

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 2

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

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CAPITAL  
OUTLAY ACT TO ESTABLISH OPTIONAL PROCEDURES FOR CONSTRUCTION OR  
RENOVATION PROJECTS FOR PUBLIC SCHOOLS; REQUIRING CERTAIN  
ADDITIONAL INFORMATION TO ACCOMPANY GRANT APPLICATIONS RELATED  
TO THE USE OF EXISTING COMMUNITY EDUCATIONAL FACILITIES;  
PROVIDING A CREDIT; PROVIDING PROCEDURES FOR THE CLOSURE OR  
CONSOLIDATION OF SCHOOL FACILITIES; ENACTING A NEW SECTION OF  
THE PUBLIC SCHOOL CODE TO PROVIDE FOR SCHOOL DISTRICTS TO OFFER  
EXTRACURRICULAR ACTIVITY PARTICIPATION BY STUDENTS ENROLLED IN  
HIGH SCHOOLS OF NINE HUNDRED OR FEWER STUDENTS THAT DO NOT  
OFFER THOSE ACTIVITIES.

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:

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1 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--  
2 APPLICATION--GRANT ASSISTANCE.--

3 A. Applications for grant assistance, approval of  
4 applications, prioritization of projects and grant awards shall  
5 be conducted pursuant to the provisions of this section.

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

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

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

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

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

25 (3) the council shall establish criteria to be

1 used in public school capital outlay projects that receive  
2 grant assistance pursuant to the Public School Capital Outlay  
3 Act. In establishing the criteria, the council shall consider:

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

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

10 (c) concepts that promote efficient but  
11 flexible utilization of space, including joint use of  
12 reasonably accessible community educational facilities; and

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

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

23 (5) except as provided in Paragraph (6), (8)  
24 or (9) of this subsection, the state share of a project  
25 approved and ranked by the council shall be funded within

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1 available resources pursuant to the provisions of this  
2 paragraph. No later than May 1 of each calendar year, a value  
3 shall be calculated for each school district in accordance with  
4 the following procedure:

5 (a) the final prior year net taxable  
6 value for a school district divided by the MEM for that school  
7 district is calculated for each school district;

8 (b) the final prior year net taxable  
9 value for the whole state divided by the MEM for the state is  
10 calculated;

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

17 (d) the lowest value listed pursuant to  
18 Subparagraph (c) of this paragraph is subtracted from the  
19 highest value listed pursuant to that subparagraph;

20 (e) the value calculated pursuant to  
21 Subparagraph (a) of this paragraph for the subject school  
22 district is subtracted from the highest value listed in  
23 Subparagraph (c) of this paragraph;

24 (f) the result calculated pursuant to  
25 Subparagraph (e) of this paragraph is divided by the result

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1 calculated pursuant to Subparagraph (d) of this paragraph;

2 (g) the sum of the property tax mill  
3 levies for the prior tax year imposed by each school district  
4 on residential property pursuant to Chapter 22, Article 18 NMSA  
5 1978, the Public School Capital Improvements Act, the Public  
6 School Buildings Act, the Education Technology Equipment Act  
7 and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978  
8 is calculated for each school district;

9 (h) the lowest value calculated pursuant  
10 to Subparagraph (g) of this paragraph is subtracted from the  
11 highest value calculated pursuant to that subparagraph;

12 (i) the lowest value calculated pursuant  
13 to Subparagraph (g) of this paragraph is subtracted from the  
14 value calculated pursuant to that subparagraph for the subject  
15 school district;

16 (j) the value calculated pursuant to  
17 Subparagraph (i) of this paragraph is divided by the value  
18 calculated pursuant to Subparagraph (h) of this paragraph;

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

25 (l) 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 that value is  
3 multiplied by five-hundredths;

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

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

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

20 (p) except as provided in Section  
21 22-24-5.7 NMSA 1978 and except as adjusted pursuant to  
22 Paragraph (6), (8) or (9) of this subsection, the amount to be  
23 distributed from the fund for an approved project shall equal  
24 the total project cost multiplied by a fraction the numerator  
25 of which is the value calculated for the subject school

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1 district in the current year plus the value calculated for that  
2 school district in each of the two preceding years and the  
3 denominator of which is three; and

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

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

19 (a) the total of all legislative  
20 appropriations made after January 1, 2003 for nonoperating  
21 purposes either directly to the subject school district or to  
22 another governmental entity for the purpose of passing the  
23 money through directly to the subject school district, and not  
24 rejected by the subject school district, is calculated;  
25 provided that: 1) an appropriation made in a fiscal year shall

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1 be deemed to be accepted by a school district unless, prior to  
2 June 1 of that fiscal year, the school district notifies the  
3 department of finance and administration and the public  
4 education department that the district is rejecting the  
5 appropriation; 2) the total shall exclude any educational  
6 technology appropriation made prior to January 1, 2005 unless  
7 the appropriation was on or after January 1, 2003 and not  
8 previously used to offset distributions pursuant to the  
9 Technology for Education Act; 3) the total shall exclude any  
10 appropriation previously made to the subject school district  
11 that is reauthorized for expenditure by another recipient; 4)  
12 the total shall exclude one-half of the amount of any  
13 appropriation made or reauthorized after January 1, 2007 if the  
14 purpose of the appropriation or reauthorization is to fund, in  
15 whole or in part, a capital outlay project that, when  
16 prioritized by the council pursuant to this section either in  
17 the immediately preceding funding cycle or in the current  
18 funding cycle, ranked in the top one hundred fifty projects  
19 statewide; 5) the total shall exclude the proportionate share  
20 of any appropriation made or reauthorized after January 1, 2008  
21 for a capital project that will be jointly used by a  
22 governmental entity other than the subject school district.  
23 Pursuant to criteria adopted by rule of the council and based  
24 upon the proposed use of the capital project, the council shall  
25 determine the proportionate share to be used by the

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1 governmental entity and excluded from the total; and 6) unless  
2 the grant award is made to the state-chartered charter school  
3 or unless the appropriation was previously used to calculate a  
4 reduction pursuant to this paragraph, the total shall exclude  
5 appropriations made after January 1, 2007 for nonoperating  
6 purposes of a specific state-chartered charter school,  
7 regardless of whether the charter school is a state-chartered  
8 charter school at the time of the appropriation or later opts  
9 to become a state-chartered charter school;

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

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1 (c) the value calculated pursuant to  
2 Subparagraph (a) of this paragraph is added to the value  
3 calculated pursuant to Subparagraph (b) of this paragraph;

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

8 (e) the value calculated pursuant to  
9 Subparagraph (c) of this paragraph for the subject school  
10 district is multiplied by the amount calculated pursuant to  
11 Subparagraph (d) of this paragraph for that school district;

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

17 (g) the amount calculated pursuant to  
18 Subparagraph (p) of Paragraph (5) of this subsection shall be  
19 reduced by the amount calculated pursuant to Subparagraph (f)  
20 of this paragraph;

21 (7) as used in this subsection:

22 (a) "community educational facilities"  
23 means any non-classroom space designed to support educational  
24 programs, including physical education facilities, sports  
25 fields, gymnasiums, swimming pools, performing arts facilities,

1 fine arts facilities, libraries and media centers;

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

4 [~~(b)~~] (c) "subject school district"  
5 means the school district that has submitted the application  
6 for funding and in which the approved public school capital  
7 outlay project will be located;

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

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

23 (a) the school district has insufficient  
24 bonding capacity over the next four years to provide the local  
25 match necessary to complete the project and, for all

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1 educational purposes, has a residential property tax rate of at  
2 least ten dollars (\$10.00) on each one thousand dollars  
3 (\$1,000) of taxable value, as measured by the sum of all rates  
4 imposed by resolution of the local school board plus rates set  
5 to pay interest and principal on outstanding school district  
6 general obligation bonds;

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

20 (c) the school district: 1) has an  
21 enrollment growth rate over the previous school year of at  
22 least two and one-half percent; 2) pursuant to its five-year  
23 facilities plan, will be building a new school within the next  
24 two years; and 3) for all educational purposes, has a  
25 residential property tax rate of at least ten dollars (\$10.00)

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1 on each one thousand dollars (\$1,000) of taxable value, as  
2 measured by the sum of all rates imposed by resolution of the  
3 local school board plus rates set to pay interest and principal  
4 on outstanding school district general obligation bonds;

5 (10) the council shall provide a credit of ten  
6 percent of the total project cost against the required local  
7 share, as long as the state share does not exceed the total  
8 project cost, if the new or replacement school construction  
9 project:

10 (a) is for an elementary school or a  
11 middle or junior high school that is designed to accommodate no  
12 fewer than two hundred and no more than four hundred students  
13 and any portion of the project receiving state share funds has  
14 a maximum building gross square footage no larger than that  
15 established under the adequacy standards for a school of eight  
16 hundred students; or

17 (b) is for a high school that is  
18 designed to accommodate no fewer than four hundred and no more  
19 than nine hundred students and any portion of the project  
20 receiving state share funds has a maximum building gross square  
21 footage no larger than that established under the adequacy  
22 standards for a school of one thousand students;

23 (11) 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 no more than four hundred students and no fewer  
3 than two hundred students, then the council shall provide an  
4 additional credit of ten percent of the total project cost  
5 against the required local share, as long as the state share  
6 does not exceed the total project cost;

7 (12) if a school renovation project is  
8 designed to renovate an existing high school that is larger  
9 than nine hundred students into multiple smaller schools, each  
10 of which is designed to accommodate no more than nine hundred  
11 students and no fewer than four hundred students, then the  
12 council shall provide an additional credit of ten percent of  
13 the total project cost against the required local share, as  
14 long as the state share does not exceed the total project cost;  
15 and

16 [~~(10)~~] (13) no application for grant  
17 assistance from the fund shall be approved unless the council  
18 determines that:

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

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

24 (c) the school district has provided  
25 insurance for buildings of the school district in accordance

1 with the provisions of Section 13-5-3 NMSA 1978;

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

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

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

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1 the application; ~~and~~

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

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

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

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1           D. The acquisition of a facility by a school  
2 district or charter school pursuant to a financing agreement  
3 that provides for lease payments with an option to purchase for  
4 a price that is reduced according to lease payments made may be  
5 considered a public school capital outlay project and eligible  
6 for grant assistance under this section pursuant to the  
7 following criteria:

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

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

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

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

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

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

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

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

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

24 (3) the school district and the capital outlay  
25 project meet all of the requirements for grant assistance

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1 pursuant to the Public School Capital Outlay Act; provided  
2 that, when determining the deviation from the statewide  
3 adequacy standards for the purposes of evaluating and  
4 prioritizing the project, the students using the facility shall  
5 be deemed to be attending other schools in the school district.

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

14 G. Upon request, the council shall work with, and  
15 provide assistance and information to, the public school  
16 capital outlay oversight task force.

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

25 I. Upon the recommendation of the public school

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1 facilities authority, the council shall develop building  
2 standards for public school facilities and shall promulgate  
3 other such rules as are necessary to carry out the provisions  
4 of the Public School Capital Outlay Act.

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

14 SECTION 2. A new section of Chapter 22, Article 5 NMSA  
15 1978 is enacted to read:

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

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

24 B. The local school board shall prepare a  
25 feasibility study examining the likely effects of the closure

1 or consolidation on the education of students in the school  
2 district and on the community in which the schools are located,  
3 including effects on student achievement, student participation  
4 in co-curricular activities, student safety, student commuting  
5 time and patterns, parental participation in school activities  
6 and student learning, annual cost per pupil and total cost per  
7 graduate, other costs related to the closure or consolidation  
8 and other factors related to the educational performance of the  
9 school or schools and the students.

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

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

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1           D. At the public hearings, the local school board  
2 shall allow all interested persons a reasonable opportunity to  
3 submit data, views or arguments, orally or in writing, and to  
4 examine witnesses testifying at the hearing, including the  
5 superintendent, members of the local school board and any  
6 witnesses brought by the superintendent or local school board.

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

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

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

24           "[NEW MATERIAL] SCHOOL DISTRICT EXTRACURRICULAR  
25 ACTIVITIES--STUDENTS ENROLLED IN HIGH SCHOOL OF FEWER THAN NINE

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underscoring material = new  
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1 HUNDRED STUDENTS NOT OFFERING THOSE ACTIVITIES.--

2 A. The New Mexico activities association and the  
3 local school board in which a high school enrolling fewer than  
4 nine hundred students is located shall allow students at that  
5 school to participate in school district extracurricular  
6 activities sanctioned by the New Mexico activities association  
7 or other association if those students meet eligibility  
8 requirements and if the school enrolling fewer than nine  
9 hundred students does not offer such activities.

10 B. A student at a high school enrolling fewer than  
11 nine hundred students who is otherwise eligible to participate  
12 in an extracurricular activity shall participate in the  
13 extracurricular activities at the public school closest to the  
14 attendance zone in which the student lives; provided, however,  
15 that the student may choose only one public school in which to  
16 participate."

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