

HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS COMMITTEE  
SUBSTITUTE FOR HOUSE BILL 143

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

AN ACT

RELATING TO PUBLIC SCHOOL GOVERNANCE; REQUIRING THE PUBLIC  
SCHOOL CAPITAL OUTLAY COUNCIL TO APPROVE CHARTER SCHOOL LEASES  
AT A MARKET RATE; PROVIDING TECHNICAL CLEANUP; REQUIRING  
CHARTERING AUTHORITIES TO ANNUALLY REVIEW AND APPROVE CHARTER  
SCHOOL CONFLICT OF INTEREST DISCLOSURES; REQUIRING CHARTER  
SCHOOLS TO USE A STANDARD CHARTER SCHOOL LEASE FORM.

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

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

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

A. A charter school shall be subject to all federal  
and state laws and constitutional provisions prohibiting  
discrimination on the basis of disability, physical or mental

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1 handicap, serious medical condition, race, creed, color, sex,  
2 gender identity, sexual orientation, spousal affiliation,  
3 national origin, religion, ancestry or need for special  
4 education services and shall not allow for the imposition of  
5 discipline, discrimination or disparate treatment against a  
6 student based on the student's race, religion or culture or  
7 because of the student's use of protective hairstyles or  
8 cultural or religious headdresses.

9 B. A charter school shall be governed by a  
10 governing body in the manner set forth in the charter contract;  
11 provided that a governing body shall have at least five  
12 members; and provided further that no member of a governing  
13 body for a charter school that is initially approved on or  
14 after July 1, 2005 or whose charter is renewed on or after July  
15 1, 2005 shall serve on the governing body of another charter  
16 school. No member of a local school board shall be a member of  
17 a governing body for a charter school or employed in any  
18 capacity by a locally chartered charter school located within  
19 the local school board's school district during the term of  
20 office for which the member was elected or appointed.

21 C. A charter school shall be responsible for:  
22 (1) its own operation, including preparation  
23 of a budget, subject to audits pursuant to the Audit Act; and  
24 (2) contracting for services and personnel  
25 matters.

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1           D. A charter school may contract with a school  
2 district, a university or college, the state, another political  
3 subdivision of the state, the federal government or one of its  
4 agencies, a tribal government or any other third party for the  
5 use of a facility, its operation and maintenance and the  
6 provision of any service or activity that the charter school is  
7 required to perform in order to carry out the educational  
8 program described in its charter contract. Facilities used by  
9 a charter school shall meet the standards required pursuant to  
10 Section 22-8B-4.2 NMSA 1978.

11           E. A conversion school chartered before July 1,  
12 2007 may choose to continue using the school district  
13 facilities and equipment it had been using prior to conversion,  
14 subject to the provisions of Subsection F of this section.

15           F. A school district that has available land or one  
16 or more available facilities not currently used for other  
17 educational purposes shall make facilities and may make land  
18 available for lease, lease-purchase or purchase to the charter  
19 schools located in the school district for the charter schools'  
20 operations and shall notify the charter schools of that  
21 availability no later than May 1 of each year. The public  
22 school facilities authority shall annually ensure that each  
23 school district with available land or one or more available  
24 facilities has provided that notification. A school district  
25 may develop a facility prioritization plan that identifies

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1 which charter schools may lease, lease-purchase or purchase  
2 available school district facilities. School-district-owned  
3 land shall not be considered available to a charter school if  
4 the school district has justified future use of that land  
5 through its five-year facilities master plan. An agreement for  
6 the use of school district facilities by a charter school may  
7 provide for reasonable lease payments approved by the public  
8 school capital outlay council at the local market rate;  
9 provided that the payments do not exceed the sum of the lease  
10 reimbursement rate provided in Paragraph (1) of Subsection I of  
11 Section 22-24-4 NMSA 1978 plus any reimbursement for actual  
12 direct costs incurred by the school district in providing the  
13 facilities; and provided further that any lease payments  
14 received by a school district may be retained by the school  
15 district and shall not be considered to be cash balances in any  
16 calculation pursuant to Section 22-8-41 NMSA 1978. The  
17 available facilities provided by a school district to a charter  
18 school shall meet all occupancy standards as specified by the  
19 public school capital outlay council. As used in this  
20 subsection, "other educational purposes" includes health  
21 clinics, daycare centers, teacher training centers, school  
22 district administration functions and other ancillary services  
23 related to a school district's functions and operations.

24 G. A locally chartered charter school may pay the  
25 costs of operation and maintenance of its facilities or may

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1 contract with the school district to provide facility operation  
2 and maintenance services.

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

6 I. A locally chartered charter school shall  
7 negotiate with a school district to provide transportation to  
8 students eligible for transportation under the provisions of  
9 the Public School Code. The school district, in conjunction  
10 with the charter school, may establish a limit for student  
11 transportation to and from the charter school site not to  
12 extend beyond the school district boundary.

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

15 K. Except as otherwise provided in the Public  
16 School Code, a charter school shall not charge tuition or have  
17 admission requirements.

18 L. With the approval of the chartering authority, a  
19 single charter school may maintain separate facilities at two  
20 or more locations within the same school district; but, for  
21 purposes of calculating program units pursuant to the Public  
22 School Finance Act, the separate facilities shall be treated  
23 together as one school.

24 M. A charter school shall be subject to the  
25 provisions of Section 22-2-8 NMSA 1978 and the Assessment and

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1 Accountability Act.

2 N. Within constitutional and statutory limits, a  
3 charter school may acquire and dispose of property; provided  
4 that, upon termination of the charter, all assets of the  
5 locally chartered charter school shall revert to the local  
6 school board and all assets of the state-chartered charter  
7 school shall revert to the state, except that, if all or any  
8 portion of a state-chartered charter school facility is  
9 financed with the proceeds of general obligation bonds issued  
10 by a local school board, the facility shall revert to the local  
11 school board.

12 O. The governing body of a charter school may  
13 accept or reject any charitable gift, grant, devise or bequest;  
14 provided that no such gift, grant, devise or bequest shall be  
15 accepted if subject to any condition contrary to law or to the  
16 terms of the charter. The particular gift, grant, devise or  
17 bequest shall be considered an asset of the charter school to  
18 which it is given.

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

22 Q. A charter school shall comply with all state and  
23 federal health and safety requirements applicable to public  
24 schools, including those health and safety codes relating to  
25 educational building occupancy.

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1           R. A charter school is a public school that may  
2 contract with a school district or other party for provision of  
3 financial management, food services, transportation,  
4 facilities, education-related services or other services. The  
5 governing body shall not contract with a for-profit entity for  
6 the management of the charter school.

7           S. To enable state-chartered charter schools to  
8 submit required data to the department, an accountability data  
9 system shall be maintained by the department.

10           T. A charter school shall comply with all  
11 applicable state and federal laws and rules related to  
12 providing special education services. Charter school students  
13 with disabilities and their parents retain all rights under the  
14 federal Individuals with Disabilities Education Act and its  
15 implementing state and federal rules. Each charter school is  
16 responsible for identifying, evaluating and offering a free  
17 appropriate public education to all eligible children who are  
18 accepted for enrollment in that charter school. The state-  
19 chartered charter school, as a local educational agency, shall  
20 assume responsibility for determining students' needs for  
21 special education and related services. The division may  
22 promulgate rules to implement the requirements of this  
23 subsection.

24           U. As used in this section:

25           (1) "cultural or religious headdresses"

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1 includes hijabs, head wraps or other headdresses used as part  
2 of an individual's personal cultural or religious beliefs;

3 (2) "protective hairstyles" includes such  
4 hairstyles as braids, locs, twists, tight coils or curls,  
5 cornrows, bantu knots, afros, weaves, wigs or head wraps; and

6 (3) "race" includes traits historically  
7 associated with race, including hair texture, length of hair,  
8 protective hairstyles or cultural or religious headdresses."

9 SECTION 2. Section 22-8B-4.2 NMSA 1978 (being Laws 2005,  
10 Chapter 221, Section 3 and Laws 2005, Chapter 274, Section 2,  
11 as amended) is amended to read:

12 "22-8B-4.2. CHARTER SCHOOL FACILITIES--STANDARDS.--

13 A. The facilities of a charter school that is  
14 approved on or after July 1, 2005 and before July 1, 2015 shall  
15 meet educational occupancy standards required by applicable New  
16 Mexico construction codes.

17 B. The facilities of a charter school whose charter  
18 has been renewed at least once shall be evaluated, prioritized  
19 and eligible for grants pursuant to the Public School Capital  
20 Outlay Act in the same manner as all other public schools in  
21 the state; provided that for charter school facilities in  
22 leased facilities, grants may be used to provide additional  
23 lease payments for leasehold improvements made by the lessor.

24 C. [~~On or after July 1, 2011~~] A new charter school  
25 shall not open and an existing charter school shall not

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1 relocate unless the facilities of the new or relocated charter  
 2 school, as measured by the New Mexico condition index, receive  
 3 a condition rating equal to or better than the average  
 4 condition for all New Mexico public schools for that year [~~or~~  
 5 ~~the charter school demonstrates, within eighteen months of~~  
 6 ~~occupancy or relocation of the charter, the way in which the~~  
 7 ~~facilities will achieve a rating equal to or better than the~~  
 8 ~~average New Mexico condition index].~~

9 D. On or after July 1, 2015, a new charter school  
 10 shall not open and an existing charter shall not be renewed  
 11 unless the charter school:

12 (1) is housed in a building that is:

13 (a) owned by the charter school, the  
 14 school district, the state, an institution of the state,  
 15 another political subdivision of the state, the federal  
 16 government or one of its agencies or a tribal government; or

17 (b) subject to a lease-purchase  
 18 arrangement that has been entered into and approved pursuant to  
 19 the Public School Lease Purchase Act; or

20 (2) if it is not housed in a building  
 21 described in Paragraph (1) of this subsection, demonstrates  
 22 that:

23 (a) the facility in which the charter  
 24 school is housed meets the statewide adequacy standards  
 25 developed pursuant to the Public School Capital Outlay Act and

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1 the owner of the facility is contractually obligated to  
2 maintain those standards at no additional cost to the charter  
3 school or the state; and

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

9 E. Without the approval of the public school  
10 facilities authority pursuant to Section 22-20-1 NMSA 1978, a  
11 charter school shall not enter into a lease-purchase agreement.

12 F. The public school capital outlay council:

13 (1) shall determine whether facilities of a  
14 charter school meet the educational occupancy standards  
15 pursuant to the requirements of Subsection A of this section or  
16 the requirements of Subsections B, C and D of this section, as  
17 applicable; and

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

22 SECTION 3. Section 22-8B-5.2 NMSA 1978 (being Laws 2011,  
23 Chapter 14, Section 7) is amended to read:

24 "22-8B-5.2. GOVERNING BODY CONFLICTS OF INTEREST.--

25 A. A person shall not serve as a member of a

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1 governing body or as an employee of a charter school if the  
2 person or an immediate family member of the person is an owner,  
3 agent of, contractor with or otherwise has a financial interest  
4 in a for-profit or nonprofit entity with which the charter  
5 school contracts directly, for professional services, goods or  
6 facilities. A violation of this subsection renders the  
7 contract between the person or the person's immediate family  
8 member and the charter school voidable at the option of the  
9 chartering authority, the department or the governing body. A  
10 person who knowingly violates this subsection may be  
11 individually liable to the charter school for any financial  
12 damage caused by the violation.

13 B. No member of a governing body or employee,  
14 officer or agent of a charter school shall participate in  
15 selecting, awarding or administering a contract with the  
16 charter school if a conflict of interest exists. A conflict of  
17 interest exists when the member, employee, officer or agent or  
18 an immediate family member of the member, employee, officer or  
19 agent has a financial interest in the entity with which the  
20 charter school is contracting. A violation of this subsection  
21 renders the contract [~~voidable~~] void.

22 C. Any employee, agent or board member of the  
23 chartering authority who participates in the initial review,  
24 approval, ongoing oversight, evaluation or charter renewal  
25 process of a charter school is ineligible to serve on the

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1 governing body of the charter school chartered by the  
2 chartering authority.

3 D. As used in this section, "immediate family  
4 member" means spouse, father, father-in-law, mother, mother-in-  
5 law, son, son-in-law, daughter, daughter-in-law, brother,  
6 brother-in-law, sister, sister-in-law or any other relative who  
7 is financially supported."

8 SECTION 4. Section 22-8B-5.3 NMSA 1978 (being Laws 2011,  
9 Chapter 14, Section 8) is amended to read:

10 "22-8B-5.3. CHARTERING AUTHORITY--POWERS--DUTIES--  
11 LIABILITY.--A chartering authority shall:

12 A. evaluate charter applications;

13 B. actively pursue the utilization of charter  
14 schools to satisfy identified education needs and promote a  
15 diversity of educational choices;

16 C. approve charter applications that meet the  
17 requirements of the Charter Schools Act;

18 D. decline to approve charter applications that  
19 fail to meet the requirements of the Charter Schools Act or are  
20 otherwise inadequate;

21 E. negotiate and execute, in good faith, charter  
22 contracts that meet the requirements of the Charter Schools Act  
23 with each approved charter school;

24 F. monitor, in accordance with the requirements of  
25 the Charter Schools Act and the terms of the charter contract,

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1 the performance and legal compliance of charter schools under  
2 their authority;

3 G. determine whether a charter school merits  
4 suspension, revocation or nonrenewal; ~~and~~

5 H. develop and maintain chartering policies and  
6 practices consistent with nationally recognized principles and  
7 standards for quality charter authorizing in all major areas of  
8 authorizing, including:

9 (1) organizational capacity and  
10 infrastructure;

11 (2) evaluating charter applications;

12 (3) performance contracting;

13 (4) charter school oversight and evaluation;

14 and

15 (5) charter school suspension, revocation and  
16 renewal processes; and

17 I. annually review, approve and report to the  
18 department all charter school conflict-of-interest disclosure  
19 statements."

20 SECTION 5. Section 22-24-4 NMSA 1978 (being Laws 1975,  
21 Chapter 235, Section 4, as amended) is amended to read:

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

24 A. The "public school capital outlay fund" is  
25 created. Balances remaining in the fund at the end of each

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1 fiscal year shall not revert.

2 B. Except as provided in Subsections G and I  
3 through Q of this section, money in the fund may be used only  
4 for capital expenditures deemed necessary by the council for an  
5 adequate educational program.

6 C. The council may authorize the purchase by the  
7 authority of portable classrooms to be loaned to school  
8 districts to meet a temporary requirement. Payment for these  
9 purchases shall be made from the fund. Title to and custody of  
10 the portable classrooms shall rest in the authority. The  
11 council shall authorize the lending of the portable classrooms  
12 to school districts upon request and upon finding that  
13 sufficient need exists. Application for use or return of  
14 state-owned portable classroom buildings shall be submitted by  
15 school districts to the council. Expenses of maintenance of  
16 the portable classrooms while in the custody of the 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 authority with prior approval  
22 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 that 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 authority pursuant to the Public School Capital Outlay Act,  
3 and, in addition, balances in the fund may be expended by the  
4 authority, upon approval of the council, for project management  
5 expenses; provided that:

6 (1) the total annual expenditures from the  
7 fund for the core administrative functions pursuant to this  
8 subsection shall not exceed five percent of the average annual  
9 grant assistance authorized from the fund during the three  
10 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. The fund may be expended by the council for  
15 building system repair, renovation or replacement initiatives  
16 with projects to be identified by the council pursuant to  
17 Section 22-24-4.6 NMSA 1978; provided that money allocated  
18 pursuant to this subsection shall be expended within three  
19 years of the allocation.

20 I. The fund may be expended annually by the council  
21 for grants to school districts for the purpose of making lease  
22 payments for facilities, including facilities leased by charter  
23 schools. For leases, amendments and renewals entered into  
24 after July 1, 2023, these payments shall be reviewed by the  
25 council and charter school's authorizer and shall not be used

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1 for operational expenditures, including expenditures for  
2 property taxes, utilities, custodial fees, insurance or  
3 repairs. The grants shall be made upon application by the  
4 school districts and pursuant to rules adopted by the council;  
5 provided that an application on behalf of a charter school  
6 shall be made by the school district, but, if the school  
7 district fails to make an application on behalf of a charter  
8 school, the charter school may submit its own application. The  
9 following criteria shall apply to the grants:

10 (1) the amount of a grant to a school district  
11 or charter school shall not exceed:

12 (a) the actual annual lease payments  
13 owed for leasing a facility; or

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

22 (2) a grant received for the lease payments of  
23 a charter school may be used by that charter school as a state  
24 match necessary to obtain federal grants pursuant to the  
25 federal Every Student Succeeds Act;

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1 (3) at the end of each fiscal year, any  
2 unexpended or unencumbered balance of the grant shall revert to  
3 the fund;

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

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

11 (b) the facilities are leased by a  
12 charter school;

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

22 (6) as used in this subsection:

23 (a) "MEM" means: 1) the average full-  
24 time-equivalent enrollment using leased facilities on the  
25 second and third reporting dates of the prior school year; or

1 2) in the case of an approved charter school that has not  
2 commenced classroom instruction, the estimated full-time-  
3 equivalent enrollment that will use leased facilities in the  
4 first year of instruction, as shown in the approved charter  
5 school application; provided that, after the second reporting  
6 date of the current school year, the MEM shall be adjusted to  
7 reflect the full-time-equivalent enrollment on that date; and

8 (b) "facilities" includes the space  
9 needed for school activities.

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

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

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

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

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

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

25 (b) the school district meets all of the

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

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

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

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

25 (3) the council may enter into an agreement

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1 with the school district to fully fund the demolition of the  
2 abandoned school district facility if Paragraphs (1) and (2) of  
3 this subsection are satisfied.

4 M. Up to ten million dollars (\$10,000,000) of the  
5 fund may be expended each year for an education technology  
6 infrastructure deficiency corrections initiative pursuant to  
7 Section 22-24-4.5 NMSA 1978; provided that funding allocated  
8 pursuant to this section shall be expended within three years  
9 of its allocation.

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

24 O. Up to ten million dollars (\$10,000,000) of the  
25 fund may be expended in each of fiscal years 2019 through 2022

1 for school security system project grants made in accordance  
2 with Section 22-24-4.7 NMSA 1978.

3 P. The fund may be expended in each of fiscal years  
4 2020 through 2024 for a pre-kindergarten classroom facilities  
5 initiative in accordance with Section 22-24-12 NMSA 1978.

6 Q. The council may fund pre-kindergarten classrooms  
7 with a qualifying, awarded standards-based project; provided  
8 that pre-kindergarten classroom space shall not be included in  
9 the project prioritization calculation adopted by the council  
10 pursuant to Section 22-24-5 NMSA 1978. The council shall  
11 develop pre-kindergarten classroom standards to use when  
12 funding pre-kindergarten space."

13 SECTION 6. APPLICABILITY.--The provisions of this act  
14 apply to the 2023-2024 school year and subsequent school years.

underscoring material = new  
~~[bracketed material] = delete~~