

1 SENATE BILL 159

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

3 INTRODUCED BY

4 Jacob R. Candelaria and Mimi Stewart

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7
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9
10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; DEFINING "EDUCATION TECHNOLOGY
12 INFRASTRUCTURE"; PROVIDING FOR ALLOCATIONS FROM THE PUBLIC
13 SCHOOL CAPITAL OUTLAY FUND FOR EDUCATION TECHNOLOGY
14 INFRASTRUCTURE; ESTABLISHING AN EDUCATION TECHNOLOGY
15 INFRASTRUCTURE DEFICIENCY CORRECTIONS INITIATIVE; ALLOWING FOR
16 WAIVERS FOR THE LOCAL SCHOOL DISTRICT SHARE OF PROGRAM COST;
17 DECLARING AN EMERGENCY.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

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

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1 Mexico school for the deaf;

2 B. "constitutional special schools support spaces"
3 means all facilities necessary to support the constitutional
4 special schools' educational mission that are not included in
5 the constitutional special schools' educational adequacy
6 standards, including, but not limited to, performing arts
7 centers, facilities for athletic competition, school district
8 administration and facility and vehicle maintenance;

9 C. "council" means the public school capital outlay
10 council;

11 D. "education technology infrastructure" means the
12 physical hardware used to interconnect education technology
13 equipment for school districts and school buildings as defined
14 in the Education Technology Equipment Act;

15 [~~D-~~] E. "fund" means the public school capital
16 outlay fund; and

17 [~~E-~~] F. "school district" includes state-chartered
18 charter schools and the constitutional special schools."

19 SECTION 2. 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. The "public school capital outlay fund" is
24 created. Balances remaining in the fund at the end of each
25 fiscal year shall not revert.

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1 B. Except as provided in Subsections G and I
2 through ~~[H]~~ M of this section, money in the fund may be used
3 only for capital expenditures deemed necessary by the council
4 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 to and custody of the portable classrooms shall rest in the
10 public school facilities authority. The council shall
11 authorize the lending of the portable classrooms to school
12 districts upon request and upon finding that sufficient need
13 exists. Application for use or return of state-owned portable
14 classroom buildings shall be submitted by school districts to
15 the council. Expenses of maintenance of the portable
16 classrooms while in the custody of the public school facilities
17 authority shall be paid from the fund; expenses of maintenance
18 and insurance of the portable classrooms while in the custody
19 of a 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 for the core administrative functions pursuant to this
9 subsection shall not exceed five percent of the average annual
10 grant assistance authorized from the fund during the three
11 previous fiscal years; and

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

15 H. Up to ten million dollars (\$10,000,000) of the
16 fund may be allocated annually by the council for expenditure
17 in fiscal years 2010 through 2015 for a roof repair and
18 replacement initiative with projects to be identified by the
19 council pursuant to Section 22-24-4.3 NMSA 1978; provided that
20 money allocated pursuant to this subsection shall be expended
21 within two years of the allocation.

22 I. The fund may be expended annually by the council
23 for grants to school districts for the purpose of making lease
24 payments for classroom facilities, including facilities leased
25 by charter schools. The grants shall be made upon application

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

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

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

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

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

24 (3) at the end of each fiscal year, any
25 unexpended or unencumbered balance of the appropriation shall

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1 revert to the fund;

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

6 (a) the agreement has been approved
7 pursuant to the provisions of the Public School Lease Purchase
8 Act; and

9 (b) the facilities are leased by a
10 charter school;

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

20 (6) as used in this subsection:

21 (a) "MEM" means: 1) the average
22 full-time-equivalent enrollment using leased classroom
23 facilities on the eightieth and one hundred twentieth days of
24 the prior school year; or 2) in the case of an approved charter
25 school that has not commenced classroom instruction, the

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1 estimated full-time-equivalent enrollment that will use leased
2 classroom facilities in the first year of instruction, as shown
3 in the approved charter school application; provided that,
4 after the eightieth day of the school year, the MEM shall be
5 adjusted to reflect the full-time-equivalent enrollment on that
6 date; and

7 (b) "classroom facilities" or "classroom
8 space" includes the space needed, as determined by the minimum
9 required under the statewide adequacy standards, for the direct
10 administration of school activities.

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

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1 the contract also provides for additional payments from the
2 fund if the actual expenditures exceed the initial payments and
3 for repayments back to the fund if the initial payments exceed
4 the actual expenditures. Money distributed from the fund to
5 the state fire marshal or the construction industries division
6 pursuant to this subsection shall be used to supplement, rather
7 than supplant, appropriations to those entities.

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

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

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

23 (a) the school district has fewer than
24 an average of six hundred full-time-equivalent students on the
25 eightieth and one hundred twentieth days of the prior school

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1 year; or

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

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

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

24 (2) there is no practical use for the
25 abandoned facility without the expenditure of substantial

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1 renovation costs; and

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

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

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

15 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
16 APPLICATION--GRANT ASSISTANCE.--

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

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

25 (1) all school districts are eligible to apply

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1 for funding from the fund, regardless of percentage of
2 indebtedness;

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

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

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

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

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

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

24 (b) the potential use of more durable
25 construction materials that may reduce long-term operating

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1 costs;

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

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

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

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

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

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

23 (c) excluding any school district for
24 which the result calculated pursuant to Subparagraph (a) of
25 this paragraph is more than twice the result calculated

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1 pursuant to Subparagraph (b) of this paragraph, the results
2 calculated pursuant to Subparagraph (a) of this paragraph are
3 listed from highest to lowest;

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

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

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

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

21 (h) the lowest value calculated pursuant
22 to Subparagraph (g) of this paragraph is subtracted from the
23 highest value calculated pursuant to that subparagraph;

24 (i) the lowest value calculated pursuant
25 to Subparagraph (g) of this paragraph is subtracted from the

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1 value calculated pursuant to that subparagraph for the subject
2 school district;

3 (j) the value calculated pursuant to
4 Subparagraph (i) of this paragraph is divided by the value
5 calculated pursuant to Subparagraph (h) of this paragraph;

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

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

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

24 (n) in those instances in which the
25 calculation pursuant to Subparagraph (k) or (m) of this

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1 paragraph yields a value less than one-tenth, one-tenth shall
2 be used as the value for the subject school district;

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

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

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

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1 district" means the value calculated for the school district in
2 which the state-chartered charter school is physically located;

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

6 (a) the total of all legislative
7 appropriations made after January 1, 2003 for nonoperating
8 purposes either directly to the subject school district or to
9 another governmental entity for the purpose of passing the
10 money through directly to the subject school district, and not
11 rejected by the subject school district, is calculated;
12 provided that: 1) an appropriation made in a fiscal year shall
13 be deemed to be accepted by a school district unless, prior to
14 June 1 of that fiscal year, the school district notifies the
15 department of finance and administration and the public
16 education department that the district is rejecting the
17 appropriation; 2) the total shall exclude any ~~[educational]~~
18 education technology appropriation made prior to January 1,
19 2005 unless the appropriation was on or after January 1, 2003
20 and not previously used to offset distributions pursuant to the
21 Technology for Education Act; 3) the total shall exclude any
22 appropriation previously made to the subject school district
23 that is reauthorized for expenditure by another recipient;
24 4) the total shall exclude one-half of the amount of any
25 appropriation made or reauthorized after January 1, 2007 if the

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1 purpose of the appropriation or reauthorization is to fund, in
2 whole or in part, a capital outlay project that, when
3 prioritized by the council pursuant to this section either in
4 the immediately preceding funding cycle or in the current
5 funding cycle, ranked in the top one hundred fifty projects
6 statewide; 5) the total shall exclude the proportionate share
7 of any appropriation made or reauthorized after January 1, 2008
8 for a capital project that will be jointly used by a
9 governmental entity other than the subject school district.

10 Pursuant to criteria adopted by rule of the council and based
11 upon the proposed use of the capital project, the council shall
12 determine the proportionate share to be used by the
13 governmental entity and excluded from the total; and 6) unless
14 the grant award is made to the state-chartered charter school
15 or unless the appropriation was previously used to calculate a
16 reduction pursuant to this paragraph, the total shall exclude
17 appropriations made after January 1, 2007 for nonoperating
18 purposes of a specific state-chartered charter school,
19 regardless of whether the charter school is a state-chartered
20 charter school at the time of the appropriation or later opts
21 to become a state-chartered charter school;

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

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1 (c) the value calculated pursuant to
2 Subparagraph (a) of this paragraph for the subject school
3 district is multiplied by the amount calculated pursuant to
4 Subparagraph (b) of this paragraph for that school district;

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

10 (e) the amount calculated pursuant to
11 Subparagraph (p) of Paragraph (5) of this subsection shall be
12 reduced by the amount calculated pursuant to Subparagraph (d)
13 of this paragraph;

14 (7) as used in this subsection:

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

17 (b) "subject school district" means the
18 school district that has submitted the application for funding
19 and in which the approved public school capital outlay project
20 will be located;

21 (8) the amount calculated pursuant to
22 Subparagraph (p) of Paragraph (5) of this subsection, after any
23 reduction pursuant to Paragraph (6) of this subsection, may be
24 increased by an additional five percent if the council finds
25 that the subject school district has been exemplary in

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1 implementing and maintaining a preventive maintenance program.
2 The council shall adopt such rules as are necessary to
3 implement the provisions of this paragraph;

4 (9) the council may adjust the amount of local
5 share otherwise required if it determines that a school
6 district has ~~used~~ made a good-faith effort to use all of its
7 local resources. Before making any adjustment to the local
8 share, the council shall consider whether:

9 (a) the school district has insufficient
10 bonding capacity over the next four years to provide the local
11 match necessary to complete the project and, for all
12 educational purposes, has a residential property tax rate of at
13 least ten dollars (\$10.00) on each one thousand dollars
14 (\$1,000) of taxable value, as measured by the sum of all rates
15 imposed by resolution of the local school board plus rates set
16 to pay interest and principal on outstanding school district
17 general obligation bonds;

18 (b) the school district: 1) has fewer
19 than an average of eight hundred full-time-equivalent students
20 on the eightieth and one hundred twentieth days of the prior
21 school year; 2) has at least seventy percent of its students
22 eligible for free or reduced-fee lunch; 3) has a share of the
23 total project cost, as calculated pursuant to provisions of
24 this section, that would be greater than fifty percent; and 4)
25 for all educational purposes, has a residential property tax

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1 rate of at least seven dollars (\$7.00) on each one thousand
2 dollars (\$1,000) of taxable value, as measured by the sum of
3 all rates imposed by resolution of the local school board plus
4 rates set to pay interest and principal on outstanding school
5 district general obligation bonds; or

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

16 (10) the local match for the constitutional
17 special schools shall be set at fifty percent for projects that
18 qualify under the educational adequacy category and one hundred
19 percent for projects that qualify in the support spaces
20 category; provided that the council may adjust or waive the
21 amount of any direct appropriation offset to or local share
22 required for the constitutional special schools if an applicant
23 constitutional special school has insufficient or no local
24 resources available; and

25 (11) no application for grant assistance from

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1 the fund shall be approved unless the council determines that:

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

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

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

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

18 (e) the school district is willing and
19 able to pay any portion of the total cost of the public school
20 capital outlay project that, according to Paragraph (5), (6),
21 (8) or (9) of this subsection, is not funded with grant
22 assistance from the fund; provided that school district funds
23 used for a project that was initiated after September 1, 2002
24 when the statewide adequacy standards were adopted, but before
25 September 1, 2004 when the standards were first used as the

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1 basis for determining the state and school district share of a
2 project, may be applied to the school district portion required
3 for that project;

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

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

14 C. After consulting with the public school capital
15 outlay oversight task force and other experts, the council
16 shall regularly review and update statewide adequacy standards
17 applicable to all school districts. The standards shall
18 establish the acceptable level for the physical condition and
19 capacity of buildings, the educational suitability of
20 facilities and the need for ~~[technological]~~ education
21 technology infrastructure. Except as otherwise provided in the
22 Public School Capital Outlay Act, the amount of outstanding
23 deviation from the standards shall be used by the council in
24 evaluating and prioritizing public school capital outlay
25 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 the
9 council determines that, at the time of exercising the option
10 to purchase the facility by the school district or charter
11 school, the facility will equal or exceed the statewide
12 adequacy standards and the building standards for public school
13 facilities;

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

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

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

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

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

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

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

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

24 (3) the school district and the capital outlay
25 project meet all of the requirements for grant assistance

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1 pursuant to the Public School Capital Outlay Act; provided
2 that, when determining the deviation from the statewide
3 adequacy standards for the purposes of evaluating and
4 prioritizing the project, the students using the facility shall
5 be deemed to be attending other schools in the school district.

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

14 G. Upon request, the council shall work with, and
15 provide assistance and information to, the public school
16 capital outlay oversight task force.

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

25 I. Upon the recommendation of the public school

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1 facilities authority, the council shall develop building
2 standards for public school facilities and shall promulgate
3 other such rules as are necessary to carry out the provisions
4 of the Public School Capital Outlay Act.

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

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

16 "[NEW MATERIAL] EDUCATION TECHNOLOGY INFRASTRUCTURE
17 DEFICIENCY CORRECTIONS.--

18 A. No later than September 1, 2014, the council,
19 with the advice of the public education department and the
20 department of information technology, shall define and develop:

- 21 (1) minimum adequacy standards for an
- 22 education technology infrastructure deficiency corrections
- 23 initiative to identify and determine reasonable costs for
- 24 correcting education technology infrastructure deficiencies in
- 25 or affecting school districts;

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

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

6 B. The council may approve allocations from the
7 fund pursuant to Subsection M of Section 22-24-4 NMSA 1978 and
8 this section for projects in or affecting a school district
9 committing to pay its share of the project costs. The council
10 may reduce or waive the school district's share of the project
11 costs in accordance with Paragraph (9) of Subsection B of
12 Section 22-24-5 NMSA 1978 or the methodology for determining
13 the school district's share of the project costs."

14 SECTION 5. A new section of the Public School Capital
15 Outlay Act is enacted to read:

16 "[NEW MATERIAL] EDUCATION TECHNOLOGY--DEPARTMENT DUTIES.--
17 In accordance with its promulgated rules and other policies,
18 the department shall:

19 A. develop and implement a statewide plan for
20 integration of education technology into public schools and
21 coordinate technology-related education activities with other
22 state agencies, the federal government, business consortia and
23 public or private agencies or individuals;

24 B. assist school districts and state-chartered
25 charter schools to develop and implement a strategic, long-term

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- 1 plan for utilizing education technology in public schools;
- 2 C. approve school districts' and state-chartered
- 3 charter schools' strategic, long-term education technology
- 4 plans;
- 5 D. recommend funding mechanisms and partnerships
- 6 with other appropriate state agencies that will support the
- 7 development and maintenance of an effective education technology
- 8 infrastructure in the state;
- 9 E. promote collaboration among government, business,
- 10 educational organizations and telecommunications entities to
- 11 expand and improve the use of technology in education; and
- 12 F. assess and determine education technology needs
- 13 for school districts and state-chartered charter schools."

14 SECTION 6. REPEAL.--Sections 22-15A-1 through 22-15A-13
15 NMSA 1978 (being Laws 1994, Chapter 96, Sections 1 through 10,
16 Laws 2005, Chapter 222, Sections 2 and 3, and Laws 2007, Chapter
17 292, Section 10, as amended) are repealed.

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