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AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; ALLOWING FOR THE
EXPENDITURE OF MONEY IN THE PUBLIC SCHOOL CAPITAL OUTLAY FUND
FOR SCHOOL SECURITY SYSTEM PROJECTS; AUTHORIZING
RECONCILIATION OF MULTIPLE AMENDMENTS TO THE SAME SECTION OF
LAW.

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

SECTION 1. A new section of the Public School Capital
Outlay Act, Section 22-24-4.7 NMSA 1978, is enacted to read:

"22-24-4.7. SCHOOL SECURITY SYSTEM PROJECTS.--

A. The council shall develop guidelines for a
school security system project grant initiative in accordance
with this section.

B. A school district seeking a grant for a school
security system project shall apply to the council on a form
that includes an assessment of a school's security system and
a statement of opinion by the school district that the
project would improve the security of the school's buildings,
property and occupants.

C. The public school facilities authority shall
verify the assessment made by the school district and rank
all applications it receives for school security system
project grants according to the methodology adopted by the
council for that purpose.

1 D. After a public hearing, and to the extent that
2 money is available in the fund for the purpose, the council
3 shall make school security system project grants to school
4 districts that the council determines are willing and able to
5 pay for the portion of the total project cost not funded with
6 grant assistance from the fund and according to those
7 applicants' ranking.

8 E. The state share of the cost of an approved
9 school security system project shall be calculated according
10 to the methodology outlined in Paragraph (5) of Subsection B
11 of Section 22-24-5 NMSA 1978.

12 F. A school district that receives a grant in
13 accordance with this section shall expend the grant money
14 within three years after the grant allocation. Money not
15 spent in that time shall revert to the fund."

16 SECTION 2. Section 22-24-3 NMSA 1978 (being Laws 1975,
17 Chapter 235, Section 3, as amended) is amended to read:

18 "22-24-3. DEFINITIONS.--As used in the Public School
19 Capital Outlay Act:

20 A. "building system" means a set of interacting
21 parts that makes up a single, nonportable or fixed component
22 of a facility and that, together with other building systems,
23 makes up an entire integrated facility or property, including
24 roofing, electrical distribution, electronic communication,
25 plumbing, lighting, mechanical, fire prevention, facility

1 shell, interior finishes, heating, ventilation and air
2 conditioning systems and school security systems, as defined
3 by the council;

4 B. "constitutional special schools" means the
5 New Mexico school for the blind and visually impaired and the
6 New Mexico school for the deaf;

7 C. "constitutional special schools support spaces"
8 means all facilities necessary to support the constitutional
9 special schools' educational mission that are not included in
10 the constitutional special schools' educational adequacy
11 standards, including performing arts centers, facilities for
12 athletic competition, school district administration and
13 facility and vehicle maintenance;

14 D. "council" means the public school capital
15 outlay council;

16 E. "education technology infrastructure" means the
17 physical hardware used to interconnect education technology
18 equipment for school districts and school buildings necessary
19 to support broadband connectivity as determined by the
20 council;

21 F. "fund" means the public school capital outlay
22 fund; and

23 G. "school district" includes state-chartered
24 charter schools and the constitutional special schools."

25 SECTION 3. Section 22-24-4 NMSA 1978 (being Laws 1975,

1 Chapter 235, Section 4, as amended) is amended to read:

2 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--
3 USE.--

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

7 B. Except as provided in Subsections G and I
8 through O of this section, money in the fund may be used only
9 for capital expenditures deemed necessary by the council for
10 an adequate educational program.

11 C. The council may authorize the purchase by the
12 public school facilities authority of portable classrooms to
13 be loaned to school districts to meet a temporary
14 requirement. Payment for these purchases shall be made from
15 the fund. Title to and custody of the portable classrooms
16 shall rest in the public school facilities authority. The
17 council shall authorize the lending of the portable
18 classrooms to school districts upon request and upon finding
19 that sufficient need exists. Application for use or return
20 of state-owned portable classroom buildings shall be
21 submitted by school districts to the council. Expenses of
22 maintenance of the portable classrooms while in the custody
23 of the public school facilities authority shall be paid from
24 the fund; expenses of maintenance and insurance of the
25 portable classrooms while in the custody of a school district

1 shall be the responsibility of the school district. The
2 council may authorize the permanent disposition of the
3 portable classrooms by the public school facilities authority
4 with prior approval of the state board of finance.

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

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

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

25 (1) up to ten percent of the portion of the

1 project cost funded with distributions from the fund or five
2 percent of the total project cost, whichever is greater, may
3 be paid to the school district before work commences with the
4 balance of the grant award made on a cost-reimbursement
5 basis; or

6 (2) the council may authorize payments
7 directly to the contractor.

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

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

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

23 H. The fund may be expended by the council for
24 building system repair, renovation or replacement initiatives
25 with projects to be identified by the council pursuant to

1 Section 22-24-4.6 NMSA 1978; provided that money allocated
2 pursuant to this subsection shall be expended within three
3 years of the allocation.

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

15 (1) the amount of a grant to a school
16 district shall not exceed:

17 (a) the actual annual lease payments
18 owed for leasing classroom space for schools, including
19 charter schools, in the school district; or

20 (b) seven hundred dollars (\$700)
21 multiplied by the MEM using the leased classroom facilities;
22 provided that in fiscal year 2009 and in each subsequent
23 fiscal year, this amount shall be adjusted by the percentage
24 change between the penultimate calendar year and the
25 immediately preceding calendar year of the consumer price

1 index for the United States, all items, as published by the
2 United States department of labor;

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

7 (3) at the end of each fiscal year, any
8 unexpended or unencumbered balance of the appropriation shall
9 revert to the fund;

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

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

17 (b) the facilities are leased by a
18 charter school;

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

1 does it create a legal obligation for the state to make
2 subsequent grants pursuant to the provisions of this
3 subsection; and

4 (6) as used in this subsection:

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

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

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

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

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

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

1 updating the plan that is not funded with the allocation from
2 the fund. Except as provided in Paragraph (2) of this
3 subsection, the portion of the total cost to be paid with the
4 allocation from the fund shall be determined pursuant to the
5 methodology in Paragraph (5) of Subsection B of Section
6 22-24-5 NMSA 1978; or

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

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

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

1 resolution of the local school board plus rates set to pay
2 interest and principal on outstanding school district general
3 obligation bonds.

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

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

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

14 (3) the council may enter into an agreement
15 with the school district under which an amount equal to the
16 savings to the district in lower insurance premiums are used
17 to reimburse the fund fully or partially for the demolition
18 costs allocated to the district.

19 M. Up to ten million dollars (\$10,000,000) of the
20 fund may be expended in each of fiscal years 2014 through
21 2019 for an education technology infrastructure deficiency
22 corrections initiative pursuant to Section 22-24-4.5
23 NMSA 1978; provided that funding allocated pursuant to this
24 section shall be expended within three years of its
25 allocation.

1 N. For each fiscal year from 2018 through 2022,
2 twenty-five million dollars (\$25,000,000) of the public
3 school capital outlay fund is reserved for appropriation by
4 the legislature to the instructional material fund or to the
5 transportation distribution of the public school fund. The
6 secretary shall certify the need for the issuance of
7 supplemental severance tax bonds to meet an appropriation
8 from the public school capital outlay fund to the
9 instructional material fund or to the transportation
10 distribution of the public school fund. Any portion of an
11 amount of the public school capital outlay fund that is
12 reserved for appropriation by the legislature for a fiscal
13 year, but that is not appropriated before the first day of
14 that fiscal year, may be expended by the council as provided
15 in this section.

16 O. Up to ten million dollars (\$10,000,000) of the
17 fund may be expended in each of fiscal years 2019 through
18 2022 for school security system project grants made in
19 accordance with Section 22-24-4.7 NMSA 1978."

20 SECTION 4. TEMPORARY PROVISION--COMPILATION
21 INSTRUCTION--RECONCILIATION.--If acts making amendments to
22 Section 22-24-4 NMSA 1978 are enacted by the first and second
23 sessions of the fifty-third legislature, the provisions of
24 those acts shall be reconciled and compiled in accordance with
25 the provisions of Section 12-1-8 NMSA 1978, notwithstanding

1 that the amendments were not made in the same session of the
2 legislature. _____

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