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SENATE BILL 2

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CAPITAL  
OUTLAY ACT TO ESTABLISH OPTIONAL PROCEDURES FOR CONSTRUCTION OR  
RENOVATION PROJECTS FOR ELEMENTARY AND MIDDLE OR JUNIOR HIGH  
SCHOOLS; REQUIRING CERTAIN ADDITIONAL INFORMATION TO ACCOMPANY  
GRANT APPLICATIONS RELATED TO THE USE OF EXISTING COMMUNITY  
EDUCATIONAL FACILITIES; PROVIDING PROCEDURES FOR THE CLOSURE OR  
CONSOLIDATION OF SCHOOL FACILITIES; PROVIDING A CREDIT.

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

**SECTION 1.** Section 22-24-5 NMSA 1978 (being Laws 1975,  
Chapter 235, Section 5, as amended) is amended to read:

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

A. Applications for grant assistance, approval of  
applications, prioritization of projects and grant awards shall

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1 be conducted pursuant to the provisions of this section.

2 B. Except as provided in Sections 22-24-4.3,  
3 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions  
4 govern grant assistance from the fund for a public school  
5 capital outlay project not wholly funded pursuant to Section  
6 22-24-4.1 NMSA 1978:

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

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

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

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

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

25 (a) the feasibility of using design,

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

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

6 (c) concepts that promote efficient but  
7 flexible utilization of space, including joint use of  
8 reasonably accessible community educational facilities; and

9 (d) any other financing or construction  
10 concept that may maximize the dollar effect of the state grant  
11 assistance on future student performance, including the  
12 construction or renovation of elementary and middle or junior  
13 high schools that would accommodate no more than four hundred  
14 students and high schools that would accommodate no more than  
15 nine hundred students;

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), (8)  
20 or (9) of this subsection, the state share of a project  
21 approved and ranked by the council shall be funded within  
22 available resources pursuant to the provisions of this  
23 paragraph. No later than May 1 of each calendar year, a value  
24 shall be calculated for each school district in accordance with  
25 the 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 (m) if the value calculated for a

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

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

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

16 (p) except as provided in Section  
17 22-24-5.7 NMSA 1978 and except as adjusted pursuant to  
18 Paragraph (6), (8) or (9) of this subsection, the amount to be  
19 distributed from the fund for an approved project shall equal  
20 the total project cost multiplied by a fraction the numerator  
21 of which is the value calculated for the subject school  
22 district in the current year plus the value calculated for that  
23 school district in each of the two preceding years and the  
24 denominator of which is three; and

25 (q) as used in this paragraph: 1) "MEM"

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1 means the average full-time-equivalent enrollment of students  
2 attending public school in a school district on the eightieth  
3 and one hundred twentieth days of the prior school year; 2)  
4 "total project cost" means the total amount necessary to  
5 complete the public school capital outlay project less any  
6 insurance reimbursement received by the school district for the  
7 project; and 3) in the case of a state-chartered charter school  
8 that has submitted an application for grant assistance pursuant  
9 to this section, the "value calculated for the subject school  
10 district" means the value calculated for the school district in  
11 which the state-chartered charter school is physically located;

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

15 (a) the total of all legislative  
16 appropriations made after January 1, 2003 for nonoperating  
17 purposes either directly to the subject school district or to  
18 another governmental entity for the purpose of passing the  
19 money through directly to the subject school district, and not  
20 rejected by the subject school district, is calculated;  
21 provided that: 1) an appropriation made in a fiscal year shall  
22 be deemed to be accepted by a school district unless, prior to  
23 June 1 of that fiscal year, the school district notifies the  
24 department of finance and administration and the public  
25 education department that the district is rejecting the

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1 appropriation; 2) the total shall exclude any educational  
2 technology appropriation made prior to January 1, 2005 unless  
3 the appropriation was on or after January 1, 2003 and not  
4 previously used to offset distributions pursuant to the  
5 Technology for Education Act; 3) the total shall exclude any  
6 appropriation previously made to the subject school district  
7 that is reauthorized for expenditure by another recipient; 4)  
8 the total shall exclude one-half of the amount of any  
9 appropriation made or reauthorized after January 1, 2007 if the  
10 purpose of the appropriation or reauthorization is to fund, in  
11 whole or in part, a capital outlay project that, when  
12 prioritized by the council pursuant to this section either in  
13 the immediately preceding funding cycle or in the current  
14 funding cycle, ranked in the top one hundred fifty projects  
15 statewide; 5) the total shall exclude the proportionate share  
16 of any appropriation made or reauthorized after January 1, 2008  
17 for a capital project that will be jointly used by a  
18 governmental entity other than the subject school district.

19 Pursuant to criteria adopted by rule of the council and based  
20 upon the proposed use of the capital project, the council shall  
21 determine the proportionate share to be used by the  
22 governmental entity and excluded from the total; and 6) unless  
23 the grant award is made to the state-chartered charter school  
24 or unless the appropriation was previously used to calculate a  
25 reduction pursuant to this paragraph, the total shall exclude

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1 appropriations made after January 1, 2007 for nonoperating  
2 purposes of a specific state-chartered charter school,  
3 regardless of whether the charter school is a state-chartered  
4 charter school at the time of the appropriation or later opts  
5 to become a state-chartered charter school;

6 (b) the total of all federal money  
7 received by the subject school district for nonoperating  
8 purposes pursuant to Title [~~XIV~~] 14 of the American Recovery  
9 and Reinvestment Act of 2009 is calculated; provided that: 1)  
10 unless the grant award is made to the state-chartered charter  
11 school or unless the federal money received was previously used  
12 to calculate a reduction pursuant to this paragraph, before the  
13 charter school became a state-chartered charter school, the  
14 total shall exclude federal money received for nonoperating  
15 purposes of a specific state-chartered charter school,  
16 regardless of whether the charter school is a state-chartered  
17 charter school at the time of receiving the federal money or  
18 later opts to become a state-chartered charter school; and 2)  
19 the total shall exclude federal money distributed through the  
20 fund as grant awards pursuant to the Public School Capital  
21 Outlay Act;

22 (c) the value calculated pursuant to  
23 Subparagraph (a) of this paragraph is added to the value  
24 calculated pursuant to Subparagraph (b) of this paragraph;

25 (d) the applicable fraction used for the

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

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

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

13 (g) the amount calculated pursuant to  
14 Subparagraph (p) of Paragraph (5) of this subsection shall be  
15 reduced by the amount calculated pursuant to Subparagraph (f)  
16 of this paragraph;

17 (7) as used in this subsection:

18 (a) "community educational facilities"  
19 means any non-classroom space designed to support educational  
20 programs, including physical education facilities, sports  
21 fields, gymnasiums, swimming pools, performing arts facilities,  
22 fine arts facilities, libraries and media centers;

23 [~~(a)~~] (b) "governmental entity" includes  
24 an Indian nation, tribe or pueblo; and

25 [~~(b)~~] (c) "subject school district"

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1 means the school district that has submitted the application  
2 for funding and in which the approved public school capital  
3 outlay project will be located;

4 (8) the amount calculated pursuant to  
5 Subparagraph (p) of Paragraph (5) of this subsection, after any  
6 reduction pursuant to Paragraph (6) of this subsection, may be  
7 increased by an additional five percent if the council finds  
8 that the subject school district has been exemplary in  
9 implementing and maintaining a preventive maintenance program;  
10 or the construction project for a new school will include in  
11 its design the joint use of reasonably accessible community  
12 educational facilities. The council shall adopt such rules as  
13 are necessary to implement the provisions of this paragraph;

14 (9) the council may adjust the amount of local  
15 share otherwise required if it determines that a school  
16 district has used all of its local resources. Before making  
17 any adjustment to the local share, the council shall consider  
18 whether:

19 (a) the school district has insufficient  
20 bonding capacity over the next four years to provide the local  
21 match necessary to complete the project and, for all  
22 educational purposes, has a residential property tax rate of at  
23 least ten dollars (\$10.00) on each one thousand dollars  
24 (\$1,000) of taxable value, as measured by the sum of all rates  
25 imposed by resolution of the local school board plus rates set

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

3 (b) the school district: 1) has fewer  
4 than an average of eight hundred full-time-equivalent students  
5 on the eightieth and one hundred twentieth days of the prior  
6 school year; 2) has at least seventy percent of its students  
7 eligible for free or reduced-fee lunch; 3) has a share of the  
8 total project cost, as calculated pursuant to provisions of  
9 this section, that would be greater than fifty percent; and 4)  
10 for all educational purposes, has a residential property tax  
11 rate of at least seven dollars (\$7.00) on each one thousand  
12 dollars (\$1,000) of taxable value, as measured by the sum of  
13 all rates imposed by resolution of the local school board plus  
14 rates set to pay interest and principal on outstanding school  
15 district general obligation bonds; or

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

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1                   (10) the council shall provide a credit  
2 against the amount of local share otherwise required of up to  
3 twenty-five percent of the project cost if the new school  
4 construction project:

5                   (a) is for an elementary school or a  
6 middle or junior high school that is designed to accommodate no  
7 more than four hundred students; or

8                   (b) is for a high school that is  
9 designed to accommodate no more than nine hundred students;

10                   (11) if a new school construction project will  
11 serve a student population that has at least seventy percent of  
12 the students eligible for free or reduced-fee lunch, that  
13 demonstrates a high mobility rate, as defined by the  
14 department, and that has a high rate of English language  
15 learners, as defined by the department, then the project shall  
16 be designed to accommodate no more than four hundred students  
17 if it is an elementary school or a middle or junior high school  
18 and no more than nine hundred students if it is a high school,  
19 unless the applicant provides a compelling justification,  
20 considering student outcomes and not solely financial or  
21 economic factors, for why it must accommodate a higher number  
22 of students;

23                   (12) if a school renovation project is  
24 designed to renovate an existing elementary or middle or junior  
25 high school that is larger than four hundred students into

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1 multiple smaller schools, each of which is designed to  
2 accommodate fewer than four hundred students, then the council  
3 shall provide an additional credit against the amount of local  
4 share otherwise required of up to twenty-five percent of the  
5 project cost;

6 (13) if a school renovation project is  
7 designed to renovate an existing high school that is larger  
8 than nine hundred students into multiple smaller schools, each  
9 of which is designed to accommodate fewer than nine hundred  
10 students, then the council shall provide an additional credit  
11 against the amount of local share otherwise required of up to  
12 twenty-five percent of the project cost; and

13 [~~10~~] (14) no application for grant  
14 assistance from the fund shall be approved unless the council  
15 determines that:

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

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

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

24 (d) the school district has submitted a  
25 five-year facilities plan that includes: 1) enrollment

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

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

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

24 (g) the school district has agreed, in  
25 writing, to comply with any reporting requirements or

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1 conditions imposed by the council pursuant to Section 22-24-5.1  
2 NMSA 1978; and

3 (h) if the application is for a new  
4 school, the application includes: 1) an analysis of the  
5 number, type, location and capacity of community educational  
6 facilities reasonably accessible to the proposed school; 2) a  
7 plan for how the new school will use the community educational  
8 facilities identified in Item 1) of this subparagraph; and 3)  
9 if the new school will not be using any of the identified  
10 community educational facilities, an explanation of why it will  
11 not be using them.

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

23 D. The acquisition of a facility by a school  
24 district or charter school pursuant to a financing agreement  
25 that provides for lease payments with an option to purchase for

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1 a price that is reduced according to lease payments made may be  
2 considered a public school capital outlay project and eligible  
3 for grant assistance under this section pursuant to the  
4 following criteria:

5 (1) no grant shall be awarded unless the  
6 council determines that, at the time of exercising the option  
7 to purchase the facility by the school district or charter  
8 school, the facility will equal or exceed the statewide  
9 adequacy standards and the building standards for public school  
10 facilities;

11 (2) no grant shall be awarded unless the  
12 school district and the need for the facility meet all of the  
13 requirements for grant assistance pursuant to the Public School  
14 Capital Outlay Act;

15 (3) the total project cost shall equal the  
16 total payments that would be due under the agreement if the  
17 school district or charter school would eventually acquire  
18 title to the facility;

19 (4) the portion of the total project cost to  
20 be paid from the fund may be awarded as one grant, but  
21 disbursements from the fund shall be made from time to time as  
22 lease payments become due;

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

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1 (6) neither a grant award nor any provision of  
2 the Public School Capital Outlay Act creates a legal obligation  
3 for the school district or charter school to continue the lease  
4 from year to year or to purchase the facility.

5 E. In order to encourage private capital investment  
6 in the construction of public school facilities, the purchase  
7 of a privately owned school facility that is, at the time of  
8 application, in use by a school district may be considered a  
9 public school capital outlay project and eligible for grant  
10 assistance pursuant to this section if the council finds that:

11 (1) at the time of the initial use by the  
12 school district, the facility to be purchased equaled or  
13 exceeded the statewide adequacy standards and the building  
14 standards for public school facilities;

15 (2) at the time of application, attendance at  
16 the facility to be purchased is at seventy-five percent or  
17 greater of design capacity and the attendance at other schools  
18 in the school district that the students at the facility would  
19 otherwise attend is at eighty-five percent or greater of design  
20 capacity; and

21 (3) the school district and the capital outlay  
22 project meet all of the requirements for grant assistance  
23 pursuant to the Public School Capital Outlay Act; provided  
24 that, when determining the deviation from the statewide  
25 adequacy standards for the purposes of evaluating and

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1 prioritizing the project, the students using the facility shall  
2 be deemed to be attending other schools in the school district.

3 F. It is the intent of the legislature that grant  
4 assistance made pursuant to this section allows every school  
5 district to meet the standards developed pursuant to Subsection  
6 C of this section; provided, however, that nothing in the  
7 Public School Capital Outlay Act or the development of  
8 standards pursuant to that act prohibits a school district from  
9 using other funds available to the district to exceed the  
10 statewide adequacy standards.

11 G. Upon request, the council shall work with, and  
12 provide assistance and information to, the public school  
13 capital outlay oversight task force.

14 H. The council may establish committees or task  
15 forces, not necessarily consisting of council members, and may  
16 use the committees or task forces, as well as existing agencies  
17 or organizations, to conduct studies, conduct surveys, submit  
18 recommendations or otherwise contribute expertise from the  
19 public schools, programs, interest groups and segments of  
20 society most concerned with a particular aspect of the  
21 council's work.

22 I. Upon the recommendation of the public school  
23 facilities authority, the council shall develop building  
24 standards for public school facilities and shall promulgate  
25 other such rules as are necessary to carry out the provisions

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1 of the Public School Capital Outlay Act.

2 J. No later than December 15 of each year, the  
3 council shall prepare a report summarizing its activities  
4 during the previous fiscal year. The report shall describe in  
5 detail all projects funded, the progress of projects previously  
6 funded but not completed, the criteria used to prioritize and  
7 fund projects and all other council actions. The report shall  
8 be submitted to the public education commission, the governor,  
9 the legislative finance committee, the legislative education  
10 study committee and the legislature."

11 SECTION 2. A new section of Chapter 22, Article 5 NMSA  
12 1978 is enacted to read:

13 "[NEW MATERIAL] SCHOOL FACILITIES CLOSURE OR  
14 CONSOLIDATION--PROCEDURES--APPROVAL OF SECRETARY.--

15 A. A local school board may close a school or may  
16 consolidate two or more schools within a school district only  
17 if it determines, pursuant to the provisions of this section,  
18 that the closure or consolidation is in the best interest of  
19 students served by any school to be affected by the closure or  
20 consolidation.

21 B. The local school board shall prepare a  
22 feasibility study examining the likely effects of the closure  
23 or consolidation on the education of students in the school  
24 district and on the community in which the schools are located,  
25 including effects on student achievement, student participation

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1 in co-curricular activities, student health and well-being,  
2 student commuting time and patterns, parental participation in  
3 school activities and student learning, annual cost per pupil  
4 and total cost per graduate, other costs related to the closure  
5 or consolidation and other factors related to the educational  
6 performance of the school or schools and the students.

7 C. After the preparation of the feasibility study,  
8 the local school board shall hold a public hearing in each of  
9 the schools to be affected by closure or consolidation in order  
10 to receive input from members of the community. Notice of each  
11 hearing shall be given by the local school board at least  
12 thirty days prior to the hearing date. Notice of each hearing  
13 shall be posted at every school affected by the proposed  
14 closure or consolidation and mailed to all legal guardians of  
15 children attending a school affected by the proposed closure or  
16 consolidation. The notice shall provide:

- 17 (1) the subject of the hearing;  
18 (2) the time and place of the hearing;  
19 (3) where interested parties may obtain copies  
20 of the feasibility study; and  
21 (4) the manner in which interested persons may  
22 present their views at the hearing.

23 D. At the public hearings, the local school board  
24 shall allow all interested persons a reasonable opportunity to  
25 submit data, views or arguments, orally or in writing, and to

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1 examine witnesses testifying at the hearing, including the  
2 superintendent, members of the local school board and any  
3 witnesses brought by the superintendent or local school board.

4 E. Within twenty-one days of the last required  
5 public hearing, the local school board, after considering the  
6 conclusions of the feasibility study and all input received at  
7 the hearings, shall, in writing, decide whether or not to  
8 proceed with the proposed school closure or consolidation. If  
9 the local school board decides to proceed with the closure or  
10 consolidation, it shall forward its decision, the feasibility  
11 study and the record of each public hearing to the secretary.

12 F. No school closure or consolidation shall be  
13 carried out without the approval of the secretary. The  
14 secretary shall only approve the closure or consolidation if  
15 the secretary determines that the local school board's decision  
16 is reasonably supported by the feasibility study and the public  
17 input and is otherwise in accordance with applicable laws and  
18 rules."