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HOUSE BILL 43

**55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

INTRODUCED BY

Joy Garratt and Meredith A. Dixon and Cathrynn N. Brown and  
Joshua N. Hernandez and Siah Correa Hemphill

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING NOTIFICATION TO CHARTER  
SCHOOLS OF PROPERTY AVAILABLE FOR THEIR EDUCATIONAL OPERATIONS;  
ALLOWING SCHOOL DISTRICTS TO DEVELOP FACILITY PRIORITIZATION  
PLANS; CREATING THE CHARTER FACILITY FUND; REQUIRING POLICIES  
FOR LOANS FROM THE PUBLIC PROJECT REVOLVING FUND OR THE CHARTER  
FACILITY FUND; MODIFYING THE TERMS APPLICABLE TO GRANTS FROM  
THE PUBLIC SCHOOL CAPITAL OUTLAY FUND FOR LEASED FACILITIES;  
SPECIFYING THE DATE BY WHICH CHARTER SCHOOLS MUST PROVIDE  
INFORMATION ON CAPITAL IMPROVEMENT PROJECTS PROPOSED FOR  
FUNDING THROUGH PROPERTY TAX IMPOSITION; MAKING AN  
APPROPRIATION.

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

**SECTION 1.** A new section of the New Mexico Finance  
Authority Act is enacted to read:

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1           "[NEW MATERIAL] PUBLIC PROJECT REVOLVING FUND--LOANS TO  
2 CHARTER SCHOOLS--POLICIES.--The authority shall adopt policies  
3 for the public project revolving fund to provide loans to  
4 charter schools for the purchase, construction, expansion or  
5 renovation of facilities or to pay off lease-purchase  
6 agreements that include:

7           A. evidence that any lease-purchase agreements are  
8 in accord with the Public School Lease Purchase Act;

9           B. evidence that a charter school's charter has  
10 been renewed at least once; and

11           C. review of the last two audits of the charter  
12 school."

13           SECTION 2. Section 22-8B-4 NMSA 1978 (being Laws 1999,  
14 Chapter 281, Section 4, as amended by Laws 2021, Chapter 19,  
15 Section 2 and by Laws 2021, Chapter 37, Section 2) is amended  
16 to read:

17           "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
18 OPERATION.--

19           A. A charter school shall be subject to all federal  
20 and state laws and constitutional provisions prohibiting  
21 discrimination on the basis of disability, physical or mental  
22 handicap, serious medical condition, race, creed, color, sex,  
23 gender identity, sexual orientation, spousal affiliation,  
24 national origin, religion, ancestry or need for special  
25 education services and shall not allow for the imposition of

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1 discipline, discrimination or disparate treatment against a  
2 student based on the student's race, religion or culture or  
3 because of the student's use of protective hairstyles or  
4 cultural or religious headdresses.

5 B. A charter school shall be governed by a  
6 governing body in the manner set forth in the charter contract;  
7 provided that a governing body shall have at least five  
8 members; and provided further that no member of a governing  
9 body for a charter school that is initially approved on or  
10 after July 1, 2005 or whose charter is renewed on or after July  
11 1, 2005 shall serve on the governing body of another charter  
12 school. No member of a local school board shall be a member of  
13 a governing body for a charter school or employed in any  
14 capacity by a locally chartered charter school located within  
15 the local school board's school district during the term of  
16 office for which the member was elected or appointed.

17 C. A charter school shall be responsible for:

18 (1) its own operation, including preparation  
19 of a budget, subject to audits pursuant to the Audit Act; and

20 (2) contracting for services and personnel  
21 matters.

22 D. A charter school may contract with a school  
23 district, a university or college, the state, another political  
24 subdivision of the state, the federal government or one of its  
25 agencies, a tribal government or any other third party for the

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1 use of a facility, its operation and maintenance and the  
2 provision of any service or activity that the charter school is  
3 required to perform in order to carry out the educational  
4 program described in its charter contract. Facilities used by  
5 a charter school shall meet the standards required pursuant to  
6 Section 22-8B-4.2 NMSA 1978.

7 E. A conversion school chartered before July 1,  
8 2007 may choose to continue using the school district  
9 facilities and equipment it had been using prior to conversion,  
10 subject to the provisions of Subsection F of this section.

11 F. ~~[The]~~ A school district [in which a charter  
12 school is geographically located shall provide a charter school  
13 with] that has available land or one or more available  
14 facilities not currently used for other educational purposes  
15 shall make facilities and may make land available for lease,  
16 lease-purchase or purchase to the [school's] charter schools  
17 located in the school district for the charter schools'  
18 operations [unless the facilities are currently used for other  
19 educational purposes] and shall notify the charter schools of  
20 that availability no later than May 1 of each year. The public  
21 school facilities authority shall annually ensure that each  
22 school district with available land or one or more available  
23 facilities has provided that notification. A school district  
24 may develop a facility prioritization plan that identifies  
25 which charter schools may lease, lease-purchase or purchase

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1 available school district facilities. School-district-owned  
2 land shall not be considered available to a charter school if  
3 the school district has justified future use of that land  
4 through its five-year facilities master plan. An agreement for  
5 the use of school district facilities by a charter school may  
6 provide for reasonable lease payments; provided that the  
7 payments do not exceed the sum of the lease reimbursement rate  
8 provided in ~~[Subparagraph (b) of]~~ Paragraph (1) of Subsection I  
9 of Section 22-24-4 NMSA 1978 plus any reimbursement for actual  
10 direct costs incurred by the school district in providing the  
11 facilities; and provided further that any lease payments  
12 received by a school district may be retained by the school  
13 district and shall not be considered to be cash balances in any  
14 calculation pursuant to Section 22-8-41 NMSA 1978. The  
15 available facilities provided by a school district to a charter  
16 school shall meet all occupancy standards as specified by the  
17 public school capital outlay council. As used in this  
18 subsection, "other educational purposes" includes health  
19 clinics, daycare centers, teacher training centers, school  
20 district administration functions and other ancillary services  
21 related to a school district's functions and operations.

22 G. A locally chartered charter school may pay the  
23 costs of operation and maintenance of its facilities or may  
24 contract with the school district to provide facility operation  
25 and maintenance services.

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1           H. Locally chartered charter school facilities are  
2 eligible for state and local capital outlay funds and shall be  
3 included in the school district's five-year facilities plan.

4           I. A locally chartered charter school shall  
5 negotiate with a school district to provide transportation to  
6 students eligible for transportation under the provisions of  
7 the Public School Code. The school district, in conjunction  
8 with the charter school, may establish a limit for student  
9 transportation to and from the charter school site not to  
10 extend beyond the school district boundary.

11           J. A charter school shall be a nonsectarian,  
12 nonreligious and non-home-based public school.

13           K. Except as otherwise provided in the Public  
14 School Code, a charter school shall not charge tuition or have  
15 admission requirements.

16           L. With the approval of the chartering authority, a  
17 single charter school may maintain separate facilities at two  
18 or more locations within the same school district; but, for  
19 purposes of calculating program units pursuant to the Public  
20 School Finance Act, the separate facilities shall be treated  
21 together as one school.

22           M. A charter school shall be subject to the  
23 provisions of Section 22-2-8 NMSA 1978 and the Assessment and  
24 Accountability Act.

25           N. Within constitutional and statutory limits, a  
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1 charter school may acquire and dispose of property; provided  
2 that, upon termination of the charter, all assets of the  
3 locally chartered charter school shall revert to the local  
4 school board and all assets of the state-chartered charter  
5 school shall revert to the state, except that, if all or any  
6 portion of a state-chartered charter school facility is  
7 financed with the proceeds of general obligation bonds issued  
8 by a local school board, the facility shall revert to the local  
9 school board.

10 O. The governing body of a charter school may  
11 accept or reject any charitable gift, grant, devise or bequest;  
12 provided that no such gift, grant, devise or bequest shall be  
13 accepted if subject to any condition contrary to law or to the  
14 terms of the charter. The particular gift, grant, devise or  
15 bequest shall be considered an asset of the charter school to  
16 which it is given.

17 P. The governing body may contract and sue and be  
18 sued. A local school board shall not be liable for any acts or  
19 omissions of the charter school.

20 Q. A charter school shall comply with all state and  
21 federal health and safety requirements applicable to public  
22 schools, including those health and safety codes relating to  
23 educational building occupancy.

24 R. A charter school is a public school that may  
25 contract with a school district or other party for provision of

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1 financial management, food services, transportation,  
2 facilities, education-related services or other services. The  
3 governing body shall not contract with a for-profit entity for  
4 the management of the charter school.

5 S. To enable state-chartered charter schools to  
6 submit required data to the department, an accountability data  
7 system shall be maintained by the department.

8 T. A charter school shall comply with all  
9 applicable state and federal laws and rules related to  
10 providing special education services. Charter school students  
11 with disabilities and their parents retain all rights under the  
12 federal Individuals with Disabilities Education Act and its  
13 implementing state and federal rules. Each charter school is  
14 responsible for identifying, evaluating and offering a free  
15 appropriate public education to all eligible children who are  
16 accepted for enrollment in that charter school. The state-  
17 chartered charter school, as a local educational agency, shall  
18 assume responsibility for determining students' needs for  
19 special education and related services. The division may  
20 promulgate rules to implement the requirements of this  
21 subsection.

22 U. As used in this section:

23 (1) "cultural or religious headdresses"  
24 includes hijabs, head wraps or other headdresses used as part  
25 of an individual's personal cultural or religious beliefs;

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1 (2) "protective hairstyles" includes such  
2 hairstyles as braids, locs, twists, tight coils or curls,  
3 cornrows, bantu knots, afros, weaves, wigs or head wraps; and

4 (3) "race" includes traits historically  
5 associated with race, including hair texture, length of hair,  
6 protective hairstyles or cultural or religious headdresses."

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

9 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--  
10 USE.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7           I. The fund may be expended annually by the council  
8 for grants to school districts for the purpose of making lease  
9 payments for [~~classroom~~] facilities, including facilities  
10 leased by charter schools. The grants shall be made upon  
11 application by the school districts and pursuant to rules  
12 adopted by the council; provided that an application on behalf  
13 of a charter school shall be made by the school district, but,  
14 if the school district fails to make an application on behalf  
15 of a charter school, the charter school may submit its own  
16 application. The following criteria shall apply to the grants:

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

19                           (a) the actual annual lease payments  
20 owed for leasing [~~classroom space for schools, including~~  
21 ~~charter schools, in the school district~~] a facility; or

22                           (b) seven hundred dollars (\$700)  
23 multiplied by the MEM using the leased [~~classroom~~] facilities;  
24 provided that in fiscal year 2009 and in each subsequent fiscal  
25 year, this amount shall be adjusted by the percentage change

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1 between the penultimate calendar year and the immediately  
2 preceding calendar year of the consumer price index for the  
3 United States, all items, as published by the United States  
4 department of labor;

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

9 (3) at the end of each fiscal year, any  
10 unexpended or unencumbered balance of the [~~appropriation~~] grant  
11 shall revert to the fund;

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

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

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

21 (5) if the lease payments are made pursuant to  
22 a financing agreement under which the facilities may be  
23 purchased for a price that is reduced according to the lease  
24 payments made, neither a grant nor any provision of the Public  
25 School Capital Outlay Act creates a legal obligation for the

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1 school district or charter school to continue the lease from  
2 year to year or to purchase the facilities nor does it create a  
3 legal obligation for the state to make subsequent grants  
4 pursuant to the provisions of this subsection; and

5 (6) as used in this subsection:

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

17 (b) "[~~classroom~~] facilities" [~~or~~  
18 "~~classroom space~~"] includes the space needed [~~as determined by~~  
19 ~~the minimum required under the statewide adequacy standards~~]  
20 for [~~the direct administration of~~] school activities.

21 J. In addition to other authorized expenditures  
22 from the fund, up to one percent of the average grant  
23 assistance authorized from the fund during the three previous  
24 fiscal years may be expended in each fiscal year by the  
25 authority to pay the state fire marshal, the construction

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1 industries division of the regulation and licensing department  
2 and local jurisdictions having authority from the state to  
3 permit and inspect projects for expenditures made to permit and  
4 inspect projects funded in whole or in part under the Public  
5 School Capital Outlay Act. The authority may enter into  
6 contracts with the state fire marshal, the construction  
7 industries division or the appropriate local authorities to  
8 carry out the provisions of this subsection. Such a contract  
9 may provide for initial estimated payments from the fund prior  
10 to the expenditures if the contract also provides for  
11 additional payments from the fund if the actual expenditures  
12 exceed the initial payments and for repayments back to the fund  
13 if the initial payments exceed the actual expenditures. Money  
14 distributed from the fund to the state fire marshal or the  
15 construction industries division pursuant to this subsection  
16 shall be used to supplement, rather than supplant,  
17 appropriations to those entities.

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

23 (1) no allocation shall be made unless the  
24 council determines that the school district is willing and able  
25 to pay the portion of the total cost of developing or updating

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1 the plan that is not funded with the allocation from the fund.  
2 Except as provided in Paragraph (2) of this subsection, the  
3 portion of the total cost to be paid with the allocation from  
4 the fund shall be determined pursuant to the methodology in  
5 Subsection B of Section 22-24-5 NMSA 1978; or

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

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

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

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

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

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

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

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

21 N. For each fiscal year from 2018 through 2022,  
22 twenty-five million dollars (\$25,000,000) of the fund is  
23 reserved for appropriation by the legislature to the  
24 instructional material fund or to the transportation  
25 distribution of the public school fund. The secretary shall

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1 certify the need for the issuance of supplemental severance tax  
2 bonds to meet an appropriation from the public school capital  
3 outlay fund to the instructional material fund or to the  
4 transportation distribution of the public school fund. Any  
5 portion of an amount of the public school capital outlay fund  
6 that is reserved for appropriation by the legislature for a  
7 fiscal year, but that is not appropriated before the first day  
8 of that fiscal year, may be expended by the council as provided  
9 in this section.

10 O. Up to ten million dollars (\$10,000,000) of the  
11 fund may be expended in each of fiscal years 2019 through 2022  
12 for school security system project grants made in accordance  
13 with Section 22-24-4.7 NMSA 1978.

14 P. The fund may be expended in each of fiscal years  
15 2020 through 2024 for a pre-kindergarten classroom facilities  
16 initiative in accordance with Section 22-24-12 NMSA 1978.

17 Q. The council may fund pre-kindergarten classrooms  
18 with a qualifying, awarded standards-based project; provided  
19 that pre-kindergarten classroom space shall not be included in  
20 the project prioritization calculation adopted by the council  
21 pursuant to Section 22-24-5 NMSA 1978. The council shall  
22 develop pre-kindergarten classroom standards to use when  
23 funding pre-kindergarten space."

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

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1           "[NEW MATERIAL] CHARTER FACILITY FUND.--

2           A. The "charter facility fund" is created as a  
3 nonreverting fund in the state treasury. The fund consists of  
4 appropriations, gifts, grants and donations. The fund shall be  
5 administered by the authority, and money in the fund shall be  
6 expended by the authority on authorization by the council.  
7 Expenditures shall be by warrant of the secretary of finance  
8 and administration pursuant to vouchers signed by the director  
9 of the authority or the director's designated representative.

10           B. The charter facility fund shall be used to pay  
11 off charter school lease-purchase agreements.

12           C. The council shall adopt rules to provide loans  
13 to charter schools for the renovation, construction, purchase  
14 or expansion of a charter school facility and the paying off of  
15 charter school lease-purchase agreements that include:

16                   (1) evidence that any lease-purchase  
17 agreements are in accordance with the Public School Lease  
18 Purchase Act;

19                   (2) evidence that a charter school's charter  
20 has been renewed at least once; and

21                   (3) review of the last two audits of the  
22 charter school."

23           SECTION 5. Section 22-25-3 NMSA 1978 (being Laws 1975  
24 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

25           "22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT  
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1 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

2 A. A local school board may adopt a resolution to  
3 submit to the qualified electors of the school district the  
4 question of whether a property tax should be imposed upon the  
5 net taxable value of property allocated to the school district  
6 under the Property Tax Code at a rate not to exceed that  
7 specified in the resolution for the purpose of capital  
8 improvements in the school district. The resolution shall:

9 (1) identify the capital improvements for  
10 which the revenue proposed to be produced will be used;

11 (2) specify the rate of the proposed tax,  
12 which shall not exceed two dollars (\$2.00) on each one thousand  
13 dollars (\$1,000) of net taxable value of property allocated to  
14 the school district under the Property Tax Code;

15 (3) limit the imposition of the proposed tax  
16 to no more than six property tax years; and

17 (4) indicate the regular election on which the  
18 ballot question shall appear or specify the date a special  
19 election will be held to submit the question of imposition of  
20 the tax to the qualified electors of the district.

21 B. A school district that has one or more charter  
22 schools located within the school district boundaries shall  
23 collaborate with the charter schools to establish a process  
24 through which the charter schools submit necessary information  
25 to the school district for inclusion in the resolution. This

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1 process shall include:

2 (1) identification of the capital improvements  
3 of the charter school for which the revenue proposed to be  
4 produced will be used;

5 (2) a requirement that necessary information  
6 be submitted to the school district no later than June 1 of the  
7 calendar year in which the local school board will consider the  
8 resolution; and

9 (3) the point of contact in the school  
10 district to which the charter school is to submit the  
11 information.

12 ~~[B-] C.~~ A resolution submitted to the qualified  
13 electors pursuant to Subsection A of this section shall include  
14 capital improvements funding for a locally chartered or state-  
15 chartered charter school located within the school district if  
16 the charter school ~~[timely provides the necessary information~~  
17 ~~to the school district for inclusion in the resolution that~~  
18 ~~identifies the capital improvements of the charter school for~~  
19 ~~which the revenue proposed to be produced will be used]~~ has  
20 complied with the process outlined in Subsection B of this  
21 section."

22 SECTION 6. Section 22-26-3 NMSA 1978 (being Laws 1983,  
23 Chapter 163, Section 3, as amended) is amended to read:

24 "22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT  
25 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

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underscored material = new  
[bracketed material] = delete

1           A. A local school board may adopt a resolution to  
2 submit to the qualified electors of the school district the  
3 question of whether a property tax at a rate not to exceed the  
4 rate specified in the resolution should be imposed upon the net  
5 taxable value of property allocated to the school district  
6 under the Property Tax Code for the purpose of capital  
7 improvements to public schools in the school district. The  
8 resolution shall:

9                   (1) identify the capital improvements for  
10 which the revenue proposed to be produced will be used;

11                   (2) specify the rate of the proposed tax,  
12 which shall not exceed ten dollars (\$10.00) on each one  
13 thousand dollars (\$1,000) of net taxable value of property  
14 allocated to the school district under the Property Tax Code;

15                   (3) limit the imposition of the proposed tax  
16 to no more than six property tax years; and

17                   (4) indicate the regular election on which the  
18 ballot question shall appear or specify the date a special  
19 election will be held to submit the question of imposition of  
20 the tax to the qualified electors of the district.

21           B. A school district that has one or more charter  
22 schools located within the school district boundaries shall  
23 collaborate with the charter schools to establish a process  
24 through which the charter schools submit necessary information  
25 to the school district for inclusion in the resolution. This

underscored material = new  
[bracketed material] = delete

1 process shall include:

2 (1) identification of the capital improvements  
3 of the charter school for which the revenue proposed to be  
4 produced will be used;

5 (2) a requirement that necessary information  
6 be submitted to the school district no later than June 1 of the  
7 calendar year in which the local school board will consider the  
8 resolution; and

9 (3) the point of contact in the school  
10 district to which the charter school is to submit the  
11 information.

12 [B-] C. A resolution submitted to the qualified  
13 electors pursuant to Subsection A of this section shall include  
14 capital improvements funding for a locally chartered or state-  
15 chartered charter school located within the school district if:

16 (1) the charter school [~~timely provides the~~  
17 ~~necessary information to the school district for inclusion on~~  
18 ~~the resolution that identifies the capital improvements of the~~  
19 ~~charter school for which the revenue proposed to be produced~~  
20 ~~will be used] has complied with the process outlined in  
21 Subsection B of this section; and~~

22 (2) the capital improvements are included in  
23 the five-year facilities plan:

24 (a) of the school district, if the  
25 charter school is a locally chartered charter school; or

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1 (b) of the charter school, if the  
2 charter school is a state-chartered charter school."

3 SECTION 7. APPROPRIATION.--Ten million dollars  
4 (\$10,000,000) is appropriated from the public school capital  
5 outlay fund to the public project revolving fund for  
6 expenditure in fiscal year 2023 and subsequent fiscal years to  
7 provide loans to charter schools for the renovation,  
8 construction, purchase or expansion of a charter school  
9 facility or to pay off charter school lease-purchase agreements  
10 as provided in Section 1 of this act. Any unexpended or  
11 unencumbered balance remaining at the end of a fiscal year  
12 shall not revert to any other fund.

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