-time-equivalent enrollment of
22 students attending public school in a school district on the
23 eightieth and one hundred twentieth days of the prior school
24 year; and 2) "total project cost" means the total amount
25 necessary to complete the public school capital outlay

1 project less any insurance reimbursement received by the
2 school district for the project;

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

6 (a) the total of all legislative
7 appropriations made after January 1, 2003 for nonoperating
8 purposes either directly to the subject school district or to
9 another governmental entity for the purpose of passing the
10 money through directly to the subject school district, and
11 not rejected by the subject school district, but excluding
12 educational technology appropriations made prior to
13 January 1, 2005 and reauthorizations of appropriations
14 previously made to the subject school district, is
15 calculated; provided that an appropriation made in a fiscal
16 year shall be deemed to be accepted by a school district
17 unless, prior to June 1 of that fiscal year, the school
18 district notifies the department of finance and
19 administration and the public education department that the
20 district is rejecting the appropriation; provided further
21 that the total shall be increased by an amount, certified to
22 the council by the department, equal to the educational
23 technology appropriations made to the subject school district
24 on or after January 1, 2003 and prior to January 1, 2005 and
25 not previously used to offset distributions pursuant to the

1 Technology for Education Act;

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

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

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

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

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

25 (8) the council may adjust the amount of

1 local share otherwise required if it determines that a school
2 district has used all of its local resources. Before making
3 any adjustment to the local share, the council shall consider
4 whether:

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

14 (b) the school district: 1) has fewer
15 than an average of eight hundred full-time-equivalent
16 students on the eightieth and one hundred twentieth days of
17 the prior school year; 2) has at least seventy percent of its
18 students eligible for free or reduced-fee lunch; 3) has a
19 share of the total project cost, as calculated pursuant to
20 provisions of this section, that would be greater than fifty
21 percent; and 4) for all educational purposes, has a
22 residential property tax rate of at least seven dollars
23 (\$7.00) on each one thousand dollars (\$1,000) of taxable
24 value, as measured by the sum of all rates imposed by
25 resolution of the local school board plus rates set to pay

1 interest and principal on outstanding school district general
2 obligation bonds; or

3 (c) the school district has: 1) an
4 enrollment growth rate over the previous school year of at
5 least two and one-half percent; 2) pursuant to its five-year
6 facilities plan, will be building a new school within the
7 next two years; and 3) for all educational purposes, has a
8 residential property tax rate of at least ten dollars
9 (\$10.00) on each one thousand dollars (\$1,000) of taxable
10 value, as measured by the sum of all rates imposed by
11 resolution of the local school board plus rates set to pay
12 interest and principal on outstanding school district general
13 obligation bonds; and

14 (9) no application for grant assistance from
15 the fund shall be approved unless the council determines
16 that:

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

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

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

25 (d) the school district has submitted a

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

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

20 (f) the application includes the
21 capital needs of any charter school located in the school
22 district or the school district has shown that the facilities
23 of the charter school have a smaller deviation from the
24 statewide adequacy standards than other district facilities
25 included in the application; and

1 (g) the school district has agreed, in
2 writing, to comply with any reporting requirements or
3 conditions imposed by the council pursuant to Section
4 22-24-5.1 NMSA 1978.

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

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

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

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

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

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

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

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

3 "22-24-5.6. OUTSTANDING DEFICIENCIES AT CERTAIN STATE
4 EDUCATIONAL INSTITUTIONS.--

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

14 B. To the extent that money has been appropriated
15 for such purposes, the council may approve allocations from
16 the fund and, working with the higher education department
17 and the applicable board of regents, enter into construction
18 contracts to correct the deficiencies.

19 C. The council shall establish oversight functions
20 for the public school facilities authority and such other
21 guidelines and conditions as it deems necessary to ensure
22 that the allocations from the fund pursuant to this section
23 are expended in the most prudent manner possible and
24 consistent with the original purpose.

25 D. As used in the Public School Capital Outlay

1 Act, "public school capital outlay project", "capital outlay
2 project" or "project" includes a program for the correction
3 of deficiencies at the New Mexico school for the blind and
4 visually handicapped or at the New Mexico school for the deaf
5 pursuant to this section."

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

8 "22-24-5.7. LOCAL MATCH PROVISIONS FOR QUALIFIED HIGH
9 PRIORITY PROJECTS.--

10 A. For a qualified high priority project, if money
11 has been specifically appropriated for the purposes of this
12 section, and if the school district so requests, the money
13 may be used to pay both the state share, as calculated by
14 Paragraphs (5) and (6) of Subsection B of Section 22-24-5
15 NMSA 1978 and all or a portion of the district share, subject
16 to the following criteria:

17 (1) the amount paid as the district's share
18 plus any amount added pursuant to Paragraph (3) of this
19 subsection shall be recouped by offsetting future allocations
20 that otherwise would be made from the fund for the state
21 share of projects qualifying for a grant award pursuant to
22 Subsections B and C of Section 22-24-5 NMSA 1978;

23 (2) except as provided in Paragraph (6) of
24 this subsection, once a project within a district has been
25 funded pursuant to the provisions of this section, then,

1 until the amount paid as the district's share plus any amount
2 added pursuant to Paragraph (3) of this subsection is fully
3 recouped, no standard-based grant awards from the fund shall
4 be made to the district and the district shall be solely
5 responsible for using its local resources to bring those
6 facilities, that would otherwise be eligible for allocations
7 from the fund pursuant to Section 22-24-5 NMSA 1978, up to
8 the statewide adequacy standards;

9 (3) in determining the amount to be recouped
10 pursuant to Paragraphs (1) and (2) of this subsection, any
11 legislative appropriations for nonoperating purposes made
12 either directly to the school district or to another
13 governmental entity for the purpose of passing the money
14 directly to the school district and not rejected by the
15 school district shall be added to the amount advanced from
16 the fund as the district's share for a project;

17 (4) the amount to be recouped pursuant to
18 Paragraph (1) of this subsection may be reduced by payments
19 from the school district with cash balances and other
20 available district resources that may legally be used for
21 such payments;

22 (5) allocations from the fund for the
23 district share shall only be made if the council finds that
24 the school district is likely to complete the project within
25 thirty-six months after the allocation for the district share

1 is made available to the district; and

2 (6) notwithstanding the requirements of
3 Paragraph (2) of this section, two projects within a school
4 district may be funded pursuant to this section before the
5 recoupment process under that paragraph commences, if:

6 (a) both projects qualify pursuant to
7 the provisions of Paragraph (2) of Subsection B of this
8 section; or

9 (b) both projects qualify during the
10 same awards cycle, beginning on or after July 1, 2006.

11 B. As used in this section, "qualified high
12 priority project" means a project:

13 (1) that is approved for a grant award
14 pursuant to Section 22-24-5 NMSA 1978 during an awards cycle
15 occurring in 2006 and subsequent award cycles and:

16 (a) is located in a high-growth area,
17 as designated by the council; or

18 ~~(b) is a project for which the council~~
19 ~~has determined, pursuant to its weighted average conditions~~
20 ~~index, that the cost necessary to bring the existing~~
21 ~~facilities up to the statewide adequacy standards would be~~
22 ~~equal to or more than the cost of replacing the existing~~
23 ~~facility; or~~

24 (2) that was approved for a grant award
25 pursuant to Section 22-24-5 NMSA 1978 during the 2004-2005 or

1 2005-2006 awards cycle but for which the school district, as
2 of July 1, 2006, has not obtained funding for the district
3 share and:

4 (a) is located in a high-growth area,
5 as designated by the council; ~~or~~

6 ~~(b) is a project for which the council~~
7 ~~has determined, pursuant to its weighted average conditions~~
8 ~~index, that the cost necessary to bring the existing~~
9 ~~facilities up to the statewide adequacy standards would be~~
10 ~~equal to or more than the cost of replacing the existing~~
11 ~~facility.~~

12 C. The council may designate an area that equals a
13 contiguous attendance area of one or more existing schools as
14 a "high-growth area" if the council determines that:

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

19 (2) at the time of the application, the
20 attendance at the existing schools in the high-growth area
21 from which students at the new school will be drawn is above
22 design capacity; and

23 (3) for the period of five years after the
24 grant allocation decision the attendance at those existing
25 schools will be maintained at ninety-five percent or greater

1 of design capacity."

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

4 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--
5 CREATION--POWERS AND DUTIES.--

6 A. The "public school facilities authority" is
7 created under the council. The authority shall be headed by
8 a director, selected by the council, who shall be versed in
9 construction, architecture or project management. The
10 director may hire no more than two deputies with the approval
11 of the council, and, subject to budgetary constraints set out
12 in Subsection G of Section 22-24-4 NMSA 1978, shall employ or
13 contract with such technical and administrative personnel as
14 are necessary to carry out the provisions of this section.
15 The director, deputies and all other employees of the
16 authority shall be exempt from the provisions of the
17 Personnel Act.

18 B. The authority shall:

19 (1) serve as staff to the council;

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

23 (3) assist school districts with:

24 (a) the development and implementation
25 of five-year facilities plans and preventive maintenance

1 plans;

2 (b) procurement of architectural and
3 engineering services;

4 (c) management and oversight of
5 construction activities; and

6 (d) training programs;

7 (4) conduct ongoing reviews of five-year
8 facilities plans, preventive maintenance plans and
9 performance pursuant to those plans;

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

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

15 (7) conduct on-site inspections as necessary
16 to ensure that the construction specifications are being met
17 and periodically inspect all of the documents related to
18 projects;

19 (8) require the use of standardized
20 construction documents and the use of a standardized process
21 for change orders;

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

24 (10) after consulting with the department,
25 recommend building standards for public school facilities to

1 the council and ensure compliance with building standards
2 adopted by the council;

3 (11) notwithstanding the provisions of
4 Subsection D of Section 22-24-6 NMSA 1978, account for all
5 distributions of grant assistance from the fund for which the
6 initial award was made after July 1, 2004, and make annual
7 reports to the department, the governor, the legislative
8 education study committee, the legislative finance committee
9 and the legislature;

10 (12) maintain a database of the condition of
11 school facilities and maintenance schedules; and

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

15 (a) shall work with school districts to
16 validate the assessment of the outstanding deficiencies and
17 the projected costs to correct the deficiencies;

18 (b) shall work with school districts to
19 provide direct oversight of the management and construction
20 of the projects that will correct the outstanding
21 deficiencies;

22 (c) shall oversee all aspects of the
23 contracts entered into by the council to correct the
24 outstanding deficiencies;

25 (d) may conduct on-site inspections

1 while the deficiencies correction work is being done to
2 ensure that the construction specifications are being met and
3 may periodically inspect all of the documents relating to the
4 projects;

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

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

10 (g) shall maintain, track and account
11 for deficiency correction projects separately from other
12 capital outlay projects funded pursuant to the Public School
13 Capital Outlay Act.

14 C. All actions taken by the authority shall be
15 consistent with educational programs conducted pursuant to
16 the Public School Code. In the event of any potential or
17 perceived conflict between a proposed action of the authority
18 and an educational program, the authority shall consult with
19 the secretary.

20 D. A school district, aggrieved by a decision or
21 recommendation of the authority, may appeal the matter to the
22 council by filing a notice of appeal with the council within
23 thirty days of the authority's decision or recommendation.

24 Upon filing of the notice:

25 (1) the decision or recommendation of the

1 authority shall be suspended until the matter is decided by
2 the council;

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

6 (3) at the hearing, the school district, the
7 authority and other interested parties may make informal
8 presentations to the council; and

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

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

13 "22-25-2. DEFINITIONS.--As used in the Public School
14 Capital Improvements Act:

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

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

22 (1) erecting, remodeling, making additions
23 to, providing equipment for or furnishing public school
24 buildings;

25 (2) purchasing or improving public school

1 grounds;

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

8 (4) purchasing activity vehicles for
9 transporting students to extracurricular school activities;
10 and

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

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

15 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT
16 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

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

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

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

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

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

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

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

22 D. For purposes of calculating the distribution
23 pursuant to Subsection B of this section, the amount used in
24 Paragraph (1) of that subsection shall equal sixty dollars
25 (\$60.00) in fiscal year 2006, ~~ninety dollars (\$90.00) in~~

1 ~~fiscal year 2007~~ and in each subsequent fiscal year shall
2 equal the amount for the previous fiscal year adjusted by the
3 percentage increase between the next preceding calendar year
4 and the preceding calendar year of the consumer price index
5 for the United States, all items, as published by the United
6 States department of labor.

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

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

24 G. If a serious deficiency in a roof of a public
25 school facility has been corrected pursuant to Section

1 22-24-4.4 NMSA 1978 and the school district has refused to
2 pay its share of the cost as determined by that section,
3 until the public school capital outlay fund is reimbursed in
4 full for the share attributed to the district, the
5 distribution calculated pursuant to this section shall not be
6 made to the school district but shall be made to the public
7 school capital outlay fund.

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

19 Section 11. Section 13-1-99 NMSA 1978 (being Laws 1984,
20 Chapter 65, Section 72, as amended) is amended to read:

21 "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE
22 STATE PURCHASING AGENT.--Excluded from the requirement of
23 procurement through the state purchasing agent but not from
24 the requirements of the Procurement Code are the following:

25 A. procurement of professional services;

1 B. small purchases having a value not exceeding
2 one thousand five hundred dollars (\$1,500);

3 C. emergency procurement;

4 D. procurement of highway construction or
5 reconstruction by the department of transportation;

6 E. procurement by the judicial branch of state
7 government;

8 F. procurement by the legislative branch of state
9 government;

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

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

16 I. purchases from the instructional material fund;

17 J. procurement by all local public bodies;

18 K. procurement by regional education cooperatives;

19 L. procurement by charter schools;

20 M. procurement by each state health care
21 institution that provides direct patient care and that is, or
22 a part of which is, medicaid certified and participating in
23 the New Mexico medicaid program; and

24 N. procurement by the public school facilities
25 authority."

1 Section 12. ~~TEMPORARY PROVISION--SCHOOL DISTRICT~~
2 ~~REVENUE IMPACT STUDY GROUP--CREATION--STAFF.--~~

3 A. ~~The "school district revenue impact study~~
4 ~~group" is created. The study group consists of sixteen~~
5 ~~members as follows:~~

6 ~~(1) the secretary of finance and~~
7 ~~administration or the secretary's designee;~~

8 ~~(2) the secretary of public education or the~~
9 ~~secretary's designee;~~

10 ~~(3) the director of the public school~~
11 ~~facilities authority or the director's designee;~~

12 ~~(4) two majority party members and one~~
13 ~~minority party member of the house of representatives,~~
14 ~~appointed by the New Mexico legislative council;~~

15 ~~(5) two majority party members and one~~
16 ~~minority party member of the senate, appointed by the New~~
17 ~~Mexico legislative council;~~

18 ~~(6) two representatives of developers,~~
19 ~~appointed by the New Mexico legislative council;~~

20 ~~(7) a member of the Indian education~~
21 ~~advisory council, appointed by the chair of the council;~~

22 ~~(8) a representative of the New Mexico~~
23 ~~municipal league;~~

24 ~~(9) a representative of the New Mexico~~
25 ~~association of counties;~~

1 ~~(10) a representative of the New Mexico~~
2 ~~school boards association; and~~

3 ~~(11) a representative of the New Mexico~~
4 ~~superintendents association.~~

5 ~~B. The chair of the study group shall be elected~~
6 ~~by the study group. The study group shall meet at the call~~
7 ~~of the chair.~~

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

11 ~~D. Public members of the study group shall receive~~
12 ~~per diem and mileage pursuant to the Per Diem and Mileage~~
13 ~~Act.~~

14 ~~E. The study group shall:~~

15 ~~(1) examine how actions by local governments~~
16 ~~in the acquisition of property that will be exempt from~~
17 ~~property taxes, such as acquiring projects with proceeds of~~
18 ~~industrial revenue bonds, affect school district revenues;~~

19 ~~(2) examine whether the purposes of the~~
20 ~~Development Fees Act are served by the imposition of impact~~
21 ~~fees against school districts;~~

22 ~~(3) examine whether, in communities where~~
23 ~~school facilities are often used by local governments, the~~
24 ~~school districts and local governments should share the cost~~
25 ~~of building and maintaining the facilities;~~

1 ~~(4) examine alternatives that will ensure~~
2 ~~that local governments consider the interests of school~~
3 ~~districts when making decisions that will impact school~~
4 ~~district revenues and expenditures; and~~

5 ~~(5) no later than December 31, 2006, report~~
6 ~~its findings and recommendations for policy and statutory~~
7 ~~changes to the public school capital outlay oversight task~~
8 ~~force, the legislative education study committee and the~~
9 ~~legislative finance committee.~~

10 ~~F. The legislative council service, with~~
11 ~~assistance from the public education department, the public~~
12 ~~school facilities authority, the legislative education study~~
13 ~~committee and the legislative finance committee, shall~~
14 ~~provide staff for the study group.~~

15 Section 13. TEMPORARY PROVISION--CHARTERING AUTHORITY
16 STUDY.--The legislative council service, in conjunction with
17 the public education department, the department of finance
18 and administration and the staffs of the legislative finance
19 committee and the legislative education study committee,
20 shall study the feasibility of allowing additional entities,
21 including universities, tribal governments, the public
22 education department and a separate chartering board, to
23 approve the establishment of charter schools. No later than
24 December 15, 2006, the results of the study shall be
25 presented to the public school capital outlay oversight task

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

3 Section 14. APPROPRIATIONS.--

4 A. Two million five hundred thousand dollars
5 (\$2,500,000) is appropriated from the public school capital
6 outlay fund to the public school facilities authority for
7 expenditure in fiscal years 2006 through 2008 for continuing
8 the development and implementation of a uniform web-based
9 facility information management system for the public schools
10 pursuant to the provisions of Section 22-24-5.3 NMSA 1978.

11 Any unexpended or unencumbered balance remaining at the end
12 of fiscal year 2008 shall revert to the public school capital
13 outlay fund.

14 B. Three hundred thousand dollars (\$300,000) is
15 appropriated from the public school capital outlay fund to
16 the public school facilities authority for expenditure in
17 fiscal years 2007 and 2008 for the purpose of improving the
18 indoor air quality of public schools by implementing the New
19 Mexico indoor air quality tools for schools program pursuant
20 to criteria developed by the public school facilities
21 authority in consultation with the department of environment,
22 the public education department, the department of health,
23 the energy, minerals and natural resources department and the
24 children, youth and families department. Any unexpended or
25 unencumbered balance remaining at the end of fiscal year 2008

1 shall revert to the public school capital outlay fund.

2 ~~C. Fifty thousand dollars (\$50,000) is~~
3 ~~appropriated from legislative cash balances to the~~
4 ~~legislative council service for expenditure in fiscal years~~
5 ~~2006 and 2007 for the purposes of paying per diem and mileage~~
6 ~~to the members of the school district revenue impact study~~
7 ~~group and for other expenses incurred in carrying out the~~
8 ~~provisions of Section 12 of this act. Any unexpended or~~
9 ~~unencumbered balance remaining at the end of fiscal year 2007~~
10 ~~shall revert to legislative cash balances.~~

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

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