

FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007

HB 328/a

March 7, 2007

Madam President:

Your **EDUCATION COMMITTEE**, to whom has been referred

HOUSE BILL 328, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, lines 20 and 21, strike "TO AUTHORIZE THE IMPOSITION OF AN ADDITIONAL MILL AND".

2. On page 2, line 3, after the semicolon insert:

"CREATING THE PUBLIC SCHOOL FACILITY OPPORTUNITY FUND; AUTHORIZING GRANTS FROM THE FUND TO CERTAIN SCHOOL DISTRICTS FOR CERTAIN PURPOSES; PROVIDING THAT A PORTION OF THE UNENCUMBERED BALANCE OF CERTAIN GENERAL FUND APPROPRIATIONS SHALL REVERT TO THE FUND; PROVIDING THAT A PORTION OF EACH SPECIAL APPROPRIATION FOR A PUBLIC SCHOOL SHALL BE SET ASIDE AND TRANSFERRED TO THE FUND; PROVIDING THAT CERTAIN COMPONENTS MAY BE SEPARATELY PRICED IN SCHOOL CONSTRUCTION CONTRACTS;"

3. On page 6, between lines 23 and 24, insert the following new section:

"Section 2. A new section of the Procurement Code is enacted to read:

"[NEW MATERIAL] SCHOOL CONSTRUCTION PROJECTS--SEPARATE PRICING REQUIRED IN CERTAIN CIRCUMSTANCES.--Prior to submitting a bid or proposal for a state or local public works project for the construction of a public school facility, if the central purchasing office or a responsible bidder or responsible offeror determines that there is only one source for a specific service, construction or item of tangible personal property that is required in the specifications, then the central purchasing office, responsible bidder or responsible offeror may require any bid or offer submitted

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by a subcontractor or supplier to separately price the specific service, construction or item of tangible personal property."".

4. On page 17, line 4, after "period" strike the remainder of the line and strike line 5 through "projects".

5. On page 17, between lines 8 and 9, insert the following new section:

"Section 5. Section 22-24-4.4 NMSA 1978 (being Laws 2005, Chapter 274, Section 7) is amended to read:

"22-24-4.4. SERIOUS ROOF DEFICIENCIES--CORRECTION.--

A. To complete the program to correct outstanding deficiencies, those serious deficiencies in the roofs of public school facilities identified pursuant to Section 22-24-4.1 NMSA 1978 as adversely affecting the health or safety of students and school personnel shall be corrected pursuant to this section, regardless of the local effort or percentage of indebtedness of the school district, subject to the following provisions:

(1) if the council determines that the school district has excess capital improvement funds received pursuant to the Public School Capital Improvements Act, the cost of correcting the deficiencies shall first come from the school district's excess funds, and if the excess funds are insufficient to correct the deficiencies, the difference shall be paid from the public school capital outlay fund; and

(2) if the school district refuses to pay its share of the cost of correcting deficiencies as determined pursuant to Paragraph (1) of this subsection, future distributions from the public school capital improvements fund pursuant to Section 22-25-9 NMSA 1978 shall not be made to the school district but shall be made to the public school capital outlay fund until the public school capital outlay fund is reimbursed in full for the school district's

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share.

B. It is the intent of the legislature that all awards for correcting outstanding deficiencies in public school roofs that may adversely affect the health and safety of students and school personnel be made pursuant to this section no later than September 30, 2005 and that funds be expended no later than September 30, [2007] 2008."

6. On page 29, line 5, after "unless" strike the remainder of the line and strike line 6 through the comma.

7. On page 29, line 7, after "that" insert ", prior to the purchase of the facility by the school district or charter school,".

8. On page 29, line 23, strike "shall" and insert in lieu thereof "or charter school may".

9. On page 33, strike lines 3 and 4 and insert in lieu thereof:

"(2) averaged over the previous four property tax years, the school district had a".

10. On page 33, line 13, after the comma strike the remainder of the line, strike lines 14 and 15 and strike line 16 through "available" and insert in lieu thereof "the school district will not have sufficient".

11. On page 33, line 21, after "district" insert ", will further the school district's educational plan for student success".

12. On page 34, between lines 11 and 12, insert the following new sections:

"Section 8. A new section of the Public School Capital Outlay Act, Section 22-24-12 NMSA 1978, is enacted to read:

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"22-24-12. [NEW MATERIAL] PUBLIC SCHOOL FACILITY OPPORTUNITY FUND--PURPOSE--GRANTS FROM THE FUND.--

A. The legislature finds that for many years, until relatively recently, educational facilities in a few school districts in New Mexico were so inadequate because of a lack of local resources and little support from the state that the quality of education offered to students in those school districts was extremely substandard. The legislature further finds that, even under the current program to bring all public school facilities up to a minimum statewide adequacy standard, because of a continuing shortage in available local resources, some school districts will not be able to exceed that minimum in the foreseeable future and, therefore, will not have the opportunity to provide their students with the same quality of educational facilities as students in school districts that have sufficient local resources to surpass the minimum standards. The purpose of this section is to partially correct those past inequities by providing a program of state support for qualifying school districts so that minimum statewide adequacy standards may be exceeded on stand-alone projects on existing facilities.

B. The "public school facility opportunity fund" is created in the state treasury. The fund shall consist of transfers, appropriations, reversions, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the council for the purposes of making grants so that the facilities of qualifying school districts may, pursuant to the requirements of this section, exceed statewide adequacy standards. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the public school facilities authority.

C. A school district may apply for a grant from the public school facility opportunity fund if the council determines that:

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(1) the project is included in the school district's five-year facilities plan and the school district meets all qualifications to apply for a grant pursuant to Section 22-24-5 NMSA 1978 and meets the requirements of Subparagraphs (b), (c), (d) and (g) of Paragraph (9) of Subsection B of that section;

(2) the value calculated for the school district pursuant to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is equal to or greater than seven-tenths;

(3) averaged over the previous four property tax years, the school district had a residential property tax rate of at least nine dollars (\$9.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(4) at least seventy percent of the students in the school district are eligible for free or reduced-fee lunch; and

(5) for the next four years, the school district will not have sufficient local resources to expend on school district facilities for the purpose of exceeding the statewide adequacy standards.

D. Applications for grant assistance from the public school facility opportunity fund shall be made by school districts to the council in accordance with the requirements of the council. The council shall, pursuant to criteria adopted by rule, evaluate applications and prioritize those applications most in need of a grant from the fund and, to the extent that money in the fund is available, may award grants for those prioritized applications. The evaluation criteria for school district applications shall be primarily based upon the school district's detailed description of how the proposed facilities or improvements play an essential role

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in the district's programmatic priorities and how they contribute to meeting goals and objectives in the school district or the school educational plan for student success.

E. All provisions of the Public School Capital Outlay Act relating to the expenditure of grants awarded from the public school capital outlay fund, including those relating to reporting, oversight, project access and accountability, apply to the use and expenditure of grants made pursuant to this section. In addition, in awarding grants pursuant to this section, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner."

Section 9. Section 6-5-10 NMSA 1978 (being Laws 1994, Chapter 11, Section 1, as amended) is amended to read:

"6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--COMPLIANCE WITH FEDERAL RULES.--

A. Except as provided in Subsections B and C of this section, all unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting and accounting system as of June 30 shall revert by September 30 to the general fund. The division may adjust the reversion within forty-five days of release of the audit report for that fiscal year.

B. The director of the division may modify a reversion required pursuant to Subsection A of this section if the reversion would violate federal law or rules pertaining to supplanting of state funds with federal funds or other applicable federal provisions.

C. Twenty percent of all unreserved undesignated balances in reverting funds and accounts as of the end of each fiscal year from fiscal year 2008 through fiscal year 2012 shall not revert to the general fund but shall be transferred to the public school facility opportunity fund to be used for grants to school districts

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pursuant to Section 22-24-12 NMSA 1978."

Section 10. [NEW MATERIAL] PUBLIC SCHOOL APPROPRIATIONS FOR NONOPERATING PURPOSES--SET ASIDE FOR PUBLIC SCHOOL FACILITY OPPORTUNITY FUND.--Except for appropriations to or from the public school capital outlay fund, three percent of each appropriation made by the legislature on or after July 1, 2007 for nonoperating purposes, either directly to a school district or a public school or to another governmental entity for the purpose of passing the money through directly to a school district or a public school, shall be set aside and transferred to the public school facility opportunity fund, provided that the amount set aside and transferred pursuant to this section shall not be included in a reduction in the amount of a state grant calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978. The amount shall be set aside and transferred by the secretary of finance and administration:

A. if the appropriation is from severance tax bond proceeds, at the time the severance tax bonds are issued by the state board of finance; or

B. if the appropriation is from the general fund, at such time during the first fiscal year that the appropriation may be expended as deemed appropriate by the secretary."

13. On page 36, lines 2 and 3, strike the underscored language.

14. On page 49, line 18, through page 51, line 11, strike Section 12 in its entirety.

15. On page 53, line 19, after "district" strike the remainder of the line and strike lines 20 through 23 and insert in lieu thereof the following:

"if:

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(1) the charter school timely provides the necessary information to the school district for inclusion on the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used; and

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

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

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

16. On page 55, line 18, after "school" insert "that was included in the resolution".

17. On page 56, between lines 8 and 9, insert the following new section:

"Section 23. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE.--During the 2007 interim, the public school capital outlay oversight task force shall continue to work toward an equitable and fair system that addresses the inequities between public school facilities among various school districts in this state. Toward that end, the task force shall assess the current statewide adequacy standards, the need for changing those standards and the effect upon school districts of any proposed change in the standards.".

18. Renumber all sections in accordance with these amendments.,

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and thence referred to the **FINANCE COMMITTEE**.

Respectfully submitted,

Cynthia Nava, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Papen, Sanchez, M., Sharer

Absent: None

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