

SENATE BILL 45

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Michael Padilla

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO BROADBAND; AMENDING THE STBTC→~~TAX~~
~~ADMINISTRATION~~←STBTC STBTC→~~SEVERANCE TAX BONDING~~←STBTC ACT TO
PROVIDE FOR THE ISSUANCE OF SUPPLEMENTAL SEVERANCE TAX BONDS
FOR EDUCATION TECHNOLOGY INFRASTRUCTURE; AMENDING THE
PROCUREMENT CODE TO INCLUDE PROFESSIONAL SERVICE CONTRACTS FOR
BROADBAND INFRASTRUCTURE WITHIN THE EXCEPTIONS TO THE FOUR-YEAR
LIMITATION ON MULTI-TERM PROFESSIONAL SERVICE CONTRACTS;
STBTC→~~ENACTING A NEW SECTION OF CHAPTER 62 NMSA 1978 TO PROVIDE~~

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~FOR THE REGULATION OF UTILITY POLE ATTACHMENTS;~~ ←STBTC AMENDING THE WIRELESS CONSUMER ADVANCED INFRASTRUCTURE INVESTMENT ACT TO INCLUDE THE STATE OF NEW MEXICO WITHIN THE DEFINITION OF "AUTHORITY"; AMENDING THE BROADBAND ACCESS AND EXPANSION ACT; ADDING DEFINITIONS; CREATING THE EDUCATION TECHNOLOGY INFRASTRUCTURE FUND; PROVIDING FOR RULEMAKING; AUTHORIZING GRANTS; AMENDING THE CONNECT NEW MEXICO ACT TO PROVIDE FOR DISBURSEMENTS FROM THE CONNECT NEW MEXICO FUND PURSUANT TO VOUCHERS SIGNED BY THE DIRECTOR OF THE OFFICE OF BROADBAND ACCESS AND EXPANSION; TRANSFERRING THE PUBLIC SCHOOL FACILITIES AUTHORITY'S BROADBAND DEPLOYMENT AND CONNECTIVITY PROGRAM TO THE OFFICE OF BROADBAND ACCESS AND EXPANSION; TRANSFERRING BROADBAND INFRASTRUCTURE FROM THE DEPARTMENT OF INFORMATION TECHNOLOGY TO THE OFFICE OF BROADBAND ACCESS AND EXPANSION.

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

SECTION 1. Section 7-27-12 NMSA 1978 (being Laws 1961, Chapter 5, Section 10, as amended) is amended to read:

"7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

A. The state board of finance shall issue and sell all severance tax bonds when authorized to do so by any law that sets out the amount of the issue and the recipient of the money.

B. The state board of finance shall also issue and sell severance tax bonds authorized by Sections 72-14-36

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

through 72-14-42 NMSA 1978, and such authority as has been given to the interstate stream commission to issue and sell such bonds is transferred to the state board of finance. The state board of finance shall issue and sell all severance tax bonds only when so instructed by resolution of the governing body or by written direction from an authorized officer of the recipient of the bond money.

C. Except as provided in Subsection D of this section, proceeds from supplemental severance tax bonds shall be used only for public school capital outlay projects pursuant to the Public School Capital Outlay Act or the Public School Capital Improvements Act or education technology infrastructure projects pursuant to the Broadband Access and Expansion Act.

D. Proceeds from supplemental severance tax bonds issued pursuant to Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) and Laws 2017 (1st S.S.), Chapter 1, Section 1 [~~of this 2017 act~~] shall be used for the purposes specified in those provisions.

E. Except as provided in Subsection F of this section, the state board of finance shall issue and sell all supplemental severance tax bonds when so instructed by resolution of the public school capital outlay council pursuant to Section 7-27-12.2 NMSA 1978 or by certification by the director of the office of broadband access and expansion pursuant to Section 7-27-12.6 NMSA 1978.

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

F. The state board of finance shall issue and sell the supplemental severance tax bonds authorized by:

(1) Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) when so instructed by resolution of the commission on higher education; and

(2) Laws 2017 (1st S.S.), Chapter 1, Section 1 [of this 2017 act] upon certification by the secretary of finance and administration of the need to use proceeds from those bonds as outlined in that section."

SECTION 2. A new section of the Severance Tax Bonding Act, Section 7-27-12.6 NMSA 1978, is enacted to read:

"7-27-12.6. [NEW MATERIAL] SUPPLEMENTAL SEVERANCE TAX BONDS--EDUCATION TECHNOLOGY INFRASTRUCTURE.--

A. The director of the office of broadband access and expansion is authorized to certify that up to ten million dollars (\$10,000,000) of proceeds of supplemental severance tax bonds per fiscal year are needed for expenditures relating to education technology infrastructure pursuant to the Broadband Access and Expansion Act. The certification shall specify the total amount needed.

B. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act when the director of the office of broadband access and expansion certifies the need for the issuance of the bonds pursuant to the Broadband Access and

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

Expansion Act. The amount of the bonds sold at each sale shall not exceed the lesser of:

(1) the total of the amounts certified by the director of the office of broadband access and expansion; or

(2) the amount that may be issued pursuant to the restrictions of Section 7-27-14 NMSA 1978.

C. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible.

D. The proceeds from the sale of the bonds are appropriated to the education technology infrastructure fund for the purposes of fund."

SECTION 3. Section 13-1-150 NMSA 1978 (being Laws 1984, Chapter 65, Section 123, as amended) is amended to read:

"13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--

A. A multi-term contract for items of tangible personal property, construction or services except for professional services, in an amount under twenty-five thousand dollars (\$25,000), may be entered into for any period of time deemed to be in the best interests of the state agency or a local public body not to exceed four years; provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications and funds are available for the first fiscal period at the time of contracting. If the amount of the contract is twenty-five thousand dollars

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(\$25,000) or more, the term shall not exceed ten years, including all extensions and renewals, except that for a contract entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act, the term shall not exceed twenty-five years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

B. A contract for professional services may not exceed four years, including all extensions and renewals, except for the following:

(1) services required to support or operate federally certified medicaid, financial assistance and child support enforcement management information or payment systems;

(2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;

(3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding;

(4) services relating to the implementation,

undescored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

operation and administration of the Education Trust Act;

(5) services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act;

(6) services relating to the design and engineering of a state public works project:

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration; ~~and~~

(7) services relating to the design and engineering of a regional water project with an estimated cost of more than five hundred million dollars (\$500,000,000):

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration; and

(8) services connected to the design, engineering or operation of broadband infrastructure pursuant to the Broadband Access and Expansion Act."

SECTION 4. Section 22-24-3 NMSA 1978 (being Laws 1975, Chapter 235, Section 3, as amended) is amended to read:

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

"22-24-3. DEFINITIONS.--As used in the Public School
Capital Outlay Act:

A. "authority" means the public school facilities
authority;

B. "building system" means a set of interacting
parts that makes up a single, nonportable or fixed component of
a facility and that, together with other building systems,
makes up an entire integrated facility or property, including
roofing, electrical distribution, electronic communication,
plumbing, lighting, mechanical, fire prevention, facility
shell, interior finishes, heating, ventilation and air
conditioning systems and school security systems, as defined by
the council;

C. "constitutional special schools" means the New
Mexico school for the blind and visually impaired and the New
Mexico school for the deaf;

D. "constitutional special schools support spaces"
means all facilities necessary to support the constitutional
special schools' educational mission that are not included in
the constitutional special schools' educational adequacy
standards, including performing arts centers, facilities for
athletic competition, school district administration and
facility and vehicle maintenance;

E. "council" means the public school capital outlay
council;

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight↔

delete = →bold, red, highlight, strikethrough↔

~~[F.] "education technology infrastructure" means the physical hardware and services used to interconnect students, teachers, school districts and school buildings necessary to support broadband connectivity and remote learning as determined by the council;~~

~~G.] F. "fund" means the public school capital outlay fund;~~

~~[H.] G. "maximum allowable gross square foot per student" means a determination made by applying the established maximum allowable square foot guidelines for educational facilities based on type of school and number of students in the current published New Mexico public school adequacy planning guide to the department's current year certified first reporting date membership;~~

~~[I.] H. "replacement cost per square foot" means the statewide cost per square foot as established by the council;~~

~~[J.] I. "school district" includes state-chartered charter schools and the constitutional special schools;~~

~~[K.] J. "school district population density" means the population density on a per square mile basis of a school district as estimated by the authority based on the most current tract level population estimates published by the United States census bureau; and~~

~~[L.] K. "school district population density factor"~~

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

means zero when the school district population density is greater than fifty people per square mile, six-hundredths when the school district population density is greater than fifteen but less than fifty-one persons per square mile and twelve-hundredths when the school district population density is less than sixteen persons per square mile."

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

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--
USE.--

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

B. Except as provided in Subsections G and I through [Ø] N of this section, money in the fund may be used only for capital expenditures deemed necessary by the council for an adequate educational program.

C. The council may authorize the purchase by the authority of portable classrooms to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title to and custody of the portable classrooms shall rest in the authority. The council shall authorize the lending of the portable classrooms to school districts upon request and upon finding that sufficient need exists. Application for use or return of

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the portable classrooms while in the custody of the authority shall be paid from the fund; expenses of maintenance and insurance of the portable classrooms while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the portable classrooms by the authority with prior approval of the state board of finance.

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

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

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

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

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

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

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

G. Balances in the fund may be annually appropriated for the core administrative functions of the authority pursuant to the Public School Capital Outlay Act, and, in addition, balances in the fund may be expended by the authority, upon approval of the council, for project management expenses; provided that:

(1) the total annual expenditures from the fund for the core administrative functions pursuant to this subsection shall not exceed five percent of the average annual grant assistance authorized from the fund during the five previous fiscal years; and

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

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

H. The fund may be expended by the council for building system repair, renovation or replacement initiatives with projects to be identified by the council pursuant to Section 22-24-4.6 NMSA 1978; provided that money allocated pursuant to this subsection shall be expended within three years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district or charter school shall not exceed:

(a) the actual annual lease payments owed for leasing a facility; or

(b) seven hundred dollars (\$700) multiplied by the MEM using the leased facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

calendar year of the consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal Every Student Succeeds Act;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the grant shall revert to the fund;

(4) no grant shall be made for lease payments due pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made unless:

(a) the agreement has been approved pursuant to the provisions of the Public School Lease Purchase Act; and

(b) the facilities are leased by a charter school;

(5) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made, neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average full-time-equivalent enrollment using leased facilities on the second and third reporting dates of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the second reporting date of the current school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "facilities" includes the space needed for school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three previous fiscal years may be expended in each fiscal year by the authority to pay the state fire marshal, the construction industries division of the regulation and licensing department and local jurisdictions having authority from the state to permit and inspect projects for expenditures made to permit and inspect projects funded in whole or in part under the Public

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

School Capital Outlay Act. The authority may enter into contracts with the state fire marshal, the construction industries division or the appropriate local authorities to carry out the provisions of this subsection. Such a contract may provide for initial estimated payments from the fund prior to the expenditures if the contract also provides for additional payments from the fund if the actual expenditures exceed the initial payments and for repayments back to the fund if the initial payments exceed the actual expenditures. Money distributed from the fund to the state fire marshal or the construction industries division pursuant to this subsection shall be used to supplement, rather than supplant, appropriations to those entities.

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

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

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

Subsection B of Section 22-24-5 NMSA 1978; or

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

(a) the school district has fewer than an average of six hundred full-time-equivalent students on the second and third reporting dates of the prior school year; or

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

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

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

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

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

(3) the council may enter into an agreement with the school district to fully fund the demolition of the abandoned school district facility if Paragraphs (1) and (2) of this subsection are satisfied.

~~[M. Up to ten million dollars (\$10,000,000) of the fund may be expended each year for an education technology infrastructure deficiency corrections initiative pursuant to Section 22-24-4.5 NMSA 1978; provided that funding allocated pursuant to this section shall be expended within three years of its allocation.~~

~~N.]~~ M. The fund may be expended in each of fiscal years 2020 through 2024 for a pre-kindergarten classroom facilities initiative project in accordance with Section 22-24-12 NMSA 1978.

~~[O.]~~ N. The council may fund pre-kindergarten classrooms with a qualifying, awarded standards-based project; provided that pre-kindergarten classroom space shall not be included in the project prioritization calculation adopted by the council pursuant to Section 22-24-5 NMSA 1978. The council

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

shall develop pre-kindergarten classroom standards to use when funding pre-kindergarten space."

SECTION 6. 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 be conducted pursuant to the provisions of this section.

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

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

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

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

(b) the council may award grants annually to school districts for the purpose of repairing,

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

renovating or replacing public school building systems in existing buildings as identified in Section 22-24-4.6 NMSA 1978;

(c) the council shall adopt and apply adequacy standards appropriate to the unique needs of the constitutional special schools; and

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

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

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

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

(c) concepts that promote efficient but flexible utilization of space; and

(d) any other financing or construction

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

concept that may maximize the dollar effect of the state grant assistance;

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

(5) no later than May 1 of each calendar year, the phase two formula value shall be calculated for each school district in accordance with the following procedure:

(a) the sum of the final prior five years net taxable value for a school district multiplied by nine ten-thousandths for that school district is calculated for each school district;

(b) the maximum allowable gross square foot per student multiplied by the replacement cost per square foot divided by forty-five is calculated for each school district;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph divided by the value calculated pursuant to Subparagraph (b) of this paragraph is calculated for each school district;

(d) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value equal to or greater than one, the phase two formula value shall be zero for the subject school district;

(e) in those instances in which the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

calculation pursuant to Subparagraph (c) of this paragraph yields a value of ninety-hundredths or more but less than one, the phase two formula value shall be one minus the value calculated in Subparagraph (c) of this paragraph; and

(f) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value less than ninety-hundredths, the phase two formula value shall be one minus the value calculated in Subparagraph (c) of this paragraph plus the school district population density factor;

(6) the state share of a project approved by the council shall be funded within available resources pursuant to the provisions of this paragraph. Except as provided in Section 22-24-5.7 NMSA 1978 and except as adjusted pursuant to Paragraph (8), (9) or (10) of this subsection, the amount to be distributed from the fund for an approved project shall equal the total project cost multiplied by the following percentage, except that in no case shall the state share be less than six percent:

(a) for fiscal year 2024 through fiscal year 2026, the percentage shall be the phase two formula value plus a percentage equal to one-third of the difference between one and the phase two formula value; provided that, for school districts with fewer than 200 MEM, the percentage shall be the phase two formula value plus a percentage equal to one-half of

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

the difference between one and the phase two formula; and

(b) for fiscal year 2027 and thereafter, the percentage shall be the phase two formula value;

(7) as used in this subsection:

(a) "governmental entity" includes an Indian nation, tribe or pueblo;

(b) "phase two formula value" for a state-chartered charter school means the phase two formula value calculated pursuant to Paragraph (5) of this subsection for the school district in which the state-chartered charter school is physically located;

(c) "subject school district" means the school district that has submitted the application for funding and in which the approved public school capital outlay project will be located; and

(d) "total project cost" means the total amount necessary to complete the public school capital outlay project less any insurance reimbursement received by the school district for the project;

(8) the amount calculated pursuant to Paragraph (6) of this subsection may be increased by an additional five percent if the council finds that the subject school district has been exemplary in implementing and maintaining a preventive maintenance program. The council shall adopt such rules as are necessary to implement the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

provisions of this paragraph;

(9) the council may adjust the amount of local share otherwise required if it determines that a school district has made a good-faith effort to use all of its local resources. Before making any adjustment to the local share, the council shall consider whether:

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

(b) the school district: 1) has fewer than an average of eight hundred full-time-equivalent students on the second and third reporting dates of the prior school year; 2) has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) has a share of the total project cost, as calculated pursuant to provisions of this section, that would be greater than fifty percent; and 4) for all educational purposes, has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight
delete = → bold, red, highlight, strikethrough

imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

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

(10) the local match for the constitutional special schools shall be set at fifty percent for projects that qualify under the educational adequacy category and one hundred percent for projects that qualify in the support spaces category; provided that the council may adjust or waive the amount of any direct appropriation offset to or local share required for the constitutional special schools if an applicant constitutional special school has insufficient or no local resources available; and

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

(a) the public school capital outlay

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

project is needed and included in the school district's five-year facilities plan among its top priorities;

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

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

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

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (6), (8) or (9) of this subsection, is not funded with grant assistance from the fund;

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

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

the application; and

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

C. After consulting with the public school capital outlay oversight task force and other experts, the council shall regularly review and update statewide adequacy standards applicable to all school districts. The standards shall establish the acceptable level for the physical condition and capacity of buildings, the educational suitability of facilities and the need for career-technical education facilities or classrooms [~~and the need for education technology infrastructure~~]. Except as otherwise provided in the Public School Capital Outlay Act, the amount of outstanding deviation from the standards shall be used by the council in evaluating and prioritizing public school capital outlay projects.

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

- (1) no grant shall be awarded unless the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

council determines that, at the time of exercising the option to purchase the facility by the school district or charter school, the facility will equal or exceed the statewide adequacy standards and the building standards for public school facilities;

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

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

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

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

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

E. In order to encourage private capital investment

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

in the construction of public school facilities, the purchase of a privately owned school facility that is, at the time of application, in use by a school district may be considered a public school capital outlay project and eligible for grant assistance pursuant to this section if the council finds that:

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

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

(3) the school district and the capital outlay project meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act; provided that, when determining the deviation from the statewide adequacy standards for the purposes of evaluating and prioritizing the project, the students using the facility shall be deemed to be attending other schools in the school district.

F. It is the intent of the legislature that grant assistance made pursuant to this section allows every school district to meet the standards developed pursuant to Subsection

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

C of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district from using other funds available to the district to exceed the statewide adequacy standards.

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

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

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

J. No later than December 15 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature.

K. For any school district that received a standards- or systems-based award from the council in fiscal year 2023, the state share for any future phase of the project for which funding has not yet been awarded shall be the amount calculated pursuant to Subsection B of this section for fiscal year 2024, regardless of the state share at the time of the initial award.

L. As used in this section:

(1) "MEM" means membership; and

(2) "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting."

STBTC → ~~SECTION 7. A new section of Chapter 62 NMSA 1978~~

underscored material = new

[bracketed material] = delete

Amendments: new = → bold, blue, highlight ←

delete = → bold, red, highlight, strikethrough ←

~~is enacted to read:~~

~~"[NEW MATERIAL] ATTACHMENTS TO UTILITY POLES.--"~~

~~A. For utility pole attachments that are not regulated by federal law, the commission, in consultation with the office of broadband access and expansion, shall establish reasonable rates, terms and conditions for utility pole attachments by rule; provided that:~~

~~(1) the rate shall ensure a utility of the recovery of not less than the additional cost of providing a utility pole attachment, but not more than the actual operating expenses and return on capital of the utility attributed to that portion of the utility pole used;~~

~~(2) the rate for a broadband internet attachment and use shall be based on the percentage of total usable space on a utility pole that is used by the attachment;~~

~~(3) the contract for attachments to utility poles shall include all such utility poles located within a given municipality pursuant to a negotiated site license and any applicable commission requirements; provided that the contract shall not impede the right of a utility pole owner to issue licenses based on inspections undertaken on a utility-pole-specific basis;~~

~~(4) responsibility for a utility pole replacement shall not be unreasonably delayed because a utility pole owner is waiting to receive a new attachment request;~~

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~(5) the rate for a utility pole attachment shall be proportional to the cost of the use of the utility pole by the attachment and shall not include the cost of utility pole replacement or the cost of bringing a utility pole or third-party equipment into compliance with current safety and construction standards unless the utility pole replacement or compliance upgrades to equipment are necessitated solely by the new attachment; and~~

~~(6) the rate for a utility pole replacement to accommodate an attachment request may allow for the requester to pay portions of the cost of replacement when the need for replacement is partially due to insufficient capacity, clearance or loading of an existing utility pole to accommodate the attachment request.~~

~~B. As used in this section, "utility pole" means a pole or similar structure used in whole or in part for communications services, electricity distribution, lighting or traffic signals, but does not include a wireless support structure or electric transmission structure."~~ ←STBTC

SECTION STBTC→8.←STBTC STBTC→7.←STBTC Section 63-9I-2 NMSA 1978 (being Laws 2018, Chapter 17, Section 2 and Laws 2018, Chapter 69, Section 2) is amended to read:

"63-9I-2. DEFINITIONS.--As used in the Wireless Consumer Advanced Infrastructure Investment Act:

A. "antenna" means communications equipment that

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

transmits or receives electromagnetic radio frequency signals and that is used to provide wireless services;

B. "applicable codes" means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization and enacted by the authority, including the local amendments to those codes enacted by the authority solely to address imminent threats of destruction of property or injury to persons, to the extent that those amendments are consistent with the Wireless Consumer Advanced Infrastructure Investment Act;

C. "applicant" means a wireless provider that submits an application;

D. "application" means a request submitted by an applicant to an authority for a permit to collocate one or more small wireless facilities or to approve the installation, modification or replacement of a utility pole or wireless support structure;

E. "authority" means a municipality, ~~[or]~~ a county or the state of New Mexico;

F. "authority utility pole" means a utility pole, owned or operated by an authority, in a right of way;

G. "collocate" means to install, mount, maintain, modify, operate or replace one or more wireless facilities on, in or adjacent to a wireless support structure or utility pole;

H. "communications service" means cable service as

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

defined in 47 U.S.C. Section 522(6), information service as defined in 47 U.S.C. Section 153(24), mobile service as defined in 47 U.S.C. Section 153(33), telecommunications service as defined in 47 U.S.C. Section 153(53) or wireless service other than mobile service;

I. "fee" means a one-time charge;

J. "law" includes federal, state or local law;

K. "permit" means the written permission of an authority for a wireless provider to install, mount, maintain, modify, operate or replace a utility pole or to collocate a small wireless facility on a utility pole or wireless support structure;

L. "person":

(1) means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization; and

(2) includes an authority;

M. "private easement" means an easement or other real property right given for the benefit of the grantee of the easement and the grantee's successors and assigns;

N. "rate" means a recurring charge;

O. "right of way":

(1) means the area on, below or above a public roadway, highway, street, sidewalk, alley or utility easement; and

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

(2) does not include the area on, below or above:

- (a) a federal interstate highway;
- (b) a state highway or route under the jurisdiction of the department of transportation;
- (c) a private easement; or
- (d) a utility easement that does not authorize the deployment sought by a wireless provider;

P. "small wireless facility" means a wireless facility whose:

(1) antennas are, or could fit, inside an enclosure with a volume of six or fewer cubic feet; and

(2) other ground- or pole-mounted wireless equipment, not including the following, is twenty-eight or fewer cubic feet in volume:

- (a) electric meter;
- (b) concealment elements;
- (c) telecommunications demarcation box;
- (d) grounding equipment;
- (e) power transfer switch;
- (f) cutoff switch;
- (g) vertical cable runs for the connection of power and other services; and
- (h) elements required by an authority in accordance with Subsection H of Section ~~[3 of the Wireless~~

~~Consumer Advanced Infrastructure Investment Act]~~ 63-9I-3 NMSA
1978;

Q. "utility pole":

(1) means a pole or similar structure used in whole or in part for communications services, electricity distribution, lighting or traffic signals; and

(2) does not include a wireless support structure or electric transmission structure;

R. "wireless facility":

(1) means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(a) equipment associated with wireless communications; and

(b) radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration;

(2) includes a small wireless facility; and

(3) does not include:

(a) the structure or improvements on, under or within which the equipment is collocated;

(b) a wireline backhaul facility, coaxial cable or fiber-optic cable between wireless support structures or utility poles; or

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight
delete = → bold, red, highlight, strikethrough

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(c) coaxial or fiber-optic cable otherwise not immediately adjacent to, or directly associated with, an antenna;

S. "wireless infrastructure provider" means a person, other than a wireless services provider, that may provide telecommunications service in New Mexico and that builds or installs wireless communications transmission equipment, wireless facilities' utility poles or wireless support structures;

T. "wireless provider" means a wireless infrastructure provider or wireless services provider;

U. "wireless services" means services provided to the public that use licensed or unlicensed spectrum, either mobile or at a fixed location, through wireless facilities;

V. "wireless services provider" means a person that provides wireless services;

W. "wireless support structure" means a freestanding structure, including a monopole or guyed or self-supporting tower, but not including a utility pole; and

X. "wireline backhaul facility" means a facility used to transport services by wire from a wireless facility to a network."

SECTION STBTC→9.←STBTC STBTC→8.←STBTC Section 63-9J-1 NMSA 1978 (being Laws 2021, Chapter 123, Section 1) is amended to read:

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight←

delete = →bold, red, highlight, strikethrough←

"63-9J-1. SHORT TITLE.--~~[This act]~~ Chapter 63, Article 9J NMSA 1978 may be cited as the "Broadband Access and Expansion Act"."

SECTION STBTC→10.←STBTC STBTC→9.←STBTC Section 63-9J-2 NMSA 1978 (being Laws 2021, Chapter 123, Section 2, as amended) is amended to read:

"63-9J-2. DEFINITIONS.--As used in the Broadband Access and Expansion Act:

A. "broadband infrastructure" means facilities and equipment used to provide internet service, excluding telecommunications equipment owned, controlled or operated by a public or private end user;

B. "broadband office" means the office of broadband access and expansion;

C. "constitutional special schools" means the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf;

~~[G.]~~ D. "department", unless otherwise specified, means the department of information technology;

~~[D.]~~ E. "director" means the director of the broadband office;

F. "education technology infrastructure" means the physical hardware and services used to interconnect students, teachers, school districts and school buildings necessary to support broadband connectivity and remote learning as

undescored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

determined by the broadband office;

[E.] G. "end user" means an individual, business, institution or governmental entity that subscribes to an internet service and does not resell that service to other individuals or entities;

[F.] H. "facilities-based provider" means a provider of internet service to end users in New Mexico using facilities that satisfy any of the following criteria:

(1) physical facilities that the entity owns and that terminate at the end user premises;

(2) facilities that the entity has obtained the right to use from other entities, such as dark fiber or satellite transponder capacity as part of its own network, or has obtained;

(3) unbundled network element loops, special access lines or other leased facilities that the entity uses to complete terminations to the end user premises;

(4) wireless spectrum for which the entity holds a license or that the entity manages or has obtained the right to use via a spectrum leasing arrangement or comparable arrangement pursuant to federal regulations promulgated pursuant to the federal Communications Act of 1934, as amended, or upon subsequent amendment or repeal of that act, by the broadband office by rule; or

(5) unlicensed spectrum;

underscored material = new

[bracketed material] = delete

Amendments: new = → bold, blue, highlight ↕

delete = → bold, red, highlight, strikethrough ↕

I. "fund" means the education technology

infrastructure fund;

[G.] J. "internet" means a global set of computing and electronic devices interconnected through networking infrastructures to provide data and information sharing and communication facilities;

[H.] K. "local government" means the government of a municipality, county or political subdivision of the state;

[I.] L. "open access" means equal nondiscriminatory access to the state-owned broadband network by eligible entities on a technologically and competitively neutral basis, regardless of whether the entity is privately or publicly owned;

[J.] M. "public educational institution" means a public school, a school district, a public post-secondary educational institution or an agency that provides administrative, funding or technical support to public schools, school districts and public post-secondary educational institutions;

[K.] N. "quality of service" means the standards established by the federal communications commission;

O. "school district" includes state-chartered charter schools and the constitutional special schools;

P. "school district population density" means the population density on a per square mile basis of a school

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

district as estimated by the broadband office based on the most current tract level population estimates published by the United States census bureau;

[E.] Q. "state-owned broadband network" means the state-owned broadband infrastructure that is owned, leased or operated by the department;

[M.] R. "statewide broadband plan" means a plan, including recommended statutory changes and implementation procedures, for the development and expansion of broadband infrastructure and services throughout the state to meet the needs:

- (1) for the delivery of internet-based educational, medical and emergency services;
- (2) for local and tribal communities to foster and recruit internet-reliant business and industry and to promote economic development and job creation; and
- (3) to support internet-reliant state, local and tribal government functions and facilitate the delivery of governmental services in a manner that is competitive with similar government agencies in neighboring states;

[N.] S. "underserved" means an area or property that does not have access to internet service offering speeds greater than one hundred megabits downstream and twenty megabits upstream; and

[O.] T. "unserved" means an area or property that

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

either does not have access to internet service at all or only has access to internet service offering speeds below twenty-five megabits per second downstream or three megabits per second upstream."

SECTION STBTC→11.←STBTC STBTC→10.←STBTC A new section of the Broadband Access and Expansion Act is enacted to read:

"[NEW MATERIAL] EDUCATION TECHNOLOGY INFRASTRUCTURE FUND CREATED--USE.--

A. The "education technology infrastructure fund" is created in the state treasury. The fund consists of distributions pursuant to Section 7-27-12.6 NMSA 1978, appropriations, gifts, grants and donations. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director. Balances in the fund at the end of a fiscal year shall not revert.

B. The fund may be expended annually by the broadband office for education technology infrastructure projects that are in conformance with the standards and guidelines developed pursuant to Sections STBTC→12 and 13←STBTC STBTC→11 and 12←STBTC of this 2024 act and grants to school districts for education technology projects, including expenses for management of such projects; provided that the total amount of project management expense assistance from the fund per project shall not exceed five percent of the project

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

grant.

C. The broadband office, with the advice of the connect New Mexico council, shall establish procedures and cost-sharing requirements for applications to the fund by rule."

SECTION STBTC→12.←STBTC STBTC→11.←STBTC A new section of the Broadband Access and Expansion Act is enacted to read:

"[NEW MATERIAL] EDUCATION TECHNOLOGY INFRASTRUCTURE DEFICIENCY CORRECTIONS.--

A. No later than January 1, 2025, the broadband office, with the advice of the connect New Mexico council, shall define and develop:

(1) minimum adequacy standards for an education technology infrastructure deficiency corrections initiative to identify and determine reasonable costs for correcting education technology infrastructure deficiencies in or affecting school districts;

(2) a methodology for prioritizing projects to correct education technology infrastructure deficiencies in or affecting school districts; and

(3) a methodology for determining a school district's share of the project costs.

B. The broadband office shall develop guidelines for a statewide education technology infrastructure network that integrates regional hub locations for network services and

undescored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

the installation and maintenance of equipment. The broadband office may fund education technology infrastructure projects or items that the broadband office determines are in accordance with the guidelines and necessary to education for:

- (1) students;
- (2) school buses;
- (3) internet connectivity within a school district;
- (4) a multi-district regional education network; and
- (5) a statewide education network."

SECTION STBTC→13.←STBTC STBTC→12.←STBTC A new section of the Broadband Access and Expansion Act is enacted to read:

"[NEW MATERIAL] EDUCATION TECHNOLOGY INFRASTRUCTURE PROJECTS--APPLICATION--GRANT ASSISTANCE.--

A. Applications for grant assistance, approval of applications, prioritization of projects and grant awards for education technology infrastructure shall be conducted pursuant to the provisions of this section.

B. The broadband office shall establish project funding requirements and priority standards for school districts by rule based on the following factors:

- (1) school district geographic size and population;
- (2) school district population density;

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(3) local property tax base;

(4) the current condition of education technology infrastructure relative to the adequacy standards; and

(5) whether the broadband office has designated the district as a high-growth area pursuant to Subsection C of this section.

C. The broadband office may designate an area that equals a contiguous attendance area of one or more existing schools as a high-growth area if it determines that within five years of the grant allocation decision, the estimated use of the proposed education technology infrastructure project will exceed the functional capacity of the project as determined by the broadband office by rule.

D. The broadband office shall apply the adequacy standards to state charter schools to the same extent that they are applied to other public schools.

E. The broadband office shall adopt and apply adequacy standards appropriate to the unique needs of the constitutional special schools.

F. In an emergency in which the health or safety of students or school personnel is at immediate risk or in which there is a threat of significant property damage, the broadband office may award grant assistance for a project using criteria other than the adequacy standards.

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

G. The broadband office shall establish criteria to be used in education technology infrastructure projects that receive grant assistance pursuant to the Broadband Access and Expansion Act. In establishing the criteria, the broadband office shall consider:

(1) the feasibility of using design, build and finance arrangements for education technology infrastructure projects;

(2) the potential use of more durable construction materials that may reduce long-term operating costs;

(3) concepts that promote efficient but flexible use of space; and

(4) any other financing or construction concept that may maximize the dollar effect of the state grant assistance.

H. No application for grant assistance from the fund shall be approved unless the broadband office determines that:

(1) the education technology infrastructure project is needed and included in the school district's five-year facilities plan among its top priorities;

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

(3) the school district has provided insurance

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight
delete = → bold, red, highlight, strikethrough

for the district's education technology infrastructure in accordance with insurance requirements established by the broadband office by rule;

(4) the school district has submitted an education technology infrastructure plan that includes:

(a) enrollment projections;

(b) a current preventive maintenance plan that has been approved by the broadband office and that is followed by each public school in the district; and

(c) the education technology infrastructure needs of charter schools located in the school district;

(5) the school district is willing and able to pay any portion of the total cost of the education technology infrastructure project that is not funded with grant assistance from the fund;

(6) the application includes the education technology infrastructure needs of any charter school located in the school district or the school district has shown that the education technology infrastructure needs of the charter school have a smaller deviation from the statewide adequacy standards than other district education technology infrastructure included in the application; and

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

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

conditions imposed by the broadband office pursuant to the Broadband Access and Expansion Act.

I. After consulting with the connect New Mexico council and other experts, the broadband office shall regularly review and update statewide adequacy standards applicable to all school districts. Except as otherwise provided in the Broadband Access and Expansion Act, the amount of outstanding deviation from the standards shall be used by the broadband office in evaluating and prioritizing education technology infrastructure projects.

J. No later than November 1 of each year, the broadband office shall prepare a report summarizing its education technology infrastructure activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other broadband office actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature."

SECTION STBTC→14.←STBTC STBTC→13.←STBTC Section 63-9K-1 NMSA 1978 (being Laws 2021, Chapter 120, Section 1) is amended to read:

"63-9K-1. SHORT TITLE.--[Sections 1 through 7 of this act] Chapter 63, Article 9K NMSA 1978 may be cited as the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

"Connect New Mexico Act".

SECTION STBTC→15.←STBTC STBTC→14.←STBTC Section 63-9K-3
NMSA 1978 (being Laws 2021, Chapter 120, Section 3, as amended)
is amended to read:

"63-9K-3. COUNCIL CREATED STBTC→--POWERS←STBTC .--

A. The "connect New Mexico council" is created and
administratively attached to the department.

B. The council is composed of the following fifteen
members:

(1) the secretary of transportation or the
secretary's designee;

(2) the secretary of economic development or
the secretary's designee;

(3) the secretary of cultural affairs or the
secretary's designee;

(4) the secretary of information technology or
the secretary's designee;

(5) the executive director of the New Mexico
mortgage finance authority or the executive director's
designee;

(6) the secretary of higher education or the
secretary's designee;

(7) the ~~[director of the public school
facilities authority or the director's designee]~~ secretary of
public education or the secretary's designee;

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

(8) five members of the public who have experience with broadband access and connectivity challenges for either private business or public institutions, appointed as follows:

(a) one member appointed by the speaker of the house of representatives;

(b) one member appointed by the minority floor leader of the house of representatives;

(c) one member appointed by the president pro tempore of the senate;

(d) one member appointed by the minority floor leader of the senate; and

(e) one member appointed by the governor; and

(9) three members appointed by the secretary of Indian affairs: one representative of the Navajo Nation, one representative of Apache tribal governments and one representative of Indian pueblo tribal governments, who are experienced with broadband access and connectivity issues.

C. The chair of the council shall be elected by a quorum of the council members. The council shall meet monthly or at the call of the chair. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum present shall be necessary for an action to be taken by the council.

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

D. Each member of the council appointed pursuant to Paragraph (8) or (9) of Subsection B of this section shall be appointed to a four-year term; provided that to provide for staggered terms:

(1) two of the members initially appointed pursuant to Paragraph (8) of Subsection B of this section shall be appointed for a term of two years by lot; and

(2) one member initially appointed pursuant to Paragraph (9) of Subsection B of this section shall be initially appointed for a term of two years by lot.

E. Public members of the council shall be reimbursed for attending meetings of the council as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. Public members of the council are appointed public officials of the state while carrying out their duties and activities under the Connect New Mexico Act.

G. Council members shall be governed by the Governmental Conduct Act.

H. The council shall be staffed by the department."

SECTION STBTC→16.←STBTC STBTC→15.←STBTC Section 63-9K-6 NMSA 1978 (being Laws 2021, Chapter 120, Section 6, as amended) is amended to read:

"63-9K-6. CONNECT NEW MEXICO FUND CREATED.--

.226452.4AIC February 8, 2024 (11:48am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

A. The "connect New Mexico fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature to the ~~[council]~~ broadband office for the purpose of administering the broadband grant program. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the ~~[chair of the council]~~ director of the broadband office. Any unexpended or unencumbered balance in the fund remaining at the end of any fiscal year shall not revert to the general fund.

B. The broadband office shall implement a grant program to develop and expand broadband infrastructure and services and support digital inclusion; provided that the broadband office shall each year seek to award grants for proposals submitted by the following entities throughout the state:

- (1) local governments;
- (2) state agencies;
- (3) public educational institutions;
- (4) tribal governments;
- (5) entities created by a joint powers agreement pursuant to the Joint Powers Agreements Act; and
- (6) private entities for broadband infrastructure to provide service primarily for residential

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

purposes.

C. When approving grants from the connect New Mexico fund, the broadband office shall give consideration to:

(1) the extent to which the project connects unserved and underserved populations of New Mexico, with priority given to projects that will connect unserved populations;

(2) the extent to which the project meets or exceeds the baseline standards established by the federal communications commission;

(3) the extent to which the project leverages existing infrastructure;

(4) the extent to which the project complements or coordinates with the statewide broadband plan;

(5) the extent to which the project leverages regional collaboration;

(6) the degree to which the project fosters digital inclusion;

(7) the extent to which the project stimulates in-state economic development, including the creation of jobs and apprenticeships;

(8) the extent to which the project leverages in-kind or financial support from local agencies or entities, federal assistance funding or federal Coronavirus Aid, Relief, and Economic Security Act, federal Consolidated Appropriations

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

Act, 2021 or federal American Rescue Plan Act of 2021 funding;
and

(9) for a grant award to a private entity, the extent to which the grantee contributes matching funds or in-kind support for the project, the number of existing residences to which internet services would be made available as a percentage of the total number of existing locations to which internet services would be made available by the project and the extent to which the project fosters digital equity."

SECTION STBTC→17.←STBTC STBTC→16.←STBTC TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--

A. On the effective date of this act:

(1) all functions, personnel, money, appropriations, records, furniture, equipment, supplies and other property pertaining to the broadband deployment and connectivity program are transferred to the office of broadband access and expansion;

(2) all contractual obligations of the broadband deployment and connectivity program are binding on the office of broadband access and expansion; and

(3) all references in law, rules, orders and other official acts to the broadband deployment and connectivity program shall be deemed to be references to the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

office of broadband access and expansion.

B. As used in this section, "broadband deployment and connectivity program" means the program administratively established by the public school facilities authority to fulfill its support functions to the public school capital outlay council to meet the council's duties pursuant to Section 22-24-4.5 NMSA 1978.

SECTION STBTC→18.←STBTC STBTC→17.←STBTC TEMPORARY PROVISION--TRANSFER OF BROADBAND INFRASTRUCTURE.--On the effective date of this act, all broadband infrastructure owned, leased or operated by the department of information technology pursuant to the Broadband Access and Expansion Act is transferred to the office of broadband access and expansion.

SECTION STBTC→19.←STBTC STBTC→18.←STBTC REPEAL.-- Section 22-24-4.5 NMSA 1978 (being Laws 2014, Chapter 28, Section 4, as amended) is repealed.

SECTION STBTC→20.←STBTC STBTC→19.←STBTC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.