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AN ACT

RELATING TO PUBLIC SCHOOL FACILITIES; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO ALLOW THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL TO PROVIDE TEMPORARY ANNUAL ALLOCATIONS TO SCHOOL DISTRICTS TO ADDRESS BUILDING SYSTEMS NEEDS IN EXISTING BUILDINGS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

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

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

A. "building system" means a set of interacting parts that makes up a single, nonportable or fixed component of a facility and that, together with other building systems, makes up an entire integrated facility or property, including, but not limited to, roofing, electrical distribution, electronic communication, plumbing, lighting, mechanical, fire prevention, facility shell, interior finishes and heating, ventilation and air conditioning systems, as defined by the council;

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

C. "constitutional special schools support spaces" means all facilities necessary to support the constitutional

1 special schools' educational mission that are not included in  
2 the constitutional special schools' educational adequacy  
3 standards, including, but not limited to, performing arts  
4 centers, facilities for athletic competition, school district  
5 administration and facility and vehicle maintenance;

6 D. "council" means the public school capital  
7 outlay council;

8 E. "education technology infrastructure" means the  
9 physical hardware used to interconnect education technology  
10 equipment for school districts and school buildings necessary  
11 to support broadband connectivity as determined by the  
12 council;

13 F. "fund" means the public school capital outlay  
14 fund; and

15 G. "school district" includes state-chartered  
16 charter schools and the constitutional special schools."

17 SECTION 2. Section 22-24-4 NMSA 1978 (being Laws 1975,  
18 Chapter 235, Section 4, as amended) is amended to read:

19 "22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--  
20 USE.--

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

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

1           C. The council may authorize the purchase by the  
2 public school facilities authority of portable classrooms to  
3 be loaned to school districts to meet a temporary  
4 requirement. Payment for these purchases shall be made from  
5 the fund. Title to and custody of the portable classrooms  
6 shall rest in the public school facilities authority. The  
7 council shall authorize the lending of the portable  
8 classrooms to school districts upon request and upon finding  
9 that sufficient need exists. Application for use or return  
10 of state-owned portable classroom buildings shall be  
11 submitted by school districts to the council. Expenses of  
12 maintenance of the portable classrooms while in the custody  
13 of the public school facilities authority shall be paid from  
14 the fund; expenses of maintenance and insurance of the  
15 portable classrooms while in the custody of a school district  
16 shall be the responsibility of the school district. The  
17 council may authorize the permanent disposition of the  
18 portable classrooms by the public school facilities authority  
19 with prior approval of the state board of finance.

20           D. Applications for assistance from the fund shall  
21 be made by school districts to the council in accordance with  
22 requirements of the council. Except as provided in  
23 Subsection K of this section, the council shall require as a  
24 condition of application that a school district have a  
25 current five-year facilities plan, which shall include a  
current preventive maintenance plan to which the school  
adheres for each public school in the school district.

1           E. The council shall review all requests for  
2 assistance from the fund and shall allocate funds only for  
3 those capital outlay projects that meet the criteria of the  
4 Public School Capital Outlay Act.

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

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

19                   (2) the council may authorize payments  
20 directly to the contractor.

21           G. Balances in the fund may be annually  
22 appropriated for the core administrative functions of the  
23 public school facilities authority pursuant to the Public  
24 School Capital Outlay Act, and, in addition, balances in the  
25 fund may be expended by the public school facilities  
authority, upon approval of the council, for project  
management expenses; provided that:

1 (1) the total annual expenditures from the  
2 fund for the core administrative functions pursuant to this  
3 subsection shall not exceed five percent of the average  
4 annual grant assistance authorized from the fund during the  
5 three previous fiscal years; and

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

9 H. Up to fifteen million dollars (\$15,000,000) of  
10 the fund may be expended annually by the council for  
11 expenditure in fiscal years 2016 through 2020 for a building  
12 system repair, renovation or replacement initiative with  
13 projects to be identified by the council pursuant to Section  
14 3 of this 2015 act; provided that money allocated pursuant to  
15 this subsection shall be expended within three years of the  
16 allocation.

17 I. The fund may be expended annually by the  
18 council for grants to school districts for the purpose of  
19 making lease payments for classroom facilities, including  
20 facilities leased by charter schools. The grants shall be  
21 made upon application by the school districts and pursuant to  
22 rules adopted by the council; provided that an application on  
23 behalf of a charter school shall be made by the school  
24 district, but, if the school district fails to make an  
25 application on behalf of a charter school, the charter school  
may submit its own application. The following criteria shall  
apply to the grants:

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

3 (a) the actual annual lease payments  
4 owed for leasing classroom space for schools, including  
5 charter schools, in the district; or

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

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

18 (3) at the end of each fiscal year, any  
19 unexpended or unencumbered balance of the appropriation shall  
20 revert to the fund;

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

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

1 (b) the facilities are leased by a  
2 charter school;

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

13 (6) as used in this subsection:

14 (a) "MEM" means: 1) the average  
15 full-time-equivalent enrollment using leased classroom  
16 facilities on the eightieth and one hundred twentieth days of  
17 the prior school year; or 2) in the case of an approved  
18 charter school that has not commenced classroom instruction,  
19 the estimated full-time-equivalent enrollment that will use  
20 leased classroom facilities in the first year of instruction,  
21 as shown in the approved charter school application; provided  
22 that, after the eightieth day of the school year, the MEM  
23 shall be adjusted to reflect the full-time-equivalent  
24 enrollment on that date; and

25 (b) "classroom facilities" or  
"classroom space" includes the space needed, as determined by  
the minimum required under the statewide adequacy standards,

1 for the direct administration of school activities.

2 J. In addition to other authorized expenditures  
3 from the fund, up to one percent of the average grant  
4 assistance authorized from the fund during the three previous  
5 fiscal years may be expended in each fiscal year by the  
6 public school facilities authority to pay the state fire  
7 marshal, the construction industries division of the  
8 regulation and licensing department and local jurisdictions  
9 having authority from the state to permit and inspect  
10 projects for expenditures made to permit and inspect projects  
11 funded in whole or in part under the Public School Capital  
12 Outlay Act. The public school facilities authority may enter  
13 into contracts with the state fire marshal, the construction  
14 industries division or the appropriate local authorities to  
15 carry out the provisions of this subsection. Such a contract  
16 may provide for initial estimated payments from the fund  
17 prior to the expenditures if the contract also provides for  
18 additional payments from the fund if the actual expenditures  
19 exceed the initial payments and for repayments back to the  
20 fund if the initial payments exceed the actual expenditures.  
21 Money distributed from the fund to the state fire marshal or  
22 the construction industries division pursuant to this  
23 subsection shall be used to supplement, rather than supplant,  
24 appropriations to those entities.

25 K. Pursuant to guidelines established by the  
council, allocations from the fund may be made to assist  
school districts in developing and updating five-year



1 facilities plans required by the Public School Capital Outlay  
2 Act; provided that:

3 (1) no allocation shall be made unless the  
4 council determines that the school district is willing and  
5 able to pay the portion of the total cost of developing or  
6 updating the plan that is not funded with the allocation from  
7 the fund. Except as provided in Paragraph (2) of this  
8 subsection, the portion of the total cost to be paid with the  
9 allocation from the fund shall be determined pursuant to the  
10 methodology in Paragraph (5) of Subsection B of Section  
11 22-24-5 NMSA 1978; or

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

14 (a) the school district has fewer than  
15 an average of six hundred full-time-equivalent students on  
16 the eightieth and one hundred twentieth days of the prior  
17 school year; or

18 (b) the school district meets all of  
19 the following requirements: 1) the school district has fewer  
20 than an average of one thousand full-time-equivalent students  
21 on the eightieth and one hundred twentieth days of the prior  
22 school year; 2) the school district has at least seventy  
23 percent of its students eligible for free or reduced-fee  
24 lunch; 3) the state share of the total cost, if calculated  
25 pursuant to the methodology in Paragraph (5) of Subsection B  
of Section 22-24-5 NMSA 1978, would be less than fifty  
percent; and 4) for all educational purposes, the school

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

7 L. Upon application by a school district,  
8 allocations from the fund may be made by the council for the  
9 purpose of demolishing abandoned school district facilities,  
10 provided that:

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

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

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

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

1 allocation."

2 SECTION 3. A new section of the Public School Capital  
3 Outlay Act is enacted to read:

4 "BUILDING SYSTEM REPAIR, RENOVATION OR REPLACEMENT.--

5 A. The council shall develop guidelines for a  
6 building system repair, renovation or replacement initiative  
7 pursuant to the provisions of this section.

8 B. A school district desiring a grant award  
9 pursuant to this section shall submit an application to the  
10 council. The application shall include an assessment of the  
11 building system that, in the opinion of the school district,  
12 the repair, renovation or replacement of which would extend  
13 the useful life of the building itself.

14 C. The public school facilities authority shall  
15 verify the assessment made by the school district and rank  
16 the application with similar applications pursuant to a  
17 methodology adopted by the council.

18 D. After a public hearing and to the extent that  
19 money is available in the fund for such purposes, the council  
20 shall approve building system repair, renovation or  
21 replacement projects on the established priority basis;  
22 provided that no project shall be approved unless the council  
23 determines that the school district is willing and able to  
24 pay the portion of the total cost of the project that is not  
25 funded with grant assistance from the fund.

E. The state share of the cost of an approved  
building system repair, renovation or replacement project

1 shall be calculated pursuant to the methodology in Paragraph  
2 (5) of Subsection B of Section 22-24-5 NMSA 1978.

3 F. A grant made pursuant to this section shall be  
4 expended by the school district within three years of the  
5 grant allocation."

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

8 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--  
9 APPLICATION--GRANT ASSISTANCE.--

10 A. Applications for grant assistance, approval of  
11 applications, prioritization of projects and grant awards  
12 shall be conducted pursuant to the provisions of this  
13 section.

14 B. Except as provided in Sections 22-24-4.3,  
15 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions  
16 govern grant assistance from the fund for a public school  
17 capital outlay project not wholly funded pursuant to Section  
18 22-24-4.1 NMSA 1978:

19 (1) all school districts are eligible to  
20 apply for funding from the fund, regardless of percentage of  
21 indebtedness;

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

(a) the council shall apply the  
standards to charter schools to the same extent that they are

1 applied to other public schools;

2 (b) the council may award grants  
3 annually to school districts for the purpose of repairing,  
4 renovating or replacing public school building systems in  
5 existing buildings as identified in Section 3 of this 2015  
6 act;

7 (c) the council shall adopt and apply  
8 adequacy standards appropriate to the unique needs of the  
9 constitutional special schools; and

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

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

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

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

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

1 (d) any other financing or construction  
2 concept that may maximize the dollar effect of the state  
3 grant assistance;

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

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

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

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

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

(d) the lowest value listed pursuant to

1 Subparagraph (c) of this paragraph is subtracted from the  
2 highest value listed pursuant to that subparagraph;

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

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

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

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

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

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

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  
4 in Subparagraph (n) or (o) of this paragraph, the value for  
5 that 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  
14 calculated pursuant to Subparagraph (l) of this paragraph is  
15 added to the value calculated pursuant to Subparagraph (f) of  
16 this paragraph. Except as provided in Subparagraph (n) or  
17 (o) of this paragraph, the sum equals the value for that  
18 school 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 the value for the subject school district;

(p) except as provided in Section



1 22-24-5.7 NMSA 1978 and except as adjusted pursuant to  
2 Paragraph (6), (8), (9) or (10) of this subsection, the  
3 amount to be distributed from the fund for an approved  
4 project shall equal the total project cost multiplied by a  
5 fraction the numerator of which is the value calculated for  
6 the subject school district in the current year plus the  
7 value calculated for that school district in each of the two  
8 preceding years and the denominator of which is three; and

9 (q) as used in this paragraph:

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

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

25 (a) the total of all legislative  
appropriations made after January 1, 2003 for nonoperating  
purposes either directly to the subject school district or to

1 another governmental entity for the purpose of passing the  
2 money through directly to the subject school district, and  
3 not rejected by the subject school district, is calculated;  
4 provided that: 1) an appropriation made in a fiscal year  
5 shall be deemed to be accepted by a school district unless,  
6 prior to June 1 of that fiscal year, the school district  
7 notifies the department of finance and administration and the  
8 public education department that the school district is  
9 rejecting the appropriation; 2) the total shall exclude any  
10 education technology appropriation made prior to  
11 January 1, 2005 unless the appropriation was on or after  
12 January 1, 2003 and not previously used to offset  
13 distributions pursuant to the Technology for Education Act;  
14 3) the total shall exclude any appropriation previously made  
15 to the subject school district that is reauthorized for  
16 expenditure by another recipient; 4) the total shall exclude  
17 one-half of the amount of any appropriation made or  
18 reauthorized after January 1, 2007 if the purpose of the  
19 appropriation or reauthorization is to fund, in whole or in  
20 part, a capital outlay project that, when prioritized by the  
21 council pursuant to this section either in the immediately  
22 preceding funding cycle or in the current funding cycle,  
23 ranked in the top one hundred fifty projects statewide; 5)  
24 the total shall exclude the proportionate share of any  
25 appropriation made or reauthorized after January 1, 2008 for  
a capital project that will be jointly used by a governmental  
entity other than the subject school district. Pursuant to

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

14 (b) the applicable fraction used for  
15 the subject school district and the current calendar year for  
16 the calculation in Subparagraph (p) of Paragraph (5) of this  
17 subsection is subtracted from one;

18 (c) the value calculated pursuant to  
19 Subparagraph (a) of this paragraph for the subject school  
20 district is multiplied by the amount calculated pursuant to  
21 Subparagraph (b) of this paragraph for that school district;

22 (d) the total amount of reductions for  
23 the subject school district previously made pursuant to  
24 Subparagraph (e) of this paragraph for other approved public  
25 school capital outlay projects is subtracted from the amount  
calculated pursuant to Subparagraph (c) of this paragraph;

and

1 (e) the amount calculated pursuant to  
2 Subparagraph (p) of Paragraph (5) of this subsection shall be  
3 reduced by the amount calculated pursuant to Subparagraph (d)  
4 of this paragraph;

5 (7) as used in this subsection:

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

8 (b) "subject school district" means the  
9 school district that has submitted the application for  
10 funding and in which the approved public school capital  
11 outlay project will be located;

12 (8) the amount calculated pursuant to  
13 Subparagraph (p) of Paragraph (5) of this subsection, after  
14 any reduction pursuant to Paragraph (6) of this subsection,  
15 may be increased by an additional five percent if the council  
16 finds that the subject school district has been exemplary in  
17 implementing and maintaining a preventive maintenance  
18 program. The council shall adopt such rules as are necessary  
19 to implement the provisions of this paragraph;

20 (9) the council may adjust the amount of  
21 local share otherwise required if it determines that a school  
22 district has made a good-faith effort to use all of its local  
23 resources. Before making any adjustment to the local share,  
24 the council shall consider whether:

25 (a) the school district has  
insufficient bonding capacity over the next four years to  
provide the local match necessary to complete the project

1 and, for all educational purposes, has a residential property  
2 tax rate of at least ten dollars (\$10.00) on each one  
3 thousand dollars (\$1,000) of taxable value, as measured by  
4 the sum of all rates imposed by resolution of the local  
5 school board plus rates set to pay interest and principal on  
6 outstanding school district general obligation bonds;

7 (b) the school district: 1) has fewer  
8 than an average of eight hundred full-time-equivalent  
9 students on the eightieth and one hundred twentieth days of  
10 the prior school year; 2) has at least seventy percent of its  
11 students eligible for free or reduced-fee lunch; 3) has a  
12 share of the total project cost, as calculated pursuant to  
13 provisions of this section, that would be greater than fifty  
14 percent; and 4) for all educational purposes, has a  
15 residential property tax rate of at least seven dollars  
16 (\$7.00) on each one thousand dollars (\$1,000) of taxable  
17 value, as measured by the sum of all rates imposed by  
18 resolution of the local school board plus rates set to pay  
19 interest and principal on outstanding school district general  
20 obligation bonds; or

21 (c) the school district: 1) has an  
22 enrollment growth rate over the previous school year of at  
23 least two and one-half percent; 2) pursuant to its five-year  
24 facilities plan, will be building a new school within the  
25 next two years; and 3) for all educational purposes, has a  
residential property tax rate of at least ten dollars  
(\$10.00) on each one thousand dollars (\$1,000) of taxable

1 value, as measured by the sum of all rates imposed by  
2 resolution of the local school board plus rates set to pay  
3 interest and principal on outstanding school district general  
4 obligation bonds;

5 (10) the local match for the constitutional  
6 special schools shall be set at fifty percent for projects  
7 that qualify under the educational adequacy category and one  
8 hundred percent for projects that qualify in the support  
9 spaces category; provided that the council may adjust or  
10 waive the amount of any direct appropriation offset to or  
11 local share required for the constitutional special schools  
12 if an applicant constitutional special school has  
13 insufficient or no local resources available; and

14 (11) no application for grant assistance  
15 from the fund shall be approved unless the council determines  
16 that:

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

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

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

25 (d) the school district has submitted a  
five-year facilities plan that includes: 1) enrollment  
projections; 2) a current preventive maintenance plan that

1 has been approved by the council pursuant to Section  
2 22-24-5.3 NMSA 1978 and that is followed by each public  
3 school in the district; 3) the capital needs of charter  
4 schools located in the school district; and 4) projections  
5 for the facilities needed in order to maintain a full-day  
6 kindergarten program;

7 (e) the school district is willing and  
8 able to pay any portion of the total cost of the public  
9 school capital outlay project that, according to Paragraph  
10 (5), (6), (8) or (9) of this subsection, is not funded with  
11 grant assistance from the fund; provided that school  
12 district funds used for a project that was initiated after  
13 September 1, 2002 when the statewide adequacy standards were  
14 adopted, but before September 1, 2004 when the standards were  
15 first used as the basis for determining the state and school  
16 district share of a project, may be applied to the school  
17 district portion required for that project;

18 (f) the application includes the  
19 capital needs of any charter school located in the school  
20 district or the school district has shown that the facilities  
21 of the charter school have a smaller deviation from the  
22 statewide adequacy standards than other district facilities  
23 included in the application; and

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

1           C. After consulting with the public school capital  
2 outlay oversight task force and other experts, the council  
3 shall regularly review and update statewide adequacy  
4 standards applicable to all school districts. The standards  
5 shall establish the acceptable level for the physical  
6 condition and capacity of buildings, the educational  
7 suitability of facilities and the need for education  
8 technology infrastructure. Except as otherwise provided in  
9 the Public School Capital Outlay Act, the amount of  
10 outstanding deviation from the standards shall be used by the  
11 council in evaluating and prioritizing public school capital  
12 outlay projects.

13           D. The acquisition of a facility by a school  
14 district or charter school pursuant to a financing agreement  
15 that provides for lease payments with an option to purchase  
16 for a price that is reduced according to lease payments made  
17 may be considered a public school capital outlay project and  
18 eligible for grant assistance under this section pursuant to  
19 the following criteria:

20                   (1) no grant shall be awarded unless the  
21 council determines that, at the time of exercising the option  
22 to purchase the facility by the school district or charter  
23 school, the facility will equal or exceed the statewide  
24 adequacy standards and the building standards for public  
25 school facilities;

                  (2) no grant shall be awarded unless the  
school district and the need for the facility meet all of the



1 requirements for grant assistance pursuant to the Public  
2 School Capital Outlay Act;

3 (3) the total project cost shall equal the  
4 total payments that would be due under the agreement if the  
5 school district or charter school would eventually acquire  
6 title to the facility;

7 (4) the portion of the total project cost to  
8 be paid from the fund may be awarded as one grant, but  
9 disbursements from the fund shall be made from time to time  
10 as lease payments become due;

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

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

19 E. In order to encourage private capital  
20 investment in the construction of public school facilities,  
21 the purchase of a privately owned school facility that is, at  
22 the time of application, in use by a school district may be  
23 considered a public school capital outlay project and  
24 eligible for grant assistance pursuant to this section if the  
25 council finds that:

(1) at the time of the initial use by the  
school district, the facility to be purchased equaled or

1 exceeded the statewide adequacy standards and the building  
2 standards for public school facilities;

3 (2) at the time of application, attendance  
4 at the facility to be purchased is at seventy-five percent or  
5 greater of design capacity and the attendance at other  
6 schools in the school district that the students at the  
7 facility would otherwise attend is at eighty-five percent or  
8 greater of design capacity; and

9 (3) the school district and the capital  
10 outlay project meet all of the requirements for grant  
11 assistance pursuant to the Public School Capital Outlay Act;  
12 provided that, when determining the deviation from the  
13 statewide adequacy standards for the purposes of evaluating  
14 and prioritizing the project, the students using the facility  
15 shall be deemed to be attending other schools in the school  
16 district.

17 F. It is the intent of the legislature that grant  
18 assistance made pursuant to this section allows every school  
19 district to meet the standards developed pursuant to  
20 Subsection C of this section; provided, however, that nothing  
21 in the Public School Capital Outlay Act or the development of  
22 standards pursuant to that act prohibits a school district  
23 from using other funds available to the district to exceed  
24 the statewide adequacy standards.

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

1 H. The council may establish committees or task  
2 forces, not necessarily consisting of council members, and  
3 may use the committees or task forces, as well as existing  
4 agencies or organizations, to conduct studies, conduct  
5 surveys, submit recommendations or otherwise contribute  
6 expertise from the public schools, programs, interest groups  
7 and segments of society most concerned with a particular  
8 aspect of the council's work.

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9 I. Upon the recommendation of the public school  
10 facilities authority, the council shall develop building  
11 standards for public school facilities and shall promulgate  
12 other such rules as are necessary to carry out the provisions  
13 of the Public School Capital Outlay Act.

14 J. No later than December 15 of each year, the  
15 council shall prepare a report summarizing its activities  
16 during the previous fiscal year. The report shall describe  
17 in detail all projects funded, the progress of projects  
18 previously funded but not completed, the criteria used to  
19 prioritize and fund projects and all other council actions.  
20 The report shall be submitted to the public education  
21 commission, the governor, the legislative finance committee,  
22 the legislative education study committee and the  
23 legislature."

24 SECTION 5. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2015. \_\_\_\_\_