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AN ACT

RELATING TO PUBLIC SCHOOLS; DEFINING "EDUCATION TECHNOLOGY
INFRASTRUCTURE"; PROVIDING FOR ALLOCATIONS FROM THE PUBLIC
SCHOOL CAPITAL OUTLAY FUND FOR EDUCATION TECHNOLOGY
INFRASTRUCTURE; ESTABLISHING AN EDUCATION TECHNOLOGY
INFRASTRUCTURE DEFICIENCY CORRECTIONS INITIATIVE; ALLOWING
FOR ADJUSTMENTS FOR THE LOCAL SCHOOL DISTRICT SHARE OF
PROGRAM COST; DECLARING AN EMERGENCY.

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

SECTION 1. Section 22-24-3 NMSA 1978 (being Laws 1975,
Chapter 235, Section 3, as amended) is amended to read:

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

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

B. "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, but not limited to, performing arts
centers, facilities for athletic competition, school district
administration and facility and vehicle maintenance;

C. "council" means the public school capital

1 outlay council;

2 D. "education technology infrastructure" means the
3 physical hardware used to interconnect education technology
4 equipment for school districts and school buildings necessary to
5 support broadband connectivity as determined by the council;

6 E. "fund" means the public school capital outlay
7 fund; and

8 F. "school district" includes state-chartered
9 charter schools and the constitutional special schools."

10 SECTION 2. Section 22-24-4 NMSA 1978 (being Laws 1975,
11 Chapter 235, Section 4, as amended) is amended to read:

12 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND
13 CREATED--USE.--

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

17 B. Except as provided in Subsections G and I
18 through M of this section, money in the fund may be used only
19 for capital expenditures deemed necessary by the council for
20 an adequate educational program.

21 C. The council may authorize the purchase by the
22 public school facilities authority of portable classrooms to
23 be loaned to school districts to meet a temporary
24 requirement. Payment for these purchases shall be made from
25 the fund. Title to and custody of the portable classrooms

1 shall rest in the public school facilities authority. The
2 council shall authorize the lending of the portable
3 classrooms to school districts upon request and upon finding
4 that sufficient need exists. Application for use or return
5 of state-owned portable classroom buildings shall be
6 submitted by school districts to the council. Expenses of
7 maintenance of the portable classrooms while in the custody
8 of the public school facilities authority shall be paid from
9 the fund; expenses of maintenance and insurance of the
10 portable classrooms while in the custody of a school district
11 shall be the responsibility of the school district. The
12 council may authorize the permanent disposition of the
13 portable classrooms by the public school facilities authority
14 with prior approval of the state board of finance.

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

23 E. The council shall review all requests for
24 assistance from the fund and shall allocate funds only for
25 those capital outlay projects that meet the criteria of the

1 Public School Capital Outlay Act.

2 F. Money in the fund shall be disbursed by warrant
3 of the department of finance and administration on vouchers
4 signed by the secretary of finance and administration
5 following certification by the council that an application
6 has been approved or an expenditure has been ordered by a
7 court pursuant to Section 22-24-5.4 NMSA 1978. At the
8 discretion of the council, money for a project shall be
9 distributed as follows:

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

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

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

25 (1) the total annual expenditures from the

1 fund for the core administrative functions pursuant to this
2 subsection shall not exceed five percent of the average
3 annual grant assistance authorized from the fund during the
4 three previous fiscal years; and

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

8 H. Up to ten million dollars (\$10,000,000) of the
9 fund may be allocated annually by the council for expenditure
10 infiscal years 2010 through 2015 for a roof repair and
11 replacement initiative with projects to be identified by the
12 council pursuant to Section 22-24-4.3 NMSA 1978; provided
13 that money allocated pursuant to this subsection shall be
14 expended within two years of the allocation.

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

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

3 (a) the actual annual lease payments
4 owed for leasing classroom space for schools, including
5 charter schools, in the district; or

6 (b) seven hundred dollars (\$700)
7 multiplied by the number of MEM using the leased classroom
8 facilities; provided that in fiscal year 2009 and in each
9 subsequent fiscal year, this amount shall be adjusted by the
10 percentage change between the penultimate calendar year and
11 the immediately preceding calendar year of the consumer price
12 index for the United States, all items, as published by the
13 United States department of labor;

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

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

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

25 (a) the agreement has been approved

1 pursuant to the provisions of the Public School Lease
2 Purchase Act; and

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

5 (5) if the lease payments are made pursuant
6 to a financing agreement under which the facilities may be
7 purchased for a price that is reduced according to the lease
8 payments made, neither a grant nor any provision of the
9 Public School Capital Outlay Act creates a legal obligation
10 for the school district or charter school to continue the
11 lease from year to year or to purchase the facilities nor
12 does it create a legal obligation for the state to make
13 subsequent grants pursuant to the provisions of this
14 subsection; and

15 (6) as used in this subsection:

16 (a) "MEM" means: 1) the average
17 full-time-equivalent enrollment using leased classroom
18 facilities on the eightieth and one hundred twentieth days of
19 the prior school year; or 2) in the case of an approved
20 charter school that has not commenced classroom instruction,
21 the estimated full-time-equivalent enrollment that will use
22 leased classroom facilities in the first year of instruction,
23 as shown in the approved charter school application; provided
24 that, after the eightieth day of the school year, the MEM
25 shall be adjusted to reflect the full-time-equivalent

1 enrollment on that date; and

2 (b) "classroom facilities" or
3 "classroom space" includes the space needed, as determined by
4 the minimum required under the statewide adequacy standards,
5 for the direct administration of school activities.

6 J. In addition to other authorized expenditures
7 from the fund, up to one percent of the average grant
8 assistance authorized from the fund during the three previous
9 fiscal years may be expended in each fiscal year by the
10 public school facilities authority to pay the state fire
11 marshal, the construction industries division of the
12 regulation and licensing department and local jurisdictions
13 having authority from the state to permit and inspect
14 projects for expenditures made to permit and inspect projects
15 funded in whole or in part under the Public School Capital
16 Outlay Act. The public school facilities authority may enter
17 into contracts with the state fire marshal, the construction
18 industries division or the appropriate local authorities to
19 carry out the provisions of this subsection. Such a contract
20 may provide for initial estimated payments from the fund
21 prior to the expenditures if the contract also provides for
22 additional payments from the fund if the actual expenditures
23 exceed the initial payments and for repayments back to the
24 fund if the initial payments exceed the actual expenditures.
25 Money distributed from the fund to the state fire marshal or

1 the construction industries division pursuant to this
2 subsection shall be used to supplement, rather than supplant,
3 appropriations to those entities.

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

9 (1) no allocation shall be made unless the
10 council determines that the school district is willing and
11 able to pay the portion of the total cost of developing or
12 updating the plan that is not funded with the allocation from
13 the fund. Except as provided in Paragraph (2) of this
14 subsection, the portion of the total cost to be paid with the
15 allocation from the fund shall be determined pursuant to the
16 methodology in Paragraph (5) of Subsection B of Section
17 22-24-5 NMSA 1978; or

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

20 (a) the school district has fewer than
21 an average of six hundred full-time-equivalent students on
22 the eightieth and one hundred twentieth days of the prior
23 school year; or

24 (b) the school district meets all of
25 the following requirements: 1) the school district has fewer

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

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

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

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

25 (3) the council may enter into an agreement

1 with the school district under which an amount equal to the
2 savings to the district in lower insurance premiums are used
3 to reimburse the fund fully or partially for the demolition
4 costs allocated to the district.

5 M. Up to ten million dollars (\$10,000,000) of the
6 fund may be expended each year in fiscal years 2014 through
7 2019 for an education technology infrastructure deficiency
8 corrections initiative pursuant to Section 4 of this 2014
9 act; provided that funding allocated pursuant to this section
10 shall be expended within three years of its allocation."

11 SECTION 3. Section 22-24-5 NMSA 1978 (being Laws 1975,
12 Chapter 235, Section 5, as amended) is amended to read:

13 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
14 APPLICATION--GRANT ASSISTANCE.--

15 A. Applications for grant assistance, approval of
16 applications, prioritization of projects and grant awards
17 shall be conducted pursuant to the provisions of this
18 section.

19 B. Except as provided in Sections 22-24-4.3,
20 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions
21 govern grant assistance from the fund for a public school
22 capital outlay project not wholly funded pursuant to Section
23 22-24-4.1 NMSA 1978:

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

1 indebtedness;

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

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

9 (b) the council shall adopt and apply
10 adequacy standards appropriate to the unique needs of the
11 constitutional special schools; and

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

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

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

25 (b) the potential use of more durable

1 construction materials that may reduce long-term operating
2 costs;

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

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

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

12 (5) except as provided in Paragraph (6),
13 (8), (9) or (10) of this subsection, the state share of a
14 project approved and ranked by the council shall be funded
15 within available resources pursuant to the provisions of this
16 paragraph. No later than May 1 of each calendar year, a
17 value shall be calculated for each school district in
18 accordance with the following procedure:

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

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

25 (c) excluding any school district for

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

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

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

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

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

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

1 subparagraph;

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

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

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

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

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

1 school district;

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

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

10 (p) except as provided in Section
11 22-24-5.7 NMSA 1978 and except as adjusted pursuant to
12 Paragraph (6), (8), (9) or (10) of this subsection, the
13 amount to be distributed from the fund for an approved
14 project shall equal the total project cost multiplied by a
15 fraction the numerator of which is the value calculated for
16 the subject school district in the current year plus the
17 value calculated for that school district in each of the two
18 preceding years and the denominator of which is three; and

19 (q) as used in this paragraph:

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

1 school district for the project; and 3) in the case of a
2 state-chartered charter school that has submitted an
3 application for grant assistance pursuant to this section,
4 the "value calculated for the subject school district" means
5 the value calculated for the school district in which the
6 state-chartered charter school is physically located;

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

10 (a) the total of all legislative
11 appropriations made after January 1, 2003 for nonoperating
12 purposes either directly to the subject school district or to
13 another governmental entity for the purpose of passing the
14 money through directly to the subject school district, and
15 not rejected by the subject school district, is calculated;
16 provided that: 1) an appropriation made in a fiscal year
17 shall be deemed to be accepted by a school district unless,
18 prior to June 1 of that fiscal year, the school district
19 notifies the department of finance and administration and the
20 public education department that the district is rejecting
21 the appropriation; 2) the total shall exclude any education
22 technology appropriation made prior to January 1, 2005 unless
23 the appropriation was on or after January 1, 2003 and not
24 previously used to offset distributions pursuant to the
25 Technology for Education Act; 3) the total shall exclude any

1 appropriation previously made to the subject school district
2 that is reauthorized for expenditure by another recipient;
3 4) the total shall exclude one-half of the amount of any
4 appropriation made or reauthorized after January 1, 2007 if
5 the purpose of the appropriation or reauthorization is to
6 fund, in whole or in part, a capital outlay project that,
7 when prioritized by the council pursuant to this section
8 either in the immediately preceding funding cycle or in the
9 current funding cycle, ranked in the top one hundred fifty
10 projects statewide; 5) the total shall exclude the
11 proportionate share of any appropriation made or reauthorized
12 after January 1, 2008 for a capital project that will be
13 jointly used by a governmental entity other than the subject
14 school district. Pursuant to criteria adopted by rule of the
15 council and based upon the proposed use of the capital
16 project, the council shall determine the proportionate share
17 to be used by the governmental entity and excluded from the
18 total; and 6) unless the grant award is made to the
19 state-chartered charter school or unless the appropriation
20 was previously used to calculate a reduction pursuant to this
21 paragraph, the total shall exclude appropriations made after
22 January 1, 2007 for nonoperating purposes of a specific
23 state-chartered charter school, regardless of whether the
24 charter school is a state-chartered charter school at the
25 time of the appropriation or later opts to become a

1 state-chartered charter school;

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

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

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

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

20 (7) as used in this subsection:

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

23 (b) "subject school district" means the
24 school district that has submitted the application for
25 funding and in which the approved public school capital

1 outlay project will be located;

2 (8) the amount calculated pursuant to
3 Subparagraph (p) of Paragraph (5) of this subsection, after
4 any reduction pursuant to Paragraph (6) of this subsection,
5 may be increased by an additional five percent if the council
6 finds that the subject school district has been exemplary in
7 implementing and maintaining a preventive maintenance
8 program. The council shall adopt such rules as are necessary
9 to implement the provisions of this paragraph;

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

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

24 (b) the school district: 1) has fewer
25 than an average of eight hundred full-time-equivalent

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

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

24 (10) the local match for the constitutional
25 special schools shall be set at fifty percent for projects

1 that qualify under the educational adequacy category and one
2 hundred percent for projects that qualify in the support
3 spaces category; provided that the council may adjust or
4 waive the amount of any direct appropriation offset to or
5 local share required for the constitutional special schools
6 if an applicant constitutional special school has
7 insufficient or no local resources available; and

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

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

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

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

19 (d) the school district has submitted a
20 five-year facilities plan that includes: 1) enrollment
21 projections; 2) a current preventive maintenance plan that
22 has been approved by the council pursuant to
23 Section 22-24-5.3 NMSA 1978 and that is followed by each
24 public school in the district; 3) the capital needs of
25 charter schools located in the school district; and 4)

1 projections for the facilities needed in order to maintain a
2 full-day kindergarten program;

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

14 (f) the application includes the
15 capital needs of any charter school located in the school
16 district or the school district has shown that the facilities
17 of the charter school have a smaller deviation from the
18 statewide adequacy standards than other district facilities
19 included in the application; and

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

24 C. After consulting with the public school capital
25 outlay oversight task force and other experts, the council

1 shall regularly review and update statewide adequacy
2 standards applicable to all school districts. The standards
3 shall establish the acceptable level for the physical
4 condition and capacity of buildings, the educational
5 suitability of facilities and the need for education
6 technology infrastructure. Except as otherwise provided in
7 the Public School Capital Outlay Act, the amount of
8 outstanding deviation from the standards shall be used by the
9 council in evaluating and prioritizing public school capital
10 outlay projects.

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

18 (1) no grant shall be awarded unless the
19 council determines that, at the time of exercising the option
20 to purchase the facility by the school district or charter
21 school, the facility will equal or exceed the statewide
22 adequacy standards and the building standards for public
23 school facilities;

24 (2) no grant shall be awarded unless the
25 school district and the need for the facility meet all of the

1 requirements for grant assistance pursuant to the Public
2 School Capital Outlay Act;

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

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

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

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

19 E. In order to encourage private capital
20 investment in the construction of public school facilities,
21 the purchase of a privately owned school facility that is, at
22 the time of application, in use by a school district may be
23 considered a public school capital outlay project and
24 eligible for grant assistance pursuant to this section if the
25 council finds that:

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

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

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

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

1 the statewide adequacy standards.

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

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

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

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

1 the legislative education study committee and the
2 legislature."

3 SECTION 4. A new section of the Public School Capital
4 Outlay Act is enacted to read:

5 "EDUCATION TECHNOLOGY INFRASTRUCTURE DEFICIENCY
6 CORRECTIONS.--

7 A. No later than September 1, 2014, the council,
8 with the advice of the public education department and the
9 department of information technology, shall define and
10 develop:

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

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

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

21 B. The council may approve allocations from the
22 fund pursuant to Subsection M of Section 22-24-4 NMSA 1978
23 and this section for projects in or affecting a school
24 district committing to pay its share of the project costs.
25 The council may adjust the school district's share of the

1 project costs in accordance with Paragraph (9) of Subsection
2 B of Section 22-24-5 NMSA 1978 or the methodology for
3 determining the school district's share of the project
4 costs."

5 SECTION 5. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect
7 immediately. _____

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