

1 AN ACT  
2 RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; AUTHORIZING  
3 SUPPLEMENTAL SEVERANCE TAX BONDS FOR PUBLIC SCHOOL CAPITAL  
4 OUTLAY PROJECTS; AMENDING THE PUBLIC SCHOOL CAPITAL  
5 IMPROVEMENTS ACT TO ESTABLISH FUNDING PRIORITIES, EXPAND THE  
6 PURPOSE FOR WHICH FUNDS MAY BE USED AND ADJUST STATE  
7 DISTRIBUTIONS BY AN INFLATION FACTOR; AMENDING THE PUBLIC  
8 SCHOOL CAPITAL OUTLAY ACT TO CHANGE CRITERIA FOR FUNDING  
9 CERTAIN PROJECTS, PROVIDE A PROCEDURE FOR APPEALING CERTAIN  
10 DECISIONS, PROVIDE A CAUSE OF ACTION AGAINST CERTAIN SCHOOL  
11 DISTRICTS FOR CERTAIN CONSTITUTIONAL VIOLATIONS AND PROVIDE FOR  
12 A TAX IMPOSITION AS A REMEDY; CREATING THE PUBLIC SCHOOL CAPITAL  
13 OUTLAY TASK FORCE; PROVIDING DUTIES FOR THE TASK FORCE;  
14 AMENDING THE TECHNOLOGY FOR EDUCATION ACT TO LIMIT  
15 CARRYFORWARD PROVISIONS; MAKING APPROPRIATIONS.

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

18 Section 1. Section 7-27-12.2 NMSA 1978 (being Laws 2001, Chapter 338,  
19 Section 2) is amended to read:

20 "7-27-12.2. SUPPLEMENTAL SEVERANCE TAX BONDS--PUBLIC  
21 SCHOOL CAPITAL OUTLAY PROJECTS.--

22 A. The public school capital outlay council is authorized to certify by  
23 resolution that proceeds of supplemental severance tax bonds are needed for  
24 expenditures relating to public school capital outlay projects pursuant to the Public  
25 School Capital Outlay Act or for the state distribution for public school capital  
improvements pursuant to the Public School Capital Improvements Act. The  
resolution shall specify the total amount needed.

1 B. The state board of finance may issue and sell supplemental  
2 severance tax bonds in compliance with the Severance Tax Bonding Act when the  
3 public school capital outlay council certifies by resolution the need for the issuance  
4 of the bonds. The amount of the bonds sold at each sale shall not exceed the  
5 lesser of the amount certified by the council or the amount that may be issued  
6 pursuant to the restrictions of Section 7-27-14 NMSA 1978.

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

9 D. The proceeds from the sale of the bonds are appropriated as  
10 follows:

11 (1) the amount certified by the secretary of public education  
12 as necessary to make the distribution pursuant to Section 22-25-9 NMSA 1978 is  
13 appropriated to the public school capital improvements fund for the purpose of  
14 carrying out the provisions of the Public School Capital Improvements Act; and

15 (2) the remainder of the proceeds is appropriated to the  
16 public school capital outlay fund for the purpose of carrying out the provisions of the  
17 Public School Capital Outlay Act."

18 Section 2. Section 7-27-14 NMSA 1978 (being Laws 1961, Chapter 5,  
19 Section 11, as amended) is amended to read:

20 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

21 A. The legislature shall provide for the continued assessment, levy,  
22 collection and deposit into the severance tax bonding fund of the tax or taxes upon  
23 natural resource products severed and saved from the soil of the state that,  
24 together with such other income as may be deposited to the fund, will be sufficient  
25 to produce an amount that is at least the amount necessary to meet annual debt  
service charges on all outstanding severance tax bonds and supplemental  
severance tax bonds.

1 B. Except as otherwise specifically provided by law, the state board  
2 of finance shall issue no severance tax bonds unless the aggregate amount of  
3 severance tax bonds outstanding, and including the issue proposed, can be  
4 serviced with not more than fifty percent of the annual deposits into the severance  
5 tax bonding fund, as determined by the deposits during the preceding fiscal year.

6 C. The state board of finance shall issue no supplemental  
7 severance tax bonds with a term that extends beyond the fiscal year in which the  
8 bonds are issued unless the aggregate amount of severance tax bonds and  
9 supplemental severance tax bonds outstanding, and including the issue proposed,  
10 can be serviced with not more than sixty-two and  
11 one-half percent of the annual deposits into the severance tax bonding fund, as  
12 determined by the deposits during the preceding fiscal year.

13 D. Except as otherwise specifically provided by law, the state board  
14 of finance may issue supplemental severance tax bonds with a term that does not  
15 extend beyond the fiscal year in which they are issued if the debt service on such  
16 supplemental severance tax bonds when added to the debt service previously paid  
17 or scheduled to be paid during that fiscal year on severance tax bonds and  
18 supplemental severance tax bonds does not exceed ninety-five percent of the  
19 deposits into the severance tax bonding fund during the preceding fiscal year.

20 E. The provisions of this section shall not be modified by the terms  
21 of any severance tax bonds or supplemental severance tax bonds hereafter  
22 issued."

23 Section 3. Section 7-37-7 NMSA 1978 (being Laws 1973, Chapter 258,  
24 Section 40, as amended) is amended to read:

25 "7-37-7. TAX RATES AUTHORIZED--LIMITATIONS.--

A. The tax rates specified in Subsection B of this section are the

1 maximum rates that may be set by the department of finance and administration for  
2 the use of the stated governmental units for the purposes stated in that subsection.  
3 The tax rates set for residential property for county, school district or municipal  
4 general purposes or for the purposes authorized in Paragraph (2) of Subsection C  
5 of this section shall be the same as the tax rates set for nonresidential property for  
6 those governmental units for those purposes unless different rates are required  
7 because of limitations imposed by Section 7-37-7.1 NMSA 1978. The department  
8 of finance and administration may set a rate at less than the maximum in any tax  
9 year. In addition to the rates authorized in Subsection B of this section, the  
10 department of finance and administration shall also determine and set the  
11 necessary rates authorized in Subsection C of this section. The tax rates  
12 authorized in Paragraphs (1), (3) and (4) of Subsection C of this section shall be set  
13 at the same rate for both residential and nonresidential property. Rates shall be set  
14 after the governmental units' budget-making and approval process is completed and  
15 shall be set in accordance with Section 7-38-33 NMSA 1978. Orders imposing the  
16 rates set for all units of government shall be made by the boards of county  
17 commissioners after rates are set and certified to the boards by the department of  
18 finance and administration. The department of finance and administration shall also  
19 certify the rates set for nonresidential property in governmental units to the  
20 department for use in collecting taxes imposed under the Oil and Gas Ad Valorem  
21 Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act and  
22 the Copper Production Ad Valorem Tax Act.

23 B. The following tax rates for the indicated purposes are authorized:

24 (1) for the use of each county for general purposes for the  
25 1987 and subsequent property tax years, a rate of eleven dollars eighty-five cents  
(\$11.85) for each one thousand dollars (\$1,000) of net taxable value of both  
residential and nonresidential property allocated to the county;

1 (2) for the use of each school district for general operating  
2 purposes, a rate of fifty cents (\$.50) for each one thousand dollars (\$1,000) of net  
3 taxable value of both residential and nonresidential property allocated to the school  
4 district; and

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5 (3) for the use of each municipality for general purposes for  
6 the 1987 and subsequent property tax years, a rate of seven dollars sixty-five cents  
7 (\$7.65) for each one thousand dollars (\$1,000) of net taxable value of both  
8 residential and nonresidential property allocated to the municipality.

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9 C. In addition to the rates authorized in Subsection B of this section,  
10 there are also authorized:

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11 (1) those rates or impositions authorized under provisions of  
12 law outside of the Property Tax Code that are for the use of the governmental units  
13 indicated in those provisions and are for the stated purpose of paying principal and  
14 interest on a public general obligation debt incurred under those provisions of law;

15 (2) those rates or impositions authorized under provisions of  
16 law outside of the Property Tax Code that are for the use of the governmental units  
17 indicated in those provisions, are for the stated purposes authorized by those  
18 provisions and have been approved by the voters of the governmental unit in the  
19 manner required by law;

20 (3) those rates or impositions necessary for the use of a  
21 governmental unit to pay a tort or workers' compensation judgment for which a  
22 county, municipality or school district is liable, subject to the limitations in  
23 Subsection B of Section 41-4-25 NMSA 1978, but, except as provided in Paragraph  
24 (4) of this subsection, no rate or imposition shall be authorized to pay any judgment  
25 other than one arising from a tort or workers' compensation claim; and

(4) those rates or impositions ordered by a court pursuant to  
Section 22-24-5.5 NMSA 1978 and for the use of a school district to pay a judgment

1 pursuant to that section.

2 D. The rates and impositions authorized under Subsection C of this  
3 section shall be on the net taxable value of both residential and nonresidential  
4 property allocated to the unit of government specified in the provisions of the other  
5 laws or the judgments."

6 Section 4. Section 15-3B-2 NMSA 1978 (being Laws 1972, Chapter 74,  
7 Section 2, as amended) is amended to read:

8 "15-3B-2. DEFINITIONS.--As used in the Property Control Act:

9 A. "capital outlay project" means the acquisition, improvement,  
10 alteration or reconstruction of assets of a long-term character that are intended to  
11 continue to be held or used, including land, buildings, machinery, furniture and  
12 equipment. A "capital outlay project" includes all proposed expenditures related to  
13 the entire undertaking;

14 B. "department" means the general services department;

15 C. "director" means the director of the division;

16 D. "division" means the property control division of the department;

17 E. "jurisdiction" means all state buildings and land except those  
18 under the control and management of the state armory board, the office of cultural  
19 affairs, the state fair commission, the department of game and fish, the department  
20 of transportation, the commissioner of public lands, the state parks division of the  
21 energy, minerals and natural resources department, the state institutions of higher  
22 learning, the New Mexico school for the deaf, the New Mexico school for the  
23 visually handicapped, the judicial branch, the legislative branch, property acquired  
24 by the economic development department pursuant to the Statewide Economic  
25 Development Finance Act and property acquired by the public school facilities  
authority pursuant to the Public School Capital Outlay Act; and

F. "secretary" means the secretary of general services."

1 Section 5. Section 22-15A-9 NMSA 1978 (being Laws 1994, Chapter 96,  
2 Section 9, as amended) is amended to read:

3 "22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

4 A. Upon annual review and approval of a school district's  
5 educational technology plan, the bureau shall determine a separate distribution  
6 from the educational technology fund for each school district.

7 B. On or before July 31 of each year, the bureau shall distribute  
8 money in the educational technology fund directly to each school district in an  
9 amount equal to ninety percent of the school district's estimated adjusted  
10 entitlement calculated pursuant to Subsection C of this section. A school district's  
11 unadjusted entitlement is that portion of the total amount of the annual appropriation  
12 that the projected membership bears to the projected membership of the state.  
13 Kindergarten membership shall be calculated on a one-half full-time equivalent  
14 basis.

15 C. A school district's estimated adjusted entitlement shall be  
16 calculated by the bureau using the following procedure:

17 (1) a base allocation is calculated by multiplying the total  
18 annual appropriation by seventy-five thousandths percent;

19 (2) the estimated adjusted entitlement amount for a school  
20 district whose unadjusted entitlement is at or below the base allocation shall be  
21 equal to the base allocation. For a school district whose unadjusted entitlement is  
22 higher than the base allocation, the estimated adjusted entitlement shall be  
23 calculated pursuant to Paragraphs (3) through (13) of this subsection;

24 (3) the total projected membership in those school districts  
25 that will receive the base allocation pursuant to Paragraph (2) of this subsection is  
subtracted from the total projected state membership;

(4) the total of the estimated adjusted entitlement amounts

1 that will be distributed to those school districts receiving the base allocation  
2 pursuant to Paragraph (2) of this subsection is subtracted from the total  
3 appropriation;

4 (5) the projected membership for the district is divided by the  
5 result calculated pursuant to Paragraph (3) of this subsection;

6 (6) the number calculated pursuant to Paragraph (5) of this  
7 subsection is multiplied by the value calculated pursuant to Paragraph (4) of this  
8 subsection;

9 (7) excluding appropriations made prior to January 1, 2003  
10 and reauthorizations of previous educational technology appropriations, the total of  
11 educational technology appropriations made in the immediately preceding three  
12 fiscal years directly to, and not rejected by, the school district, is calculated. No  
13 later than June 30 of each year, the department of finance and administration shall  
14 certify to the bureau the amount of direct appropriations made to each school  
15 district during the preceding twelve months. An appropriation made in a fiscal year  
16 shall be deemed to be accepted by a school district unless, prior to July 15 of the  
17 fiscal year following the appropriation, the district notifies the department of finance  
18 and administration and the public education department that the district is rejecting  
19 the appropriation;

20 (8) the applicable amount for the school district calculated  
21 from Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of Section  
22 22-24-5 NMSA 1978 is subtracted from one;

23 (9) the value calculated pursuant to Paragraph (7) of this  
24 subsection for the school district is multiplied by the amount calculated pursuant to  
25 Paragraph (8) of this subsection for that school district;

(10) the total amount of reductions for the school district  
made in the immediately two preceding fiscal years pursuant to Paragraph (11) of



1 this subsection is subtracted from the amount calculated pursuant to Paragraph (9)  
2 of this subsection for that school district;

3 (11) the amount calculated for the school district pursuant to  
4 Paragraph (10) of this subsection is subtracted from the amount calculated  
5 pursuant to Paragraph (6) of this subsection for that school district;

6 (12) if the amount calculated for the school district pursuant  
7 to Paragraph (11) of this subsection is equal to or less than the base allocation  
8 amount, the estimated adjusted entitlement amount for that school district is equal  
9 to the base allocation amount; and

10 (13) if the amount calculated for the school district pursuant  
11 to Paragraph (11) of this subsection is more than the base allocation amount, the  
12 estimated adjusted entitlement amount for that school district is equal to the amount  
13 calculated pursuant to that paragraph.

14 D. On or before January 30 of each year, the bureau shall  
15 recompute each adjusted entitlement using the final funded membership for that  
16 year and, without making any additional reductions, shall allocate the balance of the  
17 annual appropriation adjusting for any over- or  
18 under-projection of membership.

19 E. A school district receiving funding pursuant to the Technology for  
20 Education Act is responsible for the purchase, distribution, use and maintenance of  
21 educational technology.

22 F. As used in this section, "membership" means the total enrollment  
23 of qualified students, as defined in the Public School Finance Act, on the current roll  
24 of class or school on a specified day. The current roll is established by the addition  
25 of original entries and reentries minus withdrawals. Withdrawal of students, in  
addition to students formally withdrawn from the public school, includes students  
absent from the public school for as many as ten consecutive school days."

1 Section 6. Section 22-24-2 NMSA 1978 (being Laws 1975, Chapter 235,  
2 Section 2, as amended) is amended to read:  
3 "22-24-2. PURPOSE OF ACT.--The purpose of the Public School Capital  
4 Outlay Act is to ensure that, through a standards-based process for all school  
5 districts, the physical condition and capacity, educational suitability and technology  
6 infrastructure of all public school facilities in New Mexico meet an adequate level  
7 statewide and the design, construction and maintenance of school sites and  
8 facilities encourage, promote and maximize safe, functional and durable learning  
9 environments in order for the state to meet its educational responsibilities and for  
10 New Mexico's students to have the opportunity to achieve success."

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

13 "22-24-4. FUND CREATED--USE.--

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

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

19 C. The council may authorize the purchase by the public school  
20 facilities authority of portable classrooms to be loaned to school districts to meet a  
21 temporary requirement. Payment for these purchases shall be made from the fund.

22 Title and custody to the portable classrooms shall rest in the public school facilities  
23 authority. The council shall authorize the lending of the portable classrooms to  
24 school districts upon request and upon finding that sufficient need exists.

25 Application for use or return of 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 public school facilities authority shall

1 be paid from the fund; expenses of maintenance and insurance of the portable  
2 classrooms while in the custody of a school district shall be the responsibility of the  
3 school district. The council may authorize the permanent disposition of the portable  
4 classrooms by the public school facilities authority with prior approval of the state  
5 board of finance.

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6 D. Applications for assistance from the fund shall be made by school  
7 districts to the council in accordance with requirements of the council. The council  
8 shall require as a condition of application that a school district have a current five-  
9 year facilities plan, which shall include a current preventive maintenance plan to  
10 which the school adheres for each public school in the school district.

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

14 F. Money in the fund shall be disbursed by warrant of the  
15 department of finance and administration on vouchers signed by the secretary of  
16 finance and administration following certification by the council that an application  
17 has been approved or an expenditure has been ordered by a court pursuant to  
18 Section 22-24-5.5 NMSA 1978. At the discretion of the council, money for a project  
19 shall be distributed as follows:

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

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

G. Balances in the fund may be annually appropriated for the core  
administrative functions of the public school facilities authority pursuant to the

1 Public School Capital Outlay Act and, in addition, balances in the fund may be  
2 expended by the public school facilities authority, upon approval of the council, for  
3 project management expenses; provided that:

4 (1) the total annual expenditures from the fund pursuant to  
5 this subsection shall not exceed five percent of the average annual grant assistance  
6 authorized from the fund during the three previous fiscal years; and

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

10 H. Up to one million two hundred fifty thousand dollars (\$1,250,000)  
11 of the balances of the fund may be expended in fiscal years 2003 and 2004 by the  
12 council for the purpose of updating and refining the statewide assessment study  
13 required by Section 22-24-5 NMSA 1978 and for the training of state and local  
14 officials on the use of the database and other data-management-related issues  
15 identified by the council.

16 I. Of the appropriation made to the fund by Subsection D of Section  
17 15 of Chapter 338 of Laws 2001 for the purpose of correcting outstanding  
18 deficiencies, one million one hundred thousand dollars (\$1,100,000) is appropriated  
19 to the council for expenditure in fiscal years 2004 through 2007 for the core  
20 administrative functions of the deficiencies corrections program. Any unexpended  
21 or unencumbered balance remaining at the end of fiscal year 2007 shall revert to  
22 the fund.

23 J. Up to seven hundred thousand dollars (\$700,000) of the balances  
24 of the fund may be expended by the council in fiscal year 2004 for the core  
25 administrative functions of the public school facilities authority.

K. Up to four million dollars (\$4,000,000) from the fund may be  
expended annually by the council in fiscal years 2005 through 2009 for grants to

1 school districts for the purpose of making lease payments for classroom facilities,  
2 including facilities leased by charter schools. The grants shall be made upon  
3 application by the school districts and pursuant to rules adopted by the council and  
4 the following criteria:

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

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

9 (b) three hundred dollars (\$300) multiplied by the  
10 number of MEM using the leased classroom facilities; provided that, if the total  
11 grants awarded pursuant to this paragraph would exceed the total annual amount  
12 available, the rate specified in this subparagraph shall be reduced proportionately;

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

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

18 (4) as used in this subsection, "MEM" means the total full-  
19 time-equivalent enrollment using leased classroom facilities in the final funded prior  
20 school year."

21 Section 8. Section 22-24-4.1 NMSA 1978 (being Laws 2001, Chapter 338,  
22 Section 6, as amended) is amended to read:

23 "22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--  
24 CORRECTION.--

25 A. No later than September 1, 2001, the council shall define and  
develop guidelines, consistent with the codes adopted by the construction industries  
commission pursuant to the Construction Industries Licensing Act, for school

1 districts to use to identify outstanding serious deficiencies in public school buildings  
2 and grounds, including buildings and grounds of charter schools, that may  
3 adversely affect the health or safety of students and school personnel.

4 B. A school district shall use these guidelines to complete a self-  
5 assessment of the outstanding health or safety deficiencies within the school district  
6 and provide cost projections to correct the outstanding deficiencies.

7 C. The council shall develop a methodology for prioritizing projects  
8 that will correct the deficiencies.

9 D. After a public hearing and to the extent that money is available in  
10 the fund for such purposes, the council shall approve allocations from the fund on  
11 the established priority basis and, working with the school district and pursuant to  
12 the Procurement Code, enter into construction contracts with contractors to correct  
13 the deficiencies.

14 E. In entering into construction contracts to correct deficiencies  
15 pursuant to this section, the council shall include such terms and conditions as  
16 necessary to ensure that the state money is expended in the most prudent manner  
17 possible and consistent with the original purpose.

18 F. Any deficiency that may adversely affect the health or safety of  
19 students or school personnel may be corrected pursuant to this section, regardless  
20 of the local effort or percentage of indebtedness of the school district.

21 G. It is the intent of the legislature that all outstanding deficiencies in  
22 public schools and grounds that may adversely affect the health or safety of  
23 students and school personnel be identified and awards made pursuant to this  
24 section no later than June 30, 2005, and that funds be expended no later than June  
25 30, 2007."

Section 9. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235,  
Section 5, as amended) is amended to read:

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

3 A. Applications for grant assistance, the approval of applications, the  
4 prioritization of projects and grant awards shall be conducted pursuant to the  
5 provisions of this section; provided, however, that the order of priority in the three  
6 years beginning July 1, 2004 shall first reflect those projects that were partially  
7 funded by the council in September 2003 but are not as yet completed, excluding  
8 expansion of those projects and contingent upon maintenance of the required local  
9 support. In that transition period, such projects shall be funded regardless of any  
10 deviation from the statewide adequacy standards; provided, that the amount of the  
11 award received shall not exceed the amount necessary to meet the statewide  
12 adequacy standards, including projected enrollment growth.

13 B. Except as provided in Subsection A of this section and in Section  
14 22-24-5.5 NMSA 1978, the following provisions govern grant assistance from the  
15 fund for a public school capital outlay project not wholly funded pursuant to Section  
16 22-24-4.1 NMSA 1978:

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

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

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

24 (b) in an emergency in which the health or safety of  
25 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;

1 (3) the council shall establish criteria to be used in public  
2 school capital outlay projects that receive grant assistance pursuant to the Public  
3 School Capital Outlay Act. In establishing the criteria, the council shall consider:  
4 (a) the feasibility of using design, build and finance  
5 arrangements for public school capital outlay projects;  
6 (b) the potential use of more durable construction  
7 materials that may reduce long-term operating costs; and  
8 (c) any other financing or construction concept that  
9 may maximize the dollar effect of the state grant assistance;  
10 (4) no more than ten percent of the combined total of grants  
11 in a funding cycle shall be used for retrofitting existing facilities for technology  
12 infrastructure;  
13 (5) except as provided in Paragraph (6) or (8) of this  
14 subsection, the state share of a project approved and ranked by the council shall be  
15 funded within available resources in accordance with the following procedure:  
16 (a) the final prior year net taxable value for a school  
17 district divided by the MEM for that school district is calculated for each school  
18 district;  
19 (b) the final prior year net taxable value for the whole  
20 state divided by the MEM for the state is calculated;  
21 (c) excluding any school district for which the result  
22 calculated pursuant to Subparagraph (a) of this paragraph is more than twice the  
23 result calculated pursuant to Subparagraph (b) of this paragraph, the results  
24 calculated pursuant to Subparagraph (a) of this paragraph are listed from highest to  
25 lowest;  
(d) the lowest value listed pursuant to Subparagraph  
(c) of this paragraph is subtracted from the highest value listed pursuant to that



1 subparagraph;

2 (e) the value calculated pursuant to Subparagraph (a)  
3 of this paragraph for the subject school district is subtracted from the highest value  
4 listed in Subparagraph (c) of this paragraph;

5 (f) the result calculated pursuant to Subparagraph (e)  
6 of this paragraph is divided by the result calculated pursuant to Subparagraph (d) of  
7 this paragraph;

8 (g) the sum of the property tax mill levies for the prior  
9 tax year imposed by each school district on residential property pursuant to Chapter  
10 22, Article 18 NMSA 1978, the Public School Capital Improvements Act, the Public  
11 School Buildings Act, the Education Technology Equipment Act and Paragraph (2)  
12 of Subsection B of Section 7-37-7 NMSA 1978 is calculated for each school district;

13 (h) the lowest value calculated pursuant to  
14 Subparagraph (g) of this paragraph is subtracted from the highest value calculated  
15 pursuant to that subparagraph;

16 (i) the lowest value calculated pursuant to  
17 Subparagraph (g) of this paragraph is subtracted from the value calculated pursuant  
18 to that subparagraph for the subject school district;

19 (j) the value calculated pursuant to Subparagraph (i)  
20 of this paragraph is divided by the value calculated pursuant to Subparagraph (h) of  
21 this paragraph;

22 (k) if the value calculated for a subject school district  
23 pursuant to Subparagraph (j) of this paragraph is less than five-tenths, then, except  
24 as provided in Subparagraph (n) or (o) of this paragraph, the value calculated for  
25 that school district pursuant to Subparagraph (f) of this paragraph equals the portion  
of the approved project to be funded from the fund;

(l) if the value calculated for a subject school district

1 pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then that  
2 value is multiplied by five-hundredths;

3 (m) if the value calculated for a subject school district  
4 pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then the  
5 value calculated pursuant to Subparagraph (l) of this paragraph is added to the  
6 value calculated pursuant to Subparagraph (f) of this paragraph. Except as  
7 provided in Subparagraph (n) or (o) of this paragraph, the sum equals the portion of  
8 the approved project to be funded from the fund;

9 (n) in those instances in which the calculation  
10 pursuant to Subparagraph (k) or (m) of this paragraph yields a value less than one-  
11 tenth, one-tenth shall be used as the portion of the approved project to be funded  
12 from the fund;

13 (o) in those instances in which the calculation  
14 pursuant to Subparagraph (k) or (m) of this paragraph yields a value greater than  
15 one, one shall be used as the portion of the approved project to be funded from the  
16 fund;

17 (p) except as reduced pursuant to Paragraph (6) of  
18 this subsection, the amount to be distributed from the fund for an approved project  
19 shall equal the value for the subject school district derived from Subparagraph (k),  
20 (m), (n) or (o) of this paragraph multiplied by the total project cost; and

21 (q) as used in this paragraph: 1) "MEM" means the  
22 total full-time equivalent enrollment of students attending public school in a school  
23 district in the final funded prior school year; and 2) "total project cost" means the  
24 total amount necessary to complete the public school capital outlay project less any  
25 insurance reimbursement received by the school district for the project;

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

1 (a) the total of all legislative appropriations made after SF  
2 January 1, 2003 directly to, and not rejected by, the subject school district for C  
3 non-operating purposes, excluding educational technology and reauthorizations of /  
4 appropriations previously made to the subject school district, is calculated; provided S  
5 that an appropriation made in a fiscal year shall be deemed to be accepted by a B  
6 school district unless, prior to July 15 of the fiscal year following the appropriation, 3  
7 the district notifies the department of finance and administration and the public 9  
8 education department that the district is rejecting the appropriation; 9  
9 (b) the applicable amount for the subject school P  
10 district calculated from Subparagraph (k), (m), (n) or (o) of Paragraph (5) of this a  
11 subsection is subtracted from one; g  
12 (c) the value calculated pursuant to Subparagraph (a) e  
13 of this paragraph for the subject school district is multiplied by the amount 1  
14 calculated pursuant to Subparagraph (b) of this paragraph for that school district; 9  
15 (d) the total amount of reductions for the subject  
16 school district previously made pursuant to Subparagraph (e) of this paragraph for  
17 other approved public school capital outlay projects is subtracted from the amount  
18 calculated pursuant to Subparagraph (c) of this paragraph; and  
19 (e) the amount calculated pursuant to Subparagraph  
20 (p) of Paragraph (5) of this subsection shall be reduced by the amount calculated  
21 pursuant to Subparagraph (d) of this paragraph;  
22 (7) as used in Paragraphs (5) and (6) of this subsection,  
23 "subject school district" means the school district that has submitted the application  
24 for funding and in which the approved public school capital outlay project will be  
25 located;  
(8) in those instances in which a school district has used all  
of its local resources, the council may fund up to the total amount of a project; and

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

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

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

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

11 (d) the school district has submitted a five-year  
12 facilities plan that includes: 1) enrollment projections; 2) a current preventive  
13 maintenance plan that has been approved by the council pursuant to Section  
14 22-24-5.3 NMSA 1978 and that is followed by each public school in the district; and  
15 3) projections for the facilities needed in order to maintain a full-day kindergarten  
16 program;

17 (e) the school district is willing and able to pay any  
18 portion of the total cost of the public school capital outlay project that, according to  
19 Paragraph (5), (6) or (8) of this subsection, is not funded with grant assistance from  
20 the fund;

21 (f) the application includes the capital needs of any  
22 charter schools located in the school district or the school district has shown that  
23 the facilities of the charter schools in the district meet the statewide adequacy  
24 standards; and

25 (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.

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

10 D. It is the intent of the legislature that grant assistance made 2  
11 pursuant to this section allow every school district to meet the standards developed 1  
12 pursuant to Subsection C of this section; provided, however, that nothing in the  
13 Public School Capital Outlay Act or the development of standards pursuant to that  
14 act prohibits a school district from using local funds to exceed the statewide  
15 adequacy standards.

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

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

24 G. Upon the recommendation of the public school facilities authority,  
25 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.

H. No later than December 15 of each year, the council shall

1 prepare a report summarizing its activities during the previous fiscal year. The  
2 report shall describe in detail all projects funded, the progress of projects previously  
3 funded but not completed, the criteria used to prioritize and fund projects and all  
4 other council actions. The report shall be submitted to the public education  
5 commission, the governor, the legislative finance committee, the legislative  
6 education study committee and the legislature."

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7 Section 10. A new section of the Public School Capital Outlay Act, Section  
8 22-24-5.5 NMSA 1978, is enacted to read:

9 "22-24-5.5. RECALCITRANT SCHOOL DISTRICTS--COURT ACTION TO  
10 ENFORCE CONSTITUTIONAL COMPLIANCE--IMPOSITION OF PROPERTY  
11 TAX.--

12 A. The council may bring an action against a school district pursuant  
13 to the provisions of this section if, based upon information submitted to the council  
14 by the public school facilities authority, the council determines that:

15 (1) the physical condition of a public school facility in the  
16 school district is so inadequate that the facility or the education received by  
17 students attending the facility is below the minimum required by the constitution of  
18 New Mexico;

19 (2) the school district is not taking the necessary steps to  
20 bring the facility up to the constitutionally required minimum; and

21 (3) either:

22 (a) the school district has not applied for the grant  
23 assistance necessary to bring the facility up to minimum constitutional standards; or

24 (b) the school district is unwilling to meet all of the  
25 requirements for the approval of an application for grant assistance pursuant to  
Paragraph (9) of Subsection B of Section 22-24-5 NMSA 1978.

B. An action brought pursuant to this section shall be brought by the

1 council in the name of the state against the school district in the district court for  
2 Santa Fe county.

3 C. After a hearing and consideration of the evidence, if the court  
4 finds that the council's determination pursuant to Subsection A of this section was  
5 correct, the court shall:

6 (1) order the council to expend sufficient resources  
7 necessary to bring the facility up to the minimum level required by the constitution of  
8 New Mexico;

9 (2) order the school district to comply with Paragraph (9) of  
10 Subsection B of Section 22-24-5 NMSA 1978 and to take all other actions  
11 necessary to facilitate the completion of the project ordered pursuant to Paragraph  
12 (1) of this subsection; and

13 (3) enter a judgment against the school district for court  
14 costs and attorney fees and the necessary amount to satisfy the school district  
15 share, as determined by the formula prescribed by Subsection B of Section 22-24-5  
16 NMSA 1978, for the project ordered pursuant to Paragraph (1) of this subsection.

17 D. The amount of a judgment entered against a school district  
18 pursuant to Paragraph (3) of Subsection C of this section is a public debt of the  
19 school district. If the court finds that the debt cannot be satisfied with available  
20 school district funds, other than funds needed for the operation of the public schools  
21 and other existing obligations, the court shall order the imposition of a property tax  
22 on all taxable property allocated to the school district at a rate sufficient to pay the  
23 judgment, with accrued interest, within a reasonable time as determined by the  
24 court. After paying court costs and attorney fees, amounts received pursuant to this  
25 subsection shall be deposited by the council into the fund."

Section 11. Section 22-24-9 NMSA 1978 (being Laws 2003, Chapter 147,  
Section 1) is amended to read:

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1 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--

2 CREATION--POWERS AND DUTIES.--

3 A. The "public school facilities authority" is created under the  
4 council. The authority shall be headed by a director, selected by the council, who  
5 shall be versed in construction, architecture or project management. The director  
6 may hire no more than two deputies with the approval of the council, and, subject to  
7 budgetary constraints, shall employ or contract with such technical and  
8 administrative personnel as are necessary to carry out the provisions of this section.

9 The director and deputies shall be exempt from the provisions of the Personnel  
10 Act; after July 1, 2005, all other employees of the authority shall be subject to the  
11 provisions of the Personnel Act.

12 B. The authority shall:

- 13 (1) serve as staff to the council;
- 14 (2) as directed by the council, provide those assistance and  
15 oversight functions required of the council by Section 22-24-5.1 NMSA 1978;
- 16 (3) assist school districts with:
- 17 (a) the development and implementation of five-year  
18 facilities plans and preventive maintenance plans;
- 19 (b) procurement of architectural and engineering  
20 services;
- 21 (c) management and oversight of construction  
22 activities; and
- 23 (d) training programs;
- 24 (4) conduct ongoing reviews of five-year facilities plans,  
25 preventive maintenance plans and performance pursuant to those plans;
- (5) as directed by the council, assist school districts in  
analyzing and assessing their space utilization options;



1 (6) ensure that public school capital outlay projects are in S  
2 compliance with applicable building codes; F  
3 (7) conduct on-site inspections as necessary to ensure that C  
4 the construction specifications are being met and periodically inspect all of the /  
5 documents related to projects; S  
6 (8) require the use of standardized construction documents B  
7 and the use of a standardized process for change orders; 3  
8 (9) have access to the premises of a project and any 9  
9 documentation relating to the project; 9  
10 (10) after consulting with the department, recommend P  
11 building standards for public school facilities to the council and ensure compliance a  
12 with building standards adopted by the council; g  
13 (11) maintain a database of the condition of school facilities e  
14 and maintenance schedules; and 2  
15 (12) ensure that outstanding deficiencies are corrected 5  
16 pursuant to Section 22-24-4.1 NMSA 1978. In the performance of this duty, the  
17 authority:  
18 (a) shall work with school districts to validate the  
19 assessment of the outstanding deficiencies and the projected costs to correct the  
20 deficiencies;  
21 (b) shall work with school districts to provide direct  
22 oversight of the management and construction of the projects that will correct the  
23 outstanding deficiencies;  
24 (c) shall oversee all aspects of the contracts entered  
25 into by the council to correct the outstanding deficiencies;  
(d) may conduct on-site inspections while the  
deficiencies correction work is being done to ensure that the construction

1 specifications are being met and may periodically inspect all of the documents  
2 relating to the projects;  
3 (e) may require the use of standardized construction  
4 documents and the use of a standardized process for change orders;  
5 (f) may access the premises of a project and any  
6 documentation relating to the project; and  
7 (g) shall maintain, track and account for deficiency  
8 correction projects separately from other capital outlay projects funded pursuant to  
9 the Public School Capital Outlay Act.

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10 C. All actions taken by the authority shall be consistent with  
11 educational programs conducted pursuant to the Public School Code. In the event  
12 of any potential or perceived conflict between a proposed action of the authority and  
13 an educational program, the authority shall consult with the secretary of public  
14 education.

15 D. A school district, aggrieved by a decision or recommendation of  
16 the authority, may appeal the matter to the council by filing a notice of appeal with  
17 the council within thirty days of the authority's decision or recommendation. Upon  
18 filing of the notice:

19 (1) the decision or recommendation of the authority shall be  
20 suspended until the matter is decided by the council;

21 (2) the council shall hear the matter at its next regularly  
22 scheduled hearing or at a special hearing called by the chair for that purpose;

23 (3) at the hearing, the school district, the authority and other  
24 interested parties may make informal presentations to the council; and

25 (4) the council shall finally decide the matter within ten days  
after the hearing."

1 5, Section 2, as amended) is amended to read:

2 "22-25-2. DEFINITIONS.--As used in the Public School Capital  
3 Improvements Act:

4 A. "program unit" means the product of the program element  
5 multiplied by the applicable cost differential factor, as defined in Section 22-8-2  
6 NMSA 1978; and

7 B. "capital improvements" means expenditures, including payments  
8 made with respect to lease-purchase arrangements as defined in the Education  
9 Technology Equipment Act but excluding any other debt service expenses, for:

10 (1) erecting, remodeling, making additions to, providing  
11 equipment for or furnishing public school buildings;

12 (2) purchasing or improving public school grounds;

13 (3) maintenance of public school buildings or public school  
14 grounds, including expenditures for technical training and certification for  
15 maintenance and facilities management personnel, but excluding salary expenses  
16 of school district employees;

17 (4) purchasing activity vehicles for transporting students to  
18 extracurricular school activities; and

19 (5) purchasing computer software and hardware for student  
20 use in public school classrooms."

21 Section 13. Section 22-25-7 NMSA 1978 (being Laws 1975 (S.S.), Chapter  
22 5, Section 7, as amended) is amended to read:

23 "22-25-7. IMPOSITION OF TAX--LIMITATION ON EXPENDITURES.--If as  
24 a result of an election held in accordance with the Public School Capital  
25 Improvements Act a majority of the qualified electors voting on the question vote in  
favor of the imposition of the tax, the tax rate shall be certified, unless the local  
school board requests by resolution that a rate be discontinued, by the department

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1 of finance and administration at the rate specified in the resolution authorized under  
2 Section 22-25-3 NMSA 1978 or at any lower rate required by operation of the rate  
3 limitation provisions of Section 7-37-7.1 NMSA 1978 upon the rate specified in the  
4 resolution and be imposed at the rate certified in accordance with the provisions of  
5 the Property Tax Code. The revenue produced by the tax and, except as provided  
6 in Subsection F of Section 22-25-9 NMSA 1978, any state distribution resulting to  
7 the district under the Public School Capital Improvements Act shall be expended  
8 only for the capital improvements specified in the authorizing resolution."

9 Section 14. Section 22-25-9 NMSA 1978 (being Laws 1975 (S.S.), Chapter  
10 5, Section 9, as amended) is amended to read:

11 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING TAX  
12 UNDER CERTAIN CIRCUMSTANCES.--

13 A. Except as provided in Subsection C of this section, the secretary  
14 of public education shall distribute to any school district that has imposed a tax  
15 under the Public School Capital Improvements Act an amount from the public  
16 school capital improvements fund that is equal to the amount by which the revenue  
17 estimated to be received from the imposed tax, at the rate certified by the  
18 department of finance and administration in accordance with Section 22-25-7  
19 NMSA 1978, assuming a one hundred percent collection rate, is less than an  
20 amount calculated by multiplying the school district's first forty days' total program  
21 units by the amount specified in Subsection B of this section and further multiplying  
22 the product obtained by the tax rate approved by the qualified electors in the most  
23 recent election on the question of imposing a tax under the Public School Capital  
24 Improvements Act. The distribution shall be made each year that the tax is  
25 imposed in accordance with Section 22-25-7 NMSA 1978; provided that no state  
distribution from the public school capital improvements fund may be used for  
capital improvements to any administration building of a school district. In the event

1 that sufficient funds are not available in the public school capital improvements fund  
2 to make the state distribution provided for in this section, the dollar per program unit  
3 figure shall be reduced as necessary.

4 B. In calculating the state distribution pursuant to Subsection A of  
5 this section, the following amounts shall be used:

6 (1) the amount calculated pursuant to Subsection D of this  
7 subsection per program unit; and

8 (2) for fiscal year 2006 and thereafter, an additional amount  
9 certified to the secretary of public education by the public school capital outlay  
10 council. No later than June 1, 2005 and each June 1 thereafter, the council shall  
11 determine the amount needed in the next fiscal year for public school capital outlay  
12 projects pursuant to the Public School Capital Outlay Act and the amount of  
13 revenue, from all sources, available for the projects. If, in the sole discretion of the  
14 council, the amount available exceeds the amount needed, the council may certify  
15 an additional amount pursuant to this paragraph; provided that the sum of the  
16 amount calculated pursuant to this paragraph plus the amount in Paragraph (1) of  
17 this subsection shall not result in a total statewide distribution that, in the opinion of  
18 the council, exceeds one-half of the total revenue estimated to be received from  
19 taxes imposed pursuant to the Public School Capital Improvements Act.

20 C. For fiscal year 2004 and thereafter, notwithstanding the amount  
21 calculated to be distributed pursuant to Subsections A and B of this section, a  
22 school district, the voters of which have approved a tax pursuant to Section 22-25-3  
23 NMSA 1978, shall not receive a distribution less than the amount calculated  
24 pursuant to Subsection E of this section, multiplied by the school district's first forty  
25 days' total program units and further multiplying the product obtained by the  
approved tax rate.

D. For purposes of calculating the distribution pursuant to

1 Subsection B of this section, the amount used in Paragraph (1) of that subsection  
2 shall equal fifty dollars (\$50.00) through fiscal year 2005 and in each subsequent  
3 fiscal year shall equal the amount for the previous fiscal year adjusted by the  
4 percentage increase between the next preceding calendar year and the preceding  
5 calendar year of the consumer price index for the United States, all items, as  
6 published by the United States department of labor.

7 E. For purposes of calculating the minimum distribution pursuant to  
8 Subsection C of this section, the amount used in that subsection shall equal five  
9 dollars (\$5.00) through fiscal year 2005 and in each subsequent fiscal year shall  
10 equal the amount for the previous fiscal year adjusted by the percentage increase  
11 between the next preceding calendar year and the preceding calendar year of the  
12 consumer price index for the United States, all items, as published by the United  
13 States department of labor.

14 F. In expending distributions made pursuant to this section, school  
15 districts shall give priority to maintenance projects.

16 G. In making distributions pursuant to this section, the secretary of  
17 public education shall include such reporting requirements and conditions as are  
18 required by rule of the public school capital outlay council. The council shall adopt  
19 such requirements and conditions as are necessary to ensure that the distributions  
20 are expended in the most prudent manner possible and are consistent with the  
21 original purpose as specified in the authorizing resolution. Copies of reports or  
22 other information received by the secretary in response to the requirements and  
23 conditions shall be forwarded to the council."

24 Section 15. TEMPORARY PROVISION--SHORT-TERM SUPPLEMENTAL  
25 SEVERANCE TAX BONDS AUTHORIZED FOR FISCAL YEAR 2004.--

A. In addition to the bonds issued pursuant to Section 7-27-14  
NMSA 1978 and notwithstanding the limitations of that section, in compliance with

1 the Severance Tax Bonding Act, in fiscal year 2004 the state board of finance may  
2 issue and sell supplemental severance tax bonds with a term that does not extend  
3 beyond the fiscal year in which they are issued in an amount not exceeding fifty-  
4 seven million dollars (\$57,000,000) when the public school capital outlay council  
5 certifies by resolution the need for the issuance of the bonds. The proceeds from  
6 the sale of the bonds are appropriated to the public school capital outlay fund for  
7 the following purposes:

8 (1) completing projects that have been partially funded by the  
9 public school capital outlay council in September 2003 pursuant to the Public  
10 School Capital Outlay Act; and

11 (2) making awards of grant assistance for correcting  
12 deficiencies pursuant to the Public School Capital Outlay Act.

13 B. No supplemental severance tax bonds shall be issued pursuant  
14 to this section unless the balance in the severance tax bonding fund as of the date  
15 that the bonds are issued is greater than the sum of:

16 (1) the debt service on the supplemental severance tax  
17 bonds to be issued pursuant to this section;

18 (2) the debt service scheduled to be paid during the  
19 remainder of the fiscal year on all outstanding severance tax bonds and  
20 supplemental severance tax bonds; and

21 (3) the amount necessary to meet all principal and interest  
22 payments on outstanding bonds payable from the severance tax bonding fund on  
23 the next two ensuing semiannual payment dates.

24 Section 16. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL  
25 OUTLAY TASK FORCE--CREATION--STAFF.--

A. The "public school capital outlay task force" is created. The task  
force consists of twenty members as follows:

- 1 (1) the dean of the university of New Mexico school of law or S
- 2 the dean's designee; F
- 3 (2) the secretary of finance and administration or the C
- 4 secretary's designee; /
- 5 (3) the secretary of public education or the secretary's S
- 6 designee; B
- 7 (4) the state investment officer or the state investment 3
- 8 officer's designee; 9
- 9 (5) the chairmen of the house appropriations and finance 9
- 10 committee, the senate finance committee, the senate education committee and the P
- 11 house education committee or their designees; a
- 12 (6) a minority party member of the house of representatives, g
- 13 appointed by the New Mexico legislative council; e
- 14 (7) a minority party member of the senate, appointed by the 3
- 15 New Mexico legislative council; 2
- 16 (8) two public members who have expertise in education and
- 17 finance appointed by the speaker of the house of representatives;
- 18 (9) two public members who have expertise in education and
- 19 finance appointed by the president pro tempore of the senate;
- 20 (10) three public members who have expertise in education
- 21 and finance appointed by the governor; and
- 22 (11) three superintendents of school districts or their
- 23 designees that receive grants from the federal government as assistance to areas
- 24 affected by federal activity authorized in accordance with Title 20 of the United
- 25 States Code, appointed by the New Mexico legislative council in consultation with
- the governor.

B. The chair of the public school capital outlay task force shall be



1 elected by the task force. The task force shall meet at the call of the chair. S

2 C. Members of the task force shall serve from the time of their F  
3 appointment through June 30, 2005. On July 1, 2005, the task force is terminated. C  
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4 D. The public members of the public school capital outlay task force B  
5 shall receive per diem and mileage pursuant to the Per Diem and Mileage Act. 3

6 E. The legislative council service, with assistance from the public 9  
7 school facilities authority, the department of finance and administration, the public 9  
8 education department, the legislative education study committee and the legislative P  
9 finance committee, shall provide staff for the public school capital outlay task force. a  
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10 Section 17. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL 3

11 OUTLAY TASK FORCE--DUTIES.--The public school capital outlay task force shall: 3

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13 A. study and evaluate the progress and effectiveness of programs  
14 administered pursuant to the Public School Capital Outlay Act and the Public  
15 School Capital Improvements Act;

16 B. review the condition index and the methodology used for ranking  
17 projects;

18 C. evaluate the existing permanent revenue streams as an adequate  
19 long-term funding source for public school capital outlay projects;

20 D. monitor and assist the public school capital outlay council and the  
21 public school facilities authority as they perform functions pursuant to the Public  
22 School Capital Outlay Act, particularly as they implement the  
23 statewide-based process for making grant awards; and

24 E. before the beginning of the first session of the forty-seventh  
25 legislature, report the results of its analyses, findings and recommendations to the  
governor and the legislature.

Section 18. TEMPORARY PROVISION--NO REDUCTION FOR

1 KINDERGARTEN PROJECTS.--Notwithstanding the provisions of Paragraph (6) of  
2 Subsection B of Section 22-24-5 NMSA 1978, no reduction calculated pursuant to  
3 that paragraph shall take into account any appropriation in the 2004 Capital  
4 Projects General Obligation Bond Act to a school district for full-day kindergarten  
5 projects.

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6 Section 19. TEMPORARY PROVISION--REAUTHORIZATION.--In addition  
7 to its original purpose, the balance of the appropriation made from the general fund  
8 to the public school capital outlay fund pursuant to Subsection D of Section 15 of  
9 Chapter 338 of Laws 2001 may be used to carry out all of the provisions of the  
10 Public School Capital Outlay Act, and the period of time in which the appropriation  
11 may be expended is extended through fiscal year 2007. Any unexpended or  
12 unencumbered balance remaining at the end of fiscal year 2007 shall not revert but  
13 shall be used for the purpose of providing grant assistance pursuant to the Public  
14 School Capital Outlay Act.

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15 Section 20. REPEAL.--Section 22-24-5.2 NMSA 1978 (being Laws 2001,  
16 Chapter 328, Section 3) is repealed.

17 Section 21. EFFECTIVE DATE.--The effective date of the provisions of  
18 Section 2 of this act is July 1, 2004.

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