

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 395

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO PUBLIC SCHOOL FACILITIES; PROVIDING THAT CERTAIN
SCHOOL CONSTRUCTION PROJECTS MAY BE EXEMPTED FROM SOME STATE
OVERSIGHT; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO
CHANGE THE CRITERIA FOR OFFSETTING AMOUNTS FROM STATE GRANTS,
TO REQUIRE SPACE UTILIZATION TO BE CONSIDERED, TO ALLOW
ADDITIONAL GRANTS TO CERTAIN SCHOOL DISTRICTS, TO INCREASE
GRANTS TO SCHOOLS FOR LEASE PAYMENTS, TO ALLOW CERTAIN
FACILITIES TO BE PURCHASED WITH STATE GRANTS AND TO EXTEND THE
TIME FOR WHICH CERTAIN EXPENDITURES MAY BE MADE; AMENDING THE
PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT TO INCREASE THE STATE
DISTRIBUTION; AMENDING THE PUBLIC SCHOOL BUILDINGS ACT TO ALLOW
REVENUE TO BE USED FOR PROJECT MANAGEMENT, TO INCREASE THE
PERIOD FOR WHICH A TAX MAY BE IMPOSED AND TO AUTHORIZE DIRECT
PAYMENT OF REVENUE TO CHARTER SCHOOLS; ALLOWING CHARTER SCHOOLS
AND SCHOOL DISTRICTS TO ENTER INTO LEASE AGREEMENTS; ALLOWING

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1 CERTAIN TYPES OF LEASE-PURCHASE ARRANGEMENTS TO BE FUNDED WITH
2 CERTAIN STATE GRANTS AND CERTAIN TAX REVENUES; CREATING THE
3 PUBLIC SCHOOL FACILITY OPPORTUNITY FUND; AUTHORIZING GRANTS
4 FROM THE FUND TO CERTAIN SCHOOL DISTRICTS FOR CERTAIN PURPOSES;
5 PROVIDING THAT A PORTION OF THE UNENCUMBERED BALANCE OF CERTAIN
6 GENERAL FUND APPROPRIATIONS SHALL REVERT TO THE FUND; PROVIDING
7 THAT A PORTION OF EACH SPECIAL APPROPRIATION FOR A PUBLIC
8 SCHOOL SHALL BE SET ASIDE AND TRANSFERRED TO THE FUND;
9 PROVIDING THAT CERTAIN COMPONENTS MAY BE SEPARATELY PRICED IN
10 SCHOOL CONSTRUCTION CONTRACTS; RECOMPILING A CERTAIN SECTION OF
11 THE PUBLIC SCHOOL CODE; RECONCILING MULTIPLE AMENDMENTS TO THE
12 SAME SECTION OF LAW IN LAWS 2006; MAKING APPROPRIATIONS.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 22-20-1 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 270, as amended by Laws 2006, Chapter 94,
17 Section 54 and by Laws 2006, Chapter 95, Section 1) is amended
18 to read:

19 "22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC
20 SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE ADEQUACY
21 STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS APPLICABLE.--

22 A. Except as provided in Subsection D of this
23 section, each local school board or governing body of a charter
24 school shall secure the approval of the director of the public
25 school facilities authority or the director's designee prior to

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1 the construction or letting of contracts for construction of
2 any school building or related school structure or before
3 reopening an existing structure that was formerly used as a
4 school building but that has not been used for that purpose
5 during the previous year. A written application shall be
6 submitted to the director requesting approval of the
7 construction, and, upon receipt, the director shall forward a
8 copy of the application to the secretary. The director shall
9 prescribe the form of the application, which shall include the
10 following:

- 11 (1) a statement of need;
- 12 (2) the anticipated number of students
13 affected by the construction;
- 14 (3) the estimated cost;
- 15 (4) a description of the proposed construction
16 project;
- 17 (5) a map of the area showing existing school
18 attendance centers within a five-mile radius and any
19 obstructions to attending the attendance centers, such as
20 railroad tracks, rivers and limited-access highways; and
21 (6) [~~such~~] other information as may be
22 required by the director.

23 B. The director or the director's designee shall
24 give approval to an application if the director or designee
25 reasonably determines that:

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1 (1) the construction will not cause an
2 unnecessary proliferation of school construction;

3 (2) the construction is needed in the school
4 district or by the charter school;

5 (3) the construction is feasible;

6 (4) the cost of the construction is
7 reasonable;

8 (5) the school district or charter school has
9 submitted a five-year facilities plan that includes:

10 (a) enrollment projections;

11 (b) a current preventive maintenance
12 plan;

13 (c) the capital needs of charter schools
14 [~~located in~~] chartered by the school district, if applicable,
15 or the capital needs of the charter school if it is state-
16 chartered; and

17 (d) projections for the facilities
18 needed in order to maintain a full-day kindergarten program;

19 (6) the construction project:

20 (a) is in compliance with the statewide
21 adequacy standards adopted pursuant to the Public School
22 Capital Outlay Act; and

23 (b) is appropriately integrated into the
24 school district or charter school five-year facilities plan;

25 (7) the school district or charter school is

1 financially able to pay for the construction; and

2 (8) the secretary has certified that the
3 construction will support the educational program of the school
4 district or charter school.

5 C. Within thirty days after the receipt of an
6 application filed pursuant to this section, the director or the
7 director's designee shall in writing notify the local school
8 board or governing body of a charter school making the
9 application and the department of approval or disapproval of
10 the application.

11 D. By rule, the public school capital outlay
12 council may:

13 (1) exempt classes or types of construction
14 from the application and approval requirements of this section;
15 or

16 (2) exempt classes or types of construction
17 from the requirement of approval but, if the council determines
18 that information concerning the construction is necessary for
19 the maintenance of the facilities assessment database, require
20 a description of the proposed construction project and related
21 information to be submitted to the public school facilities
22 authority.

23 [~~D.~~] E. A local school board or governing body of a
24 charter school shall not enter into a contract for the
25 construction of a public school facility, including contracts

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1 funded with insurance proceeds, unless the contract contains
2 provisions requiring the construction to be in compliance with
3 the statewide adequacy standards adopted pursuant to the Public
4 School Capital Outlay Act, provided that, for a contract funded
5 in whole or in part with insurance proceeds:

6 (1) the cost of settlement of any insurance
7 claim shall not be increased by inclusion of the insurance
8 proceeds in the construction contract; and

9 (2) insurance claims settlements shall
10 continue to be governed by insurance policies, memoranda of
11 coverage and rules related to them.

12 [~~E-~~] F. Public school facilities shall be
13 constructed pursuant to state standards or codes promulgated
14 pursuant to the Construction Industries Licensing Act and rules
15 adopted pursuant to Section 59A-52-15 NMSA 1978 for the
16 prevention and control of fires in public occupancies.
17 Building standards or codes adopted by a municipality or county
18 do not apply to the construction of public school facilities,
19 except those structures constructed as a part of an educational
20 program of a school district or charter school.

21 [~~F-~~] G. The provisions of Subsection [~~E~~] F of this
22 section relating to fire protection shall not be effective
23 until the public regulation commission has adopted the
24 International Fire Code and all standards related to that code.

25 [~~G-~~] H. As used in this section, "construction"

1 means any project for which the construction industries
 2 division of the regulation and licensing department requires
 3 permitting and for which the estimated total cost exceeds two
 4 hundred thousand dollars (\$200,000)."

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

7 "[NEW MATERIAL] SCHOOL CONSTRUCTION PROJECTS--SEPARATE
 8 PRICING REQUIRED IN CERTAIN CIRCUMSTANCES.--Prior to submitting
 9 a bid or proposal for a state or local public works project for
 10 the construction of a public school facility, if the central
 11 purchasing office or a responsible bidder or responsible
 12 offeror determines that there is only one source for a specific
 13 service, construction or item of tangible personal property
 14 that is required in the specifications, then the central
 15 purchasing office, responsible bidder or responsible offeror
 16 may require any bid or offer submitted by a subcontractor or
 17 supplier to separately price the specific service, construction
 18 or item of tangible personal property."

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

21 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--
 22 USE.--

23 A. [~~There is created~~] The "public school capital
 24 outlay fund" is created. Balances remaining in the fund at the
 25 end of each fiscal year shall not revert.

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1 B. Except as provided in Section 22-24-5.8 NMSA
2 1978 and in Subsections G through L of this section, money in
3 the fund may be used only for capital expenditures deemed by
4 the council necessary for an adequate educational program.

5 C. The council may authorize the purchase by the
6 public school facilities authority of portable classrooms to be
7 loaned to school districts to meet a temporary requirement.
8 Payment for these purchases shall be made from the fund. Title
9 and custody to the portable classrooms shall rest in the public
10 school facilities authority. The council shall authorize the
11 lending of the portable classrooms to school districts upon
12 request and upon finding that sufficient need exists.

13 Application for use or return of state-owned portable classroom
14 buildings shall be submitted by school districts to the
15 council. Expenses of maintenance of the portable classrooms
16 while in the custody of the public school facilities authority
17 shall be paid from the fund; expenses of maintenance and
18 insurance of the portable classrooms while in the custody of a
19 school district shall be the responsibility of the school
20 district. The council may authorize the permanent disposition
21 of the portable classrooms by the public school facilities
22 authority with prior approval of the state board of finance.

23 D. Applications for assistance from the fund shall
24 be made by school districts to the council in accordance with
25 requirements of the council. Except as provided in Subsection

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1 K of this section, the council shall require as a condition of
2 application that a school district have a current five-year
3 facilities plan, which shall include a current preventive
4 maintenance plan to which the school adheres for each public
5 school in the school district.

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

10 F. Money in the fund shall be disbursed by warrant
11 of the department of finance and administration on vouchers
12 signed by the secretary of finance and administration following
13 certification by the council that an application has been
14 approved or an expenditure has been ordered by a court pursuant
15 to Section 22-24-5.4 NMSA 1978. At the discretion of the
16 council, money for a project shall be distributed as follows:

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

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

25 G. Balances in the fund may be annually

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1 appropriated for the core administrative functions of the
2 public school facilities authority pursuant to the Public
3 School Capital Outlay Act and, in addition, balances in the
4 fund may be expended by the public school facilities authority,
5 upon approval of the council, for project management expenses;
6 provided that:

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

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

14 H. Up to thirty million dollars (\$30,000,000) of
15 the fund may be allocated annually by the council in fiscal
16 years 2006 and 2007 for a roof repair and replacement
17 initiative with projects to be identified by the council
18 pursuant to Section 22-24-4.3 NMSA 1978; provided that all
19 money allocated pursuant to this subsection shall be expended
20 prior to September 1, 2008.

21 I. [~~Up to seven million five hundred thousand~~
22 ~~dollars (\$7,500,000) from~~] The fund may be expended annually by
23 the council in fiscal years 2006 through [~~2010~~] 2020 for grants
24 to school districts for the purpose of making lease payments
25 for classroom facilities, including facilities leased by

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1 charter schools. The grants shall be made upon application by
 2 the school districts and pursuant to rules adopted by the
 3 council; provided that an application on behalf of a charter
 4 school shall be made by the school district but, if the school
 5 district fails to make an application on behalf of a charter
 6 school, the charter school may submit its own application. The
 7 following criteria shall apply to the grants:

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

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

13 (b) [~~six hundred dollars (\$600)~~] seven
 14 hundred dollars (\$700) multiplied by the number of MEM using
 15 the leased classroom facilities; provided that in fiscal year
 16 2009 and in each subsequent fiscal year, this amount shall be
 17 adjusted by the percentage increase between the penultimate
 18 calendar year and the immediately preceding calendar year of
 19 the consumer price index for the United States, all items, as
 20 published by the United States department of labor; and
 21 provided further that if the total grants awarded pursuant to
 22 this paragraph would exceed the total annual amount available,
 23 the rate specified in this subparagraph shall be reduced
 24 proportionately;

25 (2) a grant received for the lease payments of

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1 a charter school may be used by that charter school as a state
2 match necessary to obtain federal grants pursuant to the
3 federal No Child Left Behind Act of 2001;

4 (3) at the end of each fiscal year, any
5 unexpended or unencumbered balance of the appropriation shall
6 revert to the fund; ~~and~~

7 (4) if the lease payments are made pursuant to
8 a financing agreement under which the facilities may be
9 purchased for a price that is reduced according to the lease
10 payments made:

11 (a) a grant shall not be made unless the
12 council determines that the leased facilities meet the
13 statewide adequacy standards; and

14 (b) neither a grant nor any provision of
15 the Public School Capital Outlay Act creates a legal obligation
16 for the school district or charter school to continue the lease
17 from year to year or to purchase the facilities nor does it
18 create a legal obligation for the state to make subsequent
19 grants pursuant to the provisions of this subsection;

20 (5) the total amount expended from the fund
21 pursuant to this subsection shall not exceed:

22 (a) seven million five hundred thousand
23 dollars (\$7,500,000) in fiscal year 2007; and

24 (b) in fiscal year 2008 and each
25 subsequent fiscal year, the maximum amount for the previous

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

6 [~~4~~] (6) as used in this subsection:

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

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

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

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1 school facilities authority to reimburse the state fire
2 marshal, the construction industries division of the regulation
3 and licensing department and local jurisdictions having
4 authority from the state to permit and inspect projects for
5 expenditures made to permit and inspect projects funded in
6 whole or in part under the Public School Capital Outlay Act.
7 The authority shall enter into contracts with the state fire
8 marshal, the construction industries division or the
9 appropriate local authorities to carry out the provisions of
10 this subsection.

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

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

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

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1 (a) the school district has fewer than
2 an average of six hundred full-time-equivalent students on the
3 eightieth and one hundred twentieth days of the prior school
4 year; or

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

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

24 (1) the costs of continuing to insure an
25 abandoned facility outweigh any potential benefit when and if a

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1 new facility is needed by the school district;

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

5 (3) the council may enter into an agreement
6 with the school district under which an amount equal to the
7 savings to the district in lower insurance premiums are used to
8 fully or partially reimburse the fund for the demolition costs
9 allocated to the district."

10 Section 4. Section 22-24-4.1 NMSA 1978 (being Laws 2001,
11 Chapter 338, Section 6, as amended) is amended to read:

12 "22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--
13 CORRECTION.--

14 A. No later than September 1, 2001, the council
15 shall define and develop guidelines, consistent with the codes
16 adopted by the construction industries commission pursuant to
17 the Construction Industries Licensing Act, for school districts
18 to use to identify outstanding serious deficiencies in public
19 school buildings and grounds, including buildings and grounds
20 of charter schools, that may adversely affect the health or
21 safety of students and school personnel.

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

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

3 D. After a public hearing and to the extent that
4 money is available in the fund for such purposes, the council
5 shall approve allocations from the fund on the established
6 priority basis and, working with the school district and
7 pursuant to the Procurement Code, enter into construction
8 contracts with contractors to correct the deficiencies.

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

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

18 G. It is the intent of the legislature that all
19 outstanding deficiencies in public schools and grounds that may
20 adversely affect the health or safety of students and school
21 personnel be identified and awards made pursuant to this
22 section no later than June 30, 2005, and that funds be expended
23 no later than June 30, 2007, provided that the council may
24 extend the expenditure period upon a determination that a
25 project requires the additional time because existing buildings

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1 need to be demolished or because of other extenuating
2 circumstances."

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

5 "22-24-4.4. SERIOUS ROOF DEFICIENCIES--CORRECTION.--

6 A. To complete the program to correct outstanding
7 deficiencies, those serious deficiencies in the roofs of public
8 school facilities identified pursuant to Section 22-24-4.1 NMSA
9 1978 as adversely affecting the health or safety of students
10 and school personnel shall be corrected pursuant to this
11 section, regardless of the local effort or percentage of
12 indebtedness of the school district, subject to the following
13 provisions:

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

21 (2) if the school district refuses to pay its
22 share of the cost of correcting deficiencies as determined
23 pursuant to Paragraph (1) of this subsection, future
24 distributions from the public school capital improvements fund
25 pursuant to Section 22-25-9 NMSA 1978 shall not be made to the

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1 school district but shall be made to the public school capital
 2 outlay fund until the public school capital outlay fund is
 3 reimbursed in full for the school district's share.

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

10 Section 6. Section 22-24-5 NMSA 1978 (being Laws 1975,
 11 Chapter 235, Section 5, as amended) is amended to read:

12 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
 13 APPLICATION--GRANT ASSISTANCE.--

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

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

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

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

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

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

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

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

19 (b) the potential use of more durable
20 construction materials that may reduce long-term operating
21 costs; [~~and~~]

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

24 [~~e~~] (d) any other financing or
25 construction concept that may maximize the dollar effect of the

1 state grant assistance;

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

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

12 (a) the final prior year net taxable
13 value for a school district divided by the MEM for that school
14 district is calculated for each school district;

15 (b) the final prior year net taxable
16 value for the whole state divided by the MEM for the state is
17 calculated;

18 (c) excluding any school district for
19 which the result calculated pursuant to Subparagraph (a) of
20 this paragraph is more than twice the result calculated
21 pursuant to Subparagraph (b) of this paragraph, the results
22 calculated pursuant to Subparagraph (a) of this paragraph are
23 listed from highest to lowest;

24 (d) the lowest value listed pursuant to
25 Subparagraph (c) of this paragraph is subtracted from the

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1 highest value listed pursuant to that subparagraph;

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

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

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

16 (h) the lowest value calculated pursuant
17 to Subparagraph (g) of this paragraph is subtracted from the
18 highest value calculated pursuant to that subparagraph;

19 (i) the lowest value calculated pursuant
20 to Subparagraph (g) of this paragraph is subtracted from the
21 value calculated pursuant to that subparagraph for the subject
22 school district;

23 (j) the value calculated pursuant to
24 Subparagraph (i) of this paragraph is divided by the value
25 calculated pursuant to Subparagraph (h) of this paragraph;

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1 (k) if the value calculated for a
2 subject school district pursuant to Subparagraph (j) of this
3 paragraph is less than five-tenths, then, except as provided in
4 Subparagraph (n) or (o) of this paragraph, the value for that
5 school district equals the value calculated pursuant to
6 Subparagraph (f) of this paragraph;

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

11 (m) if the value calculated for a
12 subject school district pursuant to Subparagraph (j) of this
13 paragraph is five-tenths or greater, then the value calculated
14 pursuant to Subparagraph (l) of this paragraph is added to the
15 value calculated pursuant to Subparagraph (f) of this
16 paragraph. Except as provided in Subparagraph (n) or (o) of
17 this paragraph, the sum equals the value for that school
18 district;

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

23 (o) in those instances in which the
24 calculation pursuant to Subparagraph (k) or (m) of this
25 paragraph yields a value greater than one, one shall be used as

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1 the value for the subject school district;

2 (p) except as provided in Section
3 22-24-5.7 or 22-24-5.8 NMSA 1978 and except as [~~reduced~~]
4 adjusted pursuant to Paragraph (6) or (8) of this subsection,
5 the amount to be distributed from the fund for an approved
6 project shall equal the total project cost multiplied by a
7 fraction the numerator of which is the value calculated for the
8 subject school district in the current year plus the value
9 calculated for that school district in each of the two
10 preceding years and the denominator of which is three; and

11 (q) as used in this paragraph: 1) "MEM"
12 means the average full-time-equivalent enrollment of students
13 attending public school in a school district on the eightieth
14 and one hundred twentieth days of the prior school year; [~~and~~]
15 2) "total project cost" means the total amount necessary to
16 complete the public school capital outlay project less any
17 insurance reimbursement received by the school district for the
18 project; and 3) in the case of a state-chartered charter school
19 that has submitted an application for grant assistance pursuant
20 to this section, the "value calculated for the subject school
21 district" means the value calculated for the school district in
22 which the state-chartered charter school is physically located;

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

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1 (a) the total of all legislative
 2 appropriations made after January 1, 2003 for nonoperating
 3 purposes either directly to the subject school district or to
 4 another governmental entity for the purpose of passing the
 5 money through directly to the subject school district, and not
 6 rejected by the subject school district, [~~but excluding~~
 7 ~~educational technology appropriations made prior to January 1,~~
 8 ~~2005 and reauthorizations of appropriations previously made to~~
 9 ~~the subject school district]~~ is calculated; provided that: 1)
 10 an appropriation made in a fiscal year shall be deemed to be
 11 accepted by a school district unless, prior to June 1 of that
 12 fiscal year, the school district notifies the department of
 13 finance and administration and the public education department
 14 that the district is rejecting the appropriation; [~~provided~~
 15 ~~further that the total shall be increased by an amount,~~
 16 ~~certified to the council by the department, equal to the~~
 17 ~~educational technology appropriations made to the subject~~
 18 ~~school district on or after January 1, 2003 and prior to~~
 19 ~~January 1, 2005 and not previously used to offset distributions~~
 20 ~~pursuant to the Technology for Education Act]~~ 2) the total
 21 shall exclude any educational technology appropriation made
 22 prior to January 1, 2005 unless the appropriation was on or
 23 after January 1, 2003 and not previously used to offset
 24 distributions pursuant to the Technology for Education Act; 3)
 25 the total shall exclude any appropriation previously made to

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1 the subject school district that is reauthorized for
2 expenditure by another recipient; 4) the total shall exclude
3 one-half of the amount of any appropriation made or
4 reauthorized after January 1, 2007 if the purpose of the
5 appropriation or reauthorization is to fund, in whole or in
6 part, a capital outlay project that, when prioritized by the
7 council pursuant to this section either in the immediately
8 preceding funding cycle or in the current funding cycle, ranked
9 in the top one hundred fifty projects statewide; and 5) unless
10 the grant award is made to the state-chartered charter school
11 or unless the appropriation was previously used to calculate a
12 reduction pursuant to this paragraph, the total shall exclude
13 appropriations made after January 1, 2007 for nonoperating
14 purposes of a specific state-chartered charter school,
15 regardless of whether the charter school is a state-chartered
16 charter school at the time of the appropriation or later opts
17 to become a state-chartered charter school;

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

22 (c) the value calculated pursuant to
23 Subparagraph (a) of this paragraph for the subject school
24 district is multiplied by the amount calculated pursuant to
25 Subparagraph (b) of this paragraph for that school district;

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1 (d) the total amount of reductions for
2 the subject school district previously made pursuant to
3 Subparagraph (e) of this paragraph for other approved public
4 school capital outlay projects is subtracted from the amount
5 calculated pursuant to Subparagraph (c) of this paragraph; and

6 (e) the amount calculated pursuant to
7 Subparagraph (p) of Paragraph (5) of this subsection shall be
8 reduced by the amount calculated pursuant to Subparagraph (d)
9 of this paragraph;

10 (7) as used in Paragraphs (5) and (6) of this
11 subsection, "subject school district" means the school district
12 that has submitted the application for funding and in which the
13 approved public school capital outlay project will be located;

14 (8) the council may adjust the amount of local
15 share otherwise required if it determines that a school
16 district has used all of its local resources. Before making
17 any adjustment to the local share, the council shall consider
18 whether:

19 (a) the school district has insufficient
20 bonding capacity over the next four years to provide the local
21 match necessary to complete the project and, for all
22 educational purposes, has a residential property tax rate of at
23 least ten dollars (\$10.00) on each one thousand dollars
24 (\$1,000) of taxable value, as measured by the sum of all rates
25 imposed by resolution of the local school board plus rates set

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1 to pay interest and principal on outstanding school district
2 general obligation bonds;

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

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

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

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

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

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

11 (d) the school district has submitted a
12 five-year facilities plan that includes: 1) enrollment
13 projections; 2) a current preventive maintenance plan that has
14 been approved by the council pursuant to Section 22-24-5.3 NMSA
15 1978 and that is followed by each public school in the
16 district; 3) the capital needs of charter schools located in
17 the school district; and 4) projections for the facilities
18 needed in order to maintain a full-day kindergarten program;

19 (e) the school district is willing and
20 able to pay any portion of the total cost of the public school
21 capital outlay project that, according to Paragraph (5), (6) or
22 (8) of this subsection, is not funded with grant assistance
23 from the fund; provided that school district funds used for a
24 project that was initiated after September 1, 2002 when the
25 statewide adequacy standards were adopted, but before September

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1 1, 2004 when the standards were first used as the basis for
2 determining the state and school district share of a project,
3 may be applied to the school district portion required for that
4 project;

5 (f) the application includes the capital
6 needs of any charter school located in the school district or
7 the school district has shown that the facilities of the
8 charter school have a smaller deviation from the statewide
9 adequacy standards than other district facilities included in
10 the application; and

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

15 C. After consulting with the public school capital
16 outlay oversight task force and other experts, the council
17 shall regularly review and update statewide adequacy standards
18 applicable to all school districts. The standards shall
19 establish the acceptable level for the physical condition and
20 capacity of buildings, the educational suitability of
21 facilities and the need for technological infrastructure.
22 Except as otherwise provided in the Public School Capital
23 Outlay Act, the amount of outstanding deviation from the
24 standards shall be used by the council in evaluating and
25 prioritizing public school capital outlay projects.

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

8 (1) no grant shall be awarded unless, prior to
9 use by the school district or charter school, the council finds
10 that the facility will equal or exceed the statewide adequacy
11 standards and the building standards for public school
12 facilities;

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

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

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

25 (5) the portion of the total project cost to

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1 be paid by the school district shall be paid from time to time
2 as lease payments become due; and

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

7 E. In order to encourage private capital investment
8 in the construction of public school facilities, the purchase
9 of a privately owned school facility that is, at the time of
10 application, in use by a school district may be considered a
11 public school capital outlay project and eligible for grant
12 assistance pursuant to this section if the council finds that:

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

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

23 (3) the school district and the capital outlay
24 project meet all of the requirements for grant assistance
25 pursuant to the Public School Capital Outlay Act; provided

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1 that, when determining the deviation from the statewide
 2 adequacy standards for the purposes of evaluating and
 3 prioritizing the project, the students using the facility shall
 4 be deemed to be attending other schools in the school district.

5 ~~[D.]~~ F. It is the intent of the legislature that
 6 grant assistance made pursuant to this section allows every
 7 school district to meet the standards developed pursuant to
 8 Subsection C of this section; provided, however, that nothing
 9 in the Public School Capital Outlay Act or the development of
 10 standards pursuant to that act prohibits a school district from
 11 using local funds to exceed the statewide adequacy standards.

12 ~~[E.]~~ G. Upon request, the council shall work with,
 13 and provide assistance and information to, the public school
 14 capital outlay oversight task force.

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

23 ~~[G.]~~ I. Upon the recommendation of the public
 24 school facilities authority, the council shall develop building
 25 standards for public school facilities and shall promulgate

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1 other such rules as are necessary to carry out the provisions
2 of the Public School Capital Outlay Act.

3 [H.] J. No later than December 15 of each year, the
4 council shall prepare a report summarizing its activities
5 during the previous fiscal year. The report shall describe in
6 detail all projects funded, the progress of projects previously
7 funded but not completed, the criteria used to prioritize and
8 fund projects and all other council actions. The report shall
9 be submitted to the public education commission, the governor,
10 the legislative finance committee, the legislative education
11 study committee and the legislature."

12 Section 7. A new section of the Public School Capital
13 Outlay Act, Section 22-24-5.8 NMSA 1978, is enacted to read:

14 "22-24-5.8. [NEW MATERIAL] SUPPLEMENTAL FUNDING FOR
15 PROJECTS IN CERTAIN SCHOOL DISTRICTS.--

16 A. A school district receiving grant assistance
17 from the fund pursuant to Section 22-24-5 NMSA 1978 for a
18 public school capital outlay project shall receive an
19 additional grant from the fund in order for the project to
20 exceed the statewide adequacy standards if the school district
21 and proposed use of the additional grant qualify pursuant to
22 the provisions of Subsection B of this section.

23 B. A school district shall receive the additional
24 grant if the council determines that:

25 (1) in calculating the grant assistance from

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

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

13 (3) at least seventy percent of the students
14 in the school district are eligible for free or reduced-fee
15 lunch;

16 (4) for the next four years, the school
17 district will not have sufficient local resources to expend on
18 the project so it is unlikely that the project will ever exceed
19 the statewide adequacy standards; and

20 (5) the planned use of the additional grant to
21 exceed the statewide adequacy standards will enhance public
22 school education in the school district, will further the
23 school district's educational plan for student success and is a
24 prudent use of state money.

25 C. The amount of an additional grant awarded

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1 pursuant to this section shall equal the total project cost
2 multiplied by the lesser of:

3 (1) the value calculated for the school
4 district pursuant to Subparagraph (k), (m), (n) or (o) of
5 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978
6 minus six-tenths; or

7 (2) twenty-five hundredths.

8 D. All provisions of the Public School Capital
9 Outlay Act relating to the expenditure of other grants awarded
10 from the fund, including those provisions relating to
11 reporting, oversight, project access and accountability, apply
12 to the use and expenditure of additional grants made pursuant
13 to this section."

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

16 "22-24-12. [NEW MATERIAL] PUBLIC SCHOOL FACILITY
17 OPPORTUNITY FUND--PURPOSE--GRANTS FROM THE FUND.--

18 A. The legislature finds that for many years, until
19 relatively recently, educational facilities in a few school
20 districts in New Mexico were so inadequate because of a lack of
21 local resources and little support from the state that the
22 quality of education offered to students in those school
23 districts was extremely substandard. The legislature further
24 finds that, even under the current program to bring all public
25 school facilities up to a minimum statewide adequacy standard,

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1 because of a continuing shortage in available local resources,
2 some school districts will not be able to exceed that minimum
3 in the foreseeable future and, therefore, will not have the
4 opportunity to provide their students with the same quality of
5 educational facilities as students in school districts that
6 have sufficient local resources to surpass the minimum
7 standards. The purpose of this section is to partially correct
8 those past inequities by providing a program of state support
9 for qualifying school districts so that minimum statewide
10 adequacy standards may be exceeded on stand-alone projects on
11 existing facilities.

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

25 C. A school district may apply for a grant from the

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1 public school facility opportunity fund if the council
2 determines that:

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

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

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

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

23 (5) for the next four years, the school
24 district will not have sufficient local resources to expend on
25 school district facilities for the purpose of exceeding the

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1 statewide adequacy standards.

2 D. Applications for grant assistance from the
3 public school facility opportunity fund shall be made by school
4 districts to the council in accordance with the requirements of
5 the council. The council shall, pursuant to criteria adopted
6 by rule, evaluate applications and prioritize those
7 applications most in need of a grant from the fund and, to the
8 extent that money in the fund is available, may award grants
9 for those prioritized applications. The evaluation criteria
10 for school district applications shall be primarily based upon
11 the school district's detailed description of how the proposed
12 facilities or improvements play an essential role in the
13 district's programmatic priorities and how they contribute to
14 meeting goals and objectives in the school district or the
15 school educational plan for student success.

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

25 Section 9. Section 6-5-10 NMSA 1978 (being Laws 1994,

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1 Chapter 11, Section 1, as amended) is amended to read:

2 "6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--
3 COMPLIANCE WITH FEDERAL RULES.--

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

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

16 C. Twenty percent of all unreserved undesignated
17 balances in reverting funds and accounts as of the end of each
18 fiscal year from fiscal year 2007 through fiscal year 2011
19 shall not revert to the general fund but shall be transferred
20 to the public school facility opportunity fund to be used for
21 grants to school districts pursuant to Section 22-24-12 NMSA
22 1978."

23 Section 10. [NEW MATERIAL] PUBLIC SCHOOL APPROPRIATIONS
24 FOR NONOPERATING PURPOSES--SET ASIDE FOR PUBLIC SCHOOL FACILITY
25 OPPORTUNITY FUND.--Except for appropriations to or from the

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1 public school capital outlay fund, three percent of each
 2 appropriation made by the legislature on or after July 1, 2007
 3 for nonoperating purposes, either directly to a school district
 4 or a public school or to another governmental entity for the
 5 purpose of passing the money through directly to a school
 6 district or a public school, shall be set aside and transferred
 7 to the public school facility opportunity fund, provided that
 8 the amount set aside and transferred pursuant to this section
 9 shall not be included in a reduction in the amount of a state
 10 grant calculated pursuant to Paragraph (6) of Subsection B of
 11 Section 22-24-5 NMSA 1978. The amount shall be set aside and
 12 transferred by the secretary of finance and administration:

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

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

20 Section 11. Laws 2006, Chapter 109, Section 3 is amended
 21 to read:

22 "Section 3. GENERAL PROVISIONS.--

23 A. Amounts set out under column headings are
 24 expressed in thousands of dollars.

25 B. Amounts set out under column headings are

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1 appropriated from the source indicated by the column heading.
2 All amounts set out under the column heading "Internal Service
3 Funds/Interagency Transfers" are intergovernmental transfers
4 and do not represent a portion of total state government
5 appropriations. All information designated as "Total" or
6 "Subtotal" is provided for information and amounts are not
7 appropriations.

8 C. Amounts set out in Section 4 of the General
9 Appropriation Act of 2006, or so much as may be necessary, are
10 appropriated from the indicated source for expenditure in
11 fiscal year 2007 for the objects expressed.

12 D. Unencumbered balances in agency accounts
13 remaining at the end of fiscal year 2006 shall revert to the
14 general fund by October 1, 2006, unless otherwise indicated in
15 the General Appropriation Act of 2006 or otherwise provided by
16 law.

17 E. ~~[Unencumbered balances in agency accounts~~
18 ~~remaining at the end of fiscal year 2007 shall revert to the~~
19 ~~general fund by October 1, 2007]~~ Unless otherwise indicated in
20 the General Appropriation Act of 2006 or otherwise provided by
21 law, by October 1, 2007, eighty percent of the unencumbered
22 balances in agency accounts remaining at the end of fiscal year
23 2007 shall revert to the general fund and the remaining
24 unencumbered balances shall be transferred to the public school
25 facility opportunity fund.

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[bracketed material] = delete

1 F. The state budget division shall monitor revenue
2 received by agencies from sources other than the general fund
3 and shall reduce the operating budget of any agency whose
4 revenue from such sources is not meeting projections. The
5 state budget division shall notify the legislative finance
6 committee of any operating budget reduced pursuant to this
7 subsection.

8 G. Except as otherwise specifically stated in the
9 General Appropriation Act of 2006, appropriations are made in
10 that act for the expenditures of agencies and for other
11 purposes as required by existing law for fiscal year 2007. If
12 any other act of the second session of the forty-seventh
13 legislature changes existing law with regard to the name or
14 responsibilities of an agency or the name or purpose of a fund
15 or distribution, the appropriation made in the General
16 Appropriation Act of 2006 shall be transferred from the agency,
17 fund or distribution to which an appropriation has been made as
18 required by existing law to the appropriate agency, fund or
19 distribution provided by the new law.

20 H. The department of finance and administration
21 will regularly consult with the legislative finance committee
22 staff to compare fiscal year 2007 revenue collections with the
23 revenue estimate. If the analyses indicate that revenues and
24 transfers to the general fund are not expected to meet
25 appropriations, then the department shall present a plan to the

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1 legislative finance committee that outlines the methods by
2 which the administration proposes to address the deficit.

3 I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA
4 1978, agencies whose revenue from state board of finance loans,
5 from revenue appropriated by other acts of the legislature, or
6 from gifts, grants, donations, bequests, insurance settlements,
7 refunds or payments into revolving funds exceeds specifically
8 appropriated amounts may request budget increases from the
9 state budget division. If approved by the state budget
10 division, such money is appropriated.

11 [~~H.~~] J. Except for gasoline credit cards used
12 solely for operation of official vehicles, telephone credit
13 cards used solely for official business and procurement cards
14 used as authorized by Section 6-5-9.1 NMSA 1978, none of the
15 appropriations contained in the General Appropriation Act of
16 2006 may be expended for payment of agency-issued credit card
17 invoices.

18 [~~M.~~] K. To prevent unnecessary spending,
19 expenditures from the General Appropriation Act of 2006 for
20 gasoline for state-owned vehicles at public gasoline service
21 stations shall be made only for self-service gasoline provided
22 that a state agency head may provide exceptions from the
23 requirement to accommodate disabled persons or for other
24 reasons the public interest may require.

25 [~~N.~~] L. For the purpose of administering the

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1 General Appropriation Act of 2006, the state of New Mexico
 2 shall follow the modified accrual basis of accounting for
 3 governmental funds in accordance with the manual of model
 4 accounting practices issued by the department of finance and
 5 administration.

6 ~~[0-]~~ M. When approving budgets based on
 7 appropriations in the General Appropriation Act of 2006, the
 8 state budget division is specifically authorized to approve
 9 budgets in accordance with generally accepted accounting
 10 principles and the authority to extend the availability period
 11 of an appropriation through the use of an encumbrance shall
 12 follow the modified accrual basis of accounting for
 13 governmental funds in accordance with the manual of model
 14 accounting practices issued by the department of finance and
 15 administration."

16 Section 12. Section 22-25-1 NMSA 1978 (being Laws 1975
 17 (S.S.), Chapter 5, Section 1) is amended to read:

18 "22-25-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 25
 19 NMSA 1978 may be cited as the "Public School Capital
 20 Improvements Act"."

21 Section 13. Section 22-25-2 NMSA 1978 (being Laws 1975
 22 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

23 "22-25-2. DEFINITIONS.--As used in the Public School
 24 Capital Improvements Act:

25 A. "program unit" means the product of the program

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1 element multiplied by the applicable cost differential factor,
2 as defined in Section 22-8-2 NMSA 1978; and

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

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

9 (2) payments made pursuant to a financing
10 agreement entered into by a school district or a charter school
11 for the leasing of a building or other real property with an
12 option to purchase for a price that is reduced according to
13 payments made;

14 [~~2~~] (3) purchasing or improving public
15 school grounds;

16 [~~3~~] (4) maintenance of public school
17 buildings or public school grounds, including payments under
18 contracts for maintenance support services and expenditures for
19 technical training and certification for maintenance and
20 facilities management personnel, but excluding salary expenses
21 of school district employees;

22 [~~4~~] (5) purchasing activity vehicles for
23 transporting students to extracurricular school activities;

24 [~~and~~] or

25 [~~5~~] (6) purchasing computer software and

1 hardware for student use in public school classrooms."

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

4 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
5 TAX UNDER CERTAIN CIRCUMSTANCES.--

6 A. Except as provided in Subsection C or G of this
7 section, the secretary shall distribute to any school district
8 that has imposed a tax under the Public School Capital
9 Improvements Act an amount from the public school capital
10 improvements fund that is equal to the amount by which the
11 revenue estimated to be received from the imposed tax, at the
12 rate certified by the department of finance and administration
13 in accordance with Section 22-25-7 NMSA 1978, assuming a one
14 hundred percent collection rate, is less than an amount
15 calculated by multiplying the school district's first forty
16 days' total program units by the amount specified in Subsection
17 B of this section and further multiplying the product obtained
18 by the tax rate approved by the qualified electors in the most
19 recent election on the question of imposing a tax under the
20 Public School Capital Improvements Act. The distribution shall
21 be made each year that the tax is imposed in accordance with
22 Section 22-25-7 NMSA 1978; provided that no state distribution
23 from the public school capital improvements fund may be used
24 for capital improvements to any administration building of a
25 school district. In the event that sufficient funds are not

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1 available in the public school capital improvements fund to
2 make the state distribution provided for in this section, the
3 dollar per program unit figure shall be reduced as necessary.

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

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

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

24 C. For any fiscal year notwithstanding the amount
25 calculated to be distributed pursuant to Subsections A and B of
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underscored material = new
[bracketed material] = delete

1 this section, except as provided in Subsection G of this
2 section, a school district, the voters of which have approved a
3 tax pursuant to Section 22-25-3 NMSA 1978, shall not receive a
4 distribution less than the amount calculated pursuant to
5 Subsection E of this section, multiplied by the school
6 district's first forty days' total program units and further
7 multiplying the product obtained by the approved tax rate.

8 D. For purposes of calculating the distribution
9 pursuant to Subsection B of this section, the amount used in
10 Paragraph (1) of that subsection shall equal [~~sixty dollars~~
11 ~~(\$60.00) in fiscal year 2006~~] seventy dollars (\$70.00) in
12 fiscal year 2008 and in each subsequent fiscal year shall equal
13 the amount for the previous fiscal year adjusted by the
14 percentage increase between the next preceding calendar year
15 and the preceding calendar year of the consumer price index for
16 the United States, all items, as published by the United States
17 department of labor.

18 E. For purposes of calculating the minimum
19 distribution pursuant to Subsection C of this section, the
20 amount used in that subsection shall equal five dollars (\$5.00)
21 through fiscal year 2005 and in each subsequent fiscal year
22 shall equal the amount for the previous fiscal year adjusted by
23 the percentage increase between the next preceding calendar
24 year and the preceding calendar year of the consumer price
25 index for the United States, all items, as published by the

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1 United States department of labor.

2 F. In expending distributions made pursuant to this
3 section, school districts shall give priority to maintenance
4 projects, including payments under contracts for maintenance
5 support services. In addition, distributions made pursuant to
6 this section may be expended by school districts for the school
7 district portion of:

8 (1) the total project cost for roof repair or
9 replacement required by Section 22-24-4.3 NMSA 1978; or

10 (2) payments made under a financing agreement
11 entered into by a school district or a charter school for the
12 leasing of a building or other real property with an option to
13 purchase for a price that is reduced according to the payments
14 made, if the school district has received a grant for the state
15 share of the payments pursuant to Subsection D of Section
16 22-24-5 NMSA 1978.

17 G. If a serious deficiency in a roof of a public
18 school facility has been corrected pursuant to Section
19 22-24-4.4 NMSA 1978 and the school district has refused to pay
20 its share of the cost as determined by that section, until the
21 public school capital outlay fund is reimbursed in full for the
22 share attributed to the district, the distribution calculated
23 pursuant to this section shall not be made to the school
24 district but shall be made to the public school capital outlay
25 fund.

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1 H. In making distributions pursuant to this
 2 section, the secretary shall include such reporting
 3 requirements and conditions as are required by rule of the
 4 public school capital outlay council. The council shall adopt
 5 such requirements and conditions as are necessary to ensure
 6 that the distributions are expended in the most prudent manner
 7 possible and are consistent with the original purpose as
 8 specified in the authorizing resolution. Copies of reports or
 9 other information received by the secretary in response to the
 10 requirements and conditions shall be forwarded to the council."

11 Section 15. Section 7-38-38.1 NMSA 1978 (being Laws 1986,
 12 Chapter 20, Section 116, as amended) is amended to read:

13 "7-38-38.1. RECIPIENTS OF REVENUE PRODUCED THROUGH AD
 14 VALOREM LEVIES REQUIRED TO PAY COUNTIES ADMINISTRATIVE CHARGE
 15 TO OFFSET COLLECTION COSTS.--

16 A. As used in this section:

17 (1) "revenue" means money for which a county
 18 treasurer has the legal responsibility for collection and which
 19 is owed to a revenue recipient as a result of an imposition
 20 authorized by law of a rate expressed in mills per dollar or
 21 dollars per thousands of dollars of net taxable value of
 22 property, assessed value of property or a similar term,
 23 including but not limited to money resulting from the
 24 authorization of rates and impositions under Subsection B and
 25 Paragraphs (1) and (2) of Subsection C of Section 7-37-7 NMSA

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1 1978, special levies for special purposes and benefit
2 assessments, but the term does not include any money resulting
3 from the imposition of taxes imposed under the provisions of
4 the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas
5 Production Equipment Ad Valorem Tax Act or the Copper
6 Production Ad Valorem Tax Act or money resulting from
7 impositions under Paragraph (3) of Subsection C of Section
8 7-37-7 NMSA 1978; and

9 (2) "revenue recipient" means the state and
10 any of its political subdivisions, including charter schools,
11 but excluding institutions of higher education located in class
12 A counties and class B counties having more than three hundred
13 million dollars (\$300,000,000) valuation, that are authorized
14 by law to receive revenue.

15 B. Prior to the distribution to a revenue recipient
16 of revenue received by a county treasurer, the treasurer shall
17 deduct as an administrative charge an amount equal to one
18 percent of the revenue received.

19 C. The "county property valuation fund" is created.
20 All administrative charges deducted by the county treasurer
21 shall be distributed to the county property valuation fund.

22 D. Expenditures from the county property valuation
23 fund shall be made pursuant to a property valuation program
24 presented by the county assessor and approved by the majority
25 of the county commissioners."

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1 Section 16. Section 22-8B-4 NMSA 1978 (being Laws 1999,
2 Chapter 281, Section 4, as amended) is amended to read:

3 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
4 OPERATION.--

5 A. A charter school shall be subject to all federal
6 and state laws and constitutional provisions prohibiting
7 discrimination on the basis of disability, race, creed, color,
8 gender, national origin, religion, ancestry or need for special
9 education services.

10 B. A charter school shall be governed by a
11 governing body in the manner set forth in the charter; provided
12 that a governing body shall have at least five members; and
13 provided further that no member of a governing body for a
14 charter school that is initially approved on or after July 1,
15 2005 or whose charter is renewed on or after July 1, 2005 shall
16 serve on the governing body of another charter school.

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. Facilities used by a charter
5 school shall meet the standards required pursuant to Section
6 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 school district in which a charter school is
12 geographically located shall provide a charter school with
13 available facilities for the school's operations unless the
14 facilities are currently used for other educational purposes.

15 ~~[A charter school shall not be required to pay rent for the~~
16 ~~school district facilities if the facilities can be provided at~~
17 ~~no cost to the school district. If facilities are available~~
18 ~~but cannot be provided at no cost to the school district, the~~
19 ~~school district shall not charge more than the actual direct~~
20 ~~cost of providing the facilities.] An agreement for the use of~~
21 ~~school district facilities by a charter school may provide for~~
22 ~~reasonable lease payments; provided that the payments do not~~
23 ~~exceed the sum of the lease reimbursement rate provided in~~
24 ~~Subparagraph (b) of Paragraph (1) of Subsection I of Section~~
25 ~~22-24-4 NMSA 1978 plus any reimbursement for actual direct~~

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1 costs incurred by the school district in providing the
2 facilities; and, provided further, that any lease payments
3 received by a school district may be retained by the school
4 district and shall not be considered to be cash balances in any
5 calculation pursuant to Section 22-8-41 NMSA 1978. The
6 available facilities provided by a school district to a charter
7 school shall meet all occupancy standards as specified by the
8 public school capital outlay council. As used in this
9 subsection, "other educational purposes" includes health
10 clinics, daycare centers, teacher training centers, school
11 district administration functions and other ancillary services
12 related to a school district's functions and operations.

13 G. A locally chartered charter school may pay the
14 costs of operation and maintenance of its facilities or may
15 contract with the school district to provide facility operation
16 and maintenance services.

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

20 I. A locally chartered charter school shall
21 negotiate with a school district to provide transportation to
22 students eligible for transportation under the provisions of
23 the Public School Code. The school district, in conjunction
24 with the charter school, may establish a limit for student
25 transportation to and from the charter school site not to

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1 extend beyond the school district boundary.

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

4 K. Except as otherwise provided in the Public
5 School Code, a charter school shall not charge tuition or have
6 admission requirements.

7 L. With the approval of the chartering authority, a
8 single charter school may maintain separate facilities at two
9 or more locations within the same school district; but, for
10 purposes of calculating program units pursuant to the Public
11 School Finance Act, the separate facilities shall be treated
12 together as one school.

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

16 N. Within constitutional and statutory limits, a
17 charter school may acquire and dispose of property; provided
18 that, upon termination of the charter, all assets of the
19 locally chartered charter school shall revert to the local
20 school board and all assets of the state-chartered charter
21 school shall revert to the state, except that, if all or any
22 portion of a state-chartered charter school facility is
23 financed with the proceeds of general obligation bonds issued
24 by a local school board, the facility shall revert to the local
25 school board.

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1 O. The governing body of a charter school may
2 accept or reject any charitable gift, grant, devise or bequest;
3 provided that no such gift, grant, devise or bequest shall be
4 accepted if subject to any condition contrary to law or to the
5 terms of the charter. The particular gift, grant, devise or
6 bequest shall be considered an asset of the charter school to
7 which it is given.

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

11 Q. A charter school shall comply with all state and
12 federal health and safety requirements applicable to public
13 schools, including those health and safety codes relating to
14 educational building occupancy.

15 R. A charter school is a public school that may
16 contract with a school district or other party for provision of
17 financial management, food services, transportation,
18 facilities, education-related services or other services. The
19 governing body shall not contract with a for-profit entity for
20 the management of the charter school.

21 S. To enable state-chartered charter schools to
22 submit required data to the department, an accountability data
23 system shall be maintained by the department.

24 T. A charter school shall comply with all
25 applicable state and federal laws and rules related to

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1 providing special education services. Charter school students
2 with disabilities and their parents retain all rights under the
3 federal Individuals with Disabilities Education Act and its
4 implementing state and federal rules. Each charter school is
5 responsible for identifying, evaluating and offering a free
6 appropriate public education to all eligible children who are
7 accepted for enrollment in that charter school. The state-
8 chartered charter school, as a local educational agency, shall
9 assume responsibility for determining students' needs for
10 special education and related services. The division may
11 promulgate rules to implement the requirements of this
12 subsection."

13 Section 17. Section 22-8B-4.2 NMSA 1978 (being Laws 2005,
14 Chapter 221, Section 3 and Laws 2005, Chapter 274, Section 2)
15 is amended to read:

16 "22-8B-4.2. CHARTER SCHOOL FACILITIES--STANDARDS.--

17 A. The facilities of a charter school that is
18 approved on or after July 1, 2005 and before July 1, 2010 shall
19 meet educational occupancy standards required by applicable New
20 Mexico construction codes.

21 B. The facilities of a charter school that is in
22 existence, or has been approved, prior to July 1, 2005 shall be
23 evaluated, prioritized and eligible for grants pursuant to the
24 Public School Capital Outlay Act in the same manner as all
25 other public schools in the state; provided that for charter

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1 school facilities in leased facilities, grants may be used as
2 additional lease payments for leasehold improvements.

3 C. On or after July 1, 2010, an application for a
4 charter shall not be approved and an existing charter shall not
5 be renewed unless the charter school:

6 (1) is housed in a public building that is:

7 (a) owned by the charter school, the
8 school district, the state, an institution of the state,
9 another political subdivision of the state, the federal
10 government or one of its agencies or a tribal government; and

11 (b) subject to evaluation and
12 prioritization and eligible for grants pursuant to the Public
13 School Capital Outlay Act in the same manner as all other
14 public schools in the state; [~~or~~]

15 (2) is housed in a building that meets the
16 statewide adequacy standards developed pursuant to the Public
17 School Capital Outlay Act and that is being leased by the
18 charter school pursuant to a financing agreement that contains
19 an option to purchase for a price that is reduced according to
20 the lease payments made; or

21 [~~(2)~~] (3) if it is not housed in a [~~public~~]
22 building described in Paragraph (1) or (2) of this subsection,
23 demonstrates that:

24 (a) the facility in which the charter
25 school is housed meets the statewide adequacy standards

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1 developed pursuant to the Public School Capital Outlay Act and
2 the owner of the facility is contractually obligated to
3 maintain those standards at no additional cost to the charter
4 school or the state; and

5 (b) either: 1) public buildings are not
6 available or adequate for the educational program of the
7 charter school; or 2) the owner of the facility is a nonprofit
8 entity specifically organized for the purpose of providing the
9 facility for the charter school.

10 D. The public school capital outlay council:

11 (1) shall determine whether facilities of a
12 charter school meet the educational occupancy standards
13 pursuant to the requirements of Subsection A of this section;

14 (2) shall determine whether facilities of a
15 charter school meet the requirements of Subsections B and C of
16 this section; and

17 (3) upon a determination that specific
18 requirements are not appropriate or reasonable for a charter
19 school, may grant a variance from those requirements for that
20 charter school."

21 Section 18. Section 22-26-1 NMSA 1978 (being Laws 1983,
22 Chapter 163, Section 1) is amended to read:

23 "22-26-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 26
24 NMSA 1978 may be cited as the "Public School Buildings Act"."

25 Section 19. Section 22-26-2 NMSA 1978 (being Laws 1983,

1 Chapter 163, Section 2, as amended) is amended to read:

2 "22-26-2. [~~DEFINITIONS~~] DEFINITION.--As used in the
3 Public School Buildings Act, "capital improvements" means
4 expenditures, including payments made with respect to lease-
5 purchase arrangements as defined in the Education Technology
6 Equipment Act but excluding any other debt service expenses,
7 for:

8 A. erecting, remodeling, making additions to,
9 providing equipment for or furnishing public school buildings;
10 [~~and~~]

11 B. payments made pursuant to a financing agreement
12 entered into by a school district or a charter school for the
13 leasing of a building or other real property with an option to
14 purchase for a price that is reduced according to payments
15 made;

16 [~~B.~~] C. purchasing or improving public school
17 grounds; or

18 D. administering the projects undertaken pursuant
19 to Subsections A and C of this section, including expenditures
20 for facility maintenance software, project management software,
21 project oversight and district personnel specifically related
22 to administration of projects funded by the Public School
23 Buildings Act; provided that expenditures pursuant to this
24 subsection shall not exceed five percent of the total project
25 costs."

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1 Section 20. Section 22-26-3 NMSA 1978 (being Laws 1983,
2 Chapter 163, Section 3, as amended) is amended to read:

3 "22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT
4 QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--~~[Any]~~

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

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

15 ~~[A-]~~ (2) specify the rate of the proposed tax,
16 which shall not exceed ten dollars (\$10.00) on each one
17 thousand dollars (\$1,000) of net taxable value of property
18 allocated to the school district under the Property Tax Code;

19 ~~[B-]~~ (3) specify the date an election will be
20 held to submit the question of imposition of the tax to the
21 qualified electors of the district; and

22 ~~[C-]~~ (4) limit the imposition of the proposed
23 tax to no more than ~~[five]~~ six property tax years.

24 B. After July 1, 2007, a resolution submitted to
25 the qualified electors pursuant to Subsection A of this section

1 shall include capital improvements funding for a locally
 2 chartered or state-chartered charter school located within the
 3 school district if:

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

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

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

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

15 Section 21. Section 22-26-5 NMSA 1978 (being Laws 1983,
 16 Chapter 163, Section 5, as amended) is amended to read:

17 "22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

18 A. An election on the question of imposing a tax
 19 under the Public School Buildings Act may be held in
 20 conjunction with a regular school district election or may be
 21 conducted as or held in conjunction with a special school
 22 district election, but the election shall be held prior to July
 23 1 of the property tax year in which the tax is proposed to be
 24 imposed. Conduct of the election shall be as prescribed in the
 25 School Election Law for regular and special school district

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1 elections.

2 B. The resolution required to be published as
3 notice of the election under Section 1-22-4 or 1-22-5 NMSA 1978
4 shall include as the question to be submitted to the voters
5 whether a property tax at a rate not to exceed the rate
6 specified in the authorizing resolution should be imposed for
7 the specified number of property tax years not exceeding [~~five~~]
8 six years upon the net taxable value of all property allocated
9 to the school district for capital improvements.

10 C. The ballot shall include the information
11 specified in Subsection B of this section and shall present the
12 voter the choice of voting "for the public school buildings
13 tax" or "against the public school buildings tax".

14 Section 22. Section 22-26-8 NMSA 1978 (being Laws 1983,
15 Chapter 163, Section 8, as amended) is amended to read:

16 "22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF [~~FIVE~~] SIX
17 YEARS.--A tax imposed in a school district as a result of an
18 election under the Public School Buildings Act shall be imposed
19 for one, two, three, four, [~~or~~] five or six years commencing
20 with the property tax year in which the election was held. The
21 local school board may direct that such levy be decreased or
22 not made for any year if, in its judgment, the total levy is
23 not necessary for such year and shall direct that the levy be
24 decreased by the amount required if a decrease is required by
25 operation of the rate limitation provisions of Section 7-37-7.1

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1 NMSA 1978."

2 Section 23. A new section of the Public School Buildings
3 Act is enacted to read:

4 "[NEW MATERIAL] CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY
5 TAX REVENUE.--If, in an election held after July 1, 2007, the
6 qualified electors of a school district have voted in favor of
7 the imposition of a property tax as provided in Section 22-26-3
8 NMSA 1978, the amount of tax revenue to be distributed to each
9 charter school that was included in the resolution shall be
10 determined each year and shall be in the same proportion as the
11 average full-time-equivalent enrollment of the charter school
12 on the fortieth day of the prior school year is to the total
13 such enrollment in the district; provided that, in the case of
14 an approved charter school that had not commenced classroom
15 instruction in the prior school year, the estimated
16 full-time-equivalent enrollment in the first year of
17 instruction, as shown in the approved charter school
18 application, shall be used, subject to adjustment after the
19 fortieth day. Each year, the department shall certify to the
20 county treasurer of the county in which the eligible charter
21 schools in the school district are located the percentage of
22 the revenue to be distributed to each charter school. The
23 county treasurer shall distribute the charter school's share of
24 the property tax revenue directly to the charter school."

25 Section 24. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL

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1 OUTLAY OVERSIGHT TASK FORCE.--During the 2007 interim, the
2 public school capital outlay oversight task force shall
3 continue to work toward an equitable and fair system that
4 addresses the inequities between public school facilities among
5 various school districts in this state. Toward that end, the
6 task force shall assess the current statewide adequacy
7 standards, the need for changing those standards and the effect
8 upon school districts of any proposed change in the standards.

9 Section 25. TEMPORARY PROVISION--RECOMPILATION
10 INSTRUCTIONS.--The compiler shall recompile Section 22-24-11
11 NMSA 1978 (being Laws 2006, Chapter 95, Section 3) as part of
12 the Public School Finance Act.

13 Section 26. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2007.