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AN ACT
RELATING TO PUBLIC SCHOOL FINANCE; ELIMINATING LOCAL AND
FEDERAL CREDITS WHEN DETERMINING THE STATE EQUALIZATION
GUARANTEE DISTRIBUTION; INCLUDING PROPOSED USE OF FEDERAL AND
LOCAL REVENUE IN EDUCATIONAL PLANS AND REPORTING STUDENT
OUTCOMES FROM THOSE USES; PROVIDING FOR THE EXCLUSION OF
ENROLLMENT GROWTH PROGRAM UNITS IN THE CALCULATION OF SAVE
HARMLESS PROGRAM UNITS; CHANGING THE PHASE TWO FORMULA VALUE
CALCULATION WHEN DETERMINING THE LOCAL AND STATE MATCH FOR
CAPITAL OUTLAY PROJECTS; EXPANDING THE EDUCATION TECHNOLOGY
EQUIPMENT ACT, GENERAL OBLIGATION BONDS, THE PUBLIC SCHOOL
CAPITAL IMPROVEMENTS ACT AND THE PUBLIC SCHOOL BUILDINGS ACT
TO COVER TEACHER HOUSING.

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

SECTION 1. Section 6-15A-3 NMSA 1978 (being Laws 1997,
Chapter 193, Section 3, as amended) is amended to read:

"6-15A-3. DEFINITIONS.--As used in the Education
Technology Equipment Act:

A. "debt" means an obligation payable from ad
valorem property tax revenues or the general fund of a school
district and that may be secured by the full faith and credit
of a school district and a pledge of its taxing powers;

B. "department" means the public education
department;

1 C. "education technology equipment" means tools
2 used in the educational process that constitute learning and
3 administrative resources and may include:

4 (1) closed-circuit television systems;
5 educational television and radio broadcasting; cable
6 television, satellite, copper and fiber-optic transmission;
7 computer network connection devices; digital communications
8 equipment (voice, video and data); servers; switches;
9 portable media such as discs and drives to contain data for
10 electronic storage and playback; and purchase or lease of
11 software licenses or other technologies and services,
12 maintenance, equipment and computer infrastructure
13 information, techniques and tools used to implement
14 technology in schools and related facilities;

15 (2) improvements, alterations and
16 modifications to, or expansions of, existing buildings,
17 including teacher housing, or personal property necessary or
18 advisable to house or otherwise accommodate any of the tools
19 listed in Paragraph (1) of this subsection; and

20 (3) expenditures for technical support and
21 training expenses of school district employees who administer
22 education technology projects funded by a lease-purchase
23 arrangement and may include training by contractors;

24 D. "eligible charter school" means a locally
25 chartered or state-chartered charter school located within

1 the geographic boundaries of a school district:

2 (1) that timely provides the information
3 necessary to identify the lease-purchase education technology
4 equipment needed in the charter school to be included in the
5 local school board resolution for lease-purchase of education
6 technology equipment; and

7 (2) for which the proposed lease-purchase of
8 education technology equipment is included in the school
9 district's approved technology master plan;

10 E. "lease-purchase arrangement" means a financing
11 arrangement constituting debt of a school district pursuant
12 to which periodic lease payments composed of principal and
13 interest components are to be paid to the holder of the
14 lease-purchase arrangement and pursuant to which the owner of
15 the education technology equipment may retain title to or a
16 security interest in the equipment and may agree to release
17 the security interest or transfer title to the equipment to
18 the school district for nominal consideration after payment
19 of the final periodic lease payment. "Lease-purchase
20 arrangement" also means any debt of the school district
21 incurred for the purpose of acquiring education technology
22 equipment pursuant to the Education Technology Equipment Act
23 whether designated as a general obligation lease, note or
24 other instrument evidencing a debt of the school district;

25 F. "local school board" means the governing body

1 of a school district; and

2 G. "school district" means an area of land
3 established as a political subdivision of the state for the
4 administration of public schools and segregated
5 geographically for taxation and bonding purposes."

6 SECTION 2. Section 6-23-7 NMSA 1978 (being Laws 1993,
7 Chapter 231, Section 7, as amended) is amended to read:

8 "6-23-7. PUBLIC SCHOOL UTILITY CONSERVATION FUND
9 CREATED--USE.--

10 A. The "public school utility conservation fund"
11 is created as a special fund in the state treasury. The fund
12 shall consist of money transferred to the fund, from year to
13 year, from the distribution of the permanent fund and land
14 income of which the common schools are the beneficiary. No
15 other money from any school district or state source shall be
16 deposited or paid into the public school utility conservation
17 fund.

18 B. Annually, after the calculation of the state
19 equalization guarantee distribution has been made, the
20 secretary of public education shall determine the sum of the
21 deductions made in the state equalization guarantee
22 distribution of school districts pursuant to Section 22-8-25
23 NMSA 1978 and shall certify that amount to the secretary of
24 finance and administration. Distributions from the permanent
25 fund and land income of which the common schools are the

1 beneficiary equal to that amount shall be transferred from
2 the common school current fund to the public school utility
3 conservation fund.

4 C. Money in the public school utility conservation
5 fund is appropriated to the public education department
6 solely for the purpose of disbursing money to school
7 districts to make payments pursuant to any guaranteed utility
8 savings contract between the school district and a qualified
9 provider or any installment contract or lease-purchase
10 agreement for the purchase and installation of energy or
11 water conservation measures pursuant to that guaranteed
12 utility savings contract.

13 D. Disbursements from the public school utility
14 conservation fund shall be made only to school districts and
15 only upon certification by the secretary of public education
16 that the disbursement is for a payment authorized by the
17 Public Facility Energy Efficiency and Water Conservation Act.

18 E. The secretary of public education shall submit
19 to the legislative finance committee and the legislative
20 education study committee prior to each regular legislative
21 session a list of school districts proposing to enter into
22 approved guaranteed utility savings contracts in the
23 succeeding fiscal year. The list shall include information
24 on the amount of the school district's proposed annual
25 payments and specific amounts that utility and operational

1 budget items are guaranteed to be reduced to achieve the
2 savings to make the payments.

3 F. Any unexpended or unencumbered balance
4 remaining in the public school utility conservation fund at
5 the end of any fiscal year shall be transferred to the public
6 school fund."

7 SECTION 3. Section 22-8-6 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 60, as amended by Laws 2019, Chapter 206,
9 Section 8 and by Laws 2019, Chapter 207, Section 8) is
10 amended to read:

11 "22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS--
12 SUBMISSION--CERTAIN REPORTS--FAILURE TO SUBMIT.--

13 A. Prior to April 15 of each year, each local
14 school board shall submit to the department an operating
15 budget for the school district and any locally chartered
16 charter school in the school district for the ensuing fiscal
17 year.

18 B. The date for the submission of the operating
19 budget for each school district and each charter school as
20 required by this section may be extended to a later date
21 fixed by the secretary.

22 C. The operating budget required by this section
23 may include:

24 (1) estimates of the cost of insurance
25 policies for periods up to five years if a lower rate may be

1 obtained by purchasing insurance for the longer term; or

2 (2) estimates of the cost of contracts for
3 the transportation of students for terms extending up to four
4 years.

5 D. The operating budget required by this section
6 shall include a budget for each charter school of the
7 membership projected for each charter school, the total
8 program units generated at that charter school and
9 approximate anticipated disbursements and expenditures at
10 each charter school.

11 E. For fiscal year 2021 and subsequent fiscal
12 years, each school district's and each locally chartered or
13 state-chartered charter school's educational plan shall
14 include:

15 (1) information on the instructional time
16 offered by the school district or charter school, including
17 the number of instructional days by school site and the
18 number of hours in each instructional day and the frequency
19 of early-release days;

20 (2) a narrative explaining the identified
21 services to improve the academic success of at-risk students;

22 (3) a narrative explaining the services
23 provided to students enrolled in the following programs:

24 (a) extended learning time programs,
25 including a report of how the extended learning time is used

1 to improve the academic success of students and professional
2 learning of teachers; and

3 (b) K-5 plus programs;

4 (4) a narrative explaining the school
5 district's or charter school's beginning teacher mentorship
6 programs as well as class size and teaching load information;

7 (5) a narrative explaining supplemental
8 programs or services offered by the school district or
9 charter school to ensure that the Bilingual Multicultural
10 Education Act, the Indian Education Act and the Hispanic
11 Education Act are being implemented by the school district or
12 charter school;

13 (6) a narrative describing the amount of
14 program cost generated for services to students with
15 disabilities and the spending of these revenues on services
16 to students with disabilities, which shall include the
17 following:

18 (a) program cost generated for students
19 enrolled in approved special education programs;

20 (b) budgeted expenditures of program
21 cost, for students enrolled in approved special education
22 programs, on students with disabilities;

23 (c) the amount of program cost
24 generated for personnel providing ancillary and related
25 services to students with disabilities;

1 (d) budgeted expenditures of program
2 cost for personnel providing ancillary and related services
3 to students with disabilities, on special education ancillary
4 and related services personnel; and

5 (e) a description of the steps taken to
6 ensure that students with disabilities have access to a free
7 and appropriate public education; and

8 (7) a common set of performance targets and
9 performance measures, as determined by the department in
10 consultation with the department of finance and
11 administration, the legislative finance committee and the
12 legislative education study committee.

13 F. In addition to the requirements of Subsection E
14 of this section, a school district or charter school that
15 receives federal or local revenue shall include in its
16 educational plan a narrative explaining how the school
17 district or charter school will use the federal or local
18 revenue to improve outcomes for students or to improve the
19 condition of a school building. No later than October 1 of
20 each year, a school district or charter school that received
21 federal or local revenue in the prior fiscal year shall
22 report to the department on the actual uses of that revenue,
23 including a comprehensive evaluation of how the programs and
24 services provided with that revenue improved outcomes for
25 students or how capital projects undertaken improved the

1 condition of a school building. A school district or charter
2 school that is required under federal law to consult with
3 tribal entities as a condition of receiving impact aid funds
4 shall include in its educational plan a detailed narrative of
5 its consultations with tribal entities and the results of
6 those consultations. The school district or charter school
7 shall transmit the October 1 spending and outcomes report to
8 the appropriate tribal authorities. No later than November
9 15 of each year, the department shall compile the federal and
10 local revenue outcomes reports into a statewide report to the
11 legislative education study committee and the legislative
12 finance committee that includes an analysis and
13 identification of effective programs and strategies that
14 improve outcomes for students.

15 G. A school district or charter school operating
16 budget and educational plan shall prioritize federal and
17 local revenue for purposes relating to the Indian Education
18 Act; for capital expenditures authorized by the Public School
19 Capital Outlay Act, the Public School Capital Improvements
20 Act or the Public School Buildings Act; or for research-based
21 or evidence-based social, emotional or academic interventions
22 for which at-risk program units may be used.

23 H. If a local school board or governing board of a
24 charter school fails to submit an operating budget pursuant
25 to this section, the department shall prepare the operating

1 budget for the school district or charter school for the
2 ensuing fiscal year. A local school board or governing board
3 of a charter school shall be considered as failing to submit
4 an operating budget pursuant to this section if the budget
5 submitted exceeds the total projected resources of the school
6 district or charter school or if the budget submitted does
7 not comply with the law or with rules and procedures of the
8 department.

9 I. As used in this section:

10 (1) "federal revenue" means seventy-five
11 percent of the revenue derived from:

12 (a) federal forest reserve funds
13 distributed in accordance with Section 22-8-33 NMSA 1978; or

14 (b) federal assistance to those areas
15 affected by federal activity authorized in accordance with
16 Title 20 of the United States Code, commonly known as "PL 874
17 funds" or "impact aid funds"; and

18 (2) "local revenue" means seventy-five
19 percent of the revenue from a school district one-half mill
20 school district property tax and revenue from the Oil and Gas
21 Ad Valorem Production Tax Act and the Oil and Gas Production
22 Equipment Ad Valorem Tax Act."

23 SECTION 4. Section 22-8-13.3 NMSA 1978 (being Laws
24 2020, Chapter 71, Section 1) is amended to read:

25 "22-8-13.3. REPORTING SYSTEM--REPORTING REQUIREMENTS.--

1 A. No later than December 31, 2021, the
2 department, with input from stakeholders, including school
3 districts, charter school leaders, business managers and
4 staff from the legislative finance committee and legislative
5 education study committee, shall establish, implement and
6 maintain a statewide financial reporting system that is based
7 on a standard chart of accounts. The department shall
8 annually update the reporting system.

9 B. In designing, implementing and maintaining the
10 reporting system pursuant to Subsection A of this section,
11 the department shall adhere to the following guidelines:

12 (1) the reporting system shall be based on a
13 standard chart of accounts that will enable comparisons
14 between schools, between local education agencies and between
15 regional education cooperatives;

16 (2) the reporting system shall allow for the
17 display of administrative costs of every school site and
18 local education agency;

19 (3) the reporting system shall make it
20 possible to determine how school sites and local education
21 agencies budget funds to support at-risk students, offer
22 bilingual and multicultural educational services to students
23 and support special education students;

24 (4) the reporting system shall make it
25 possible to determine each local education agency's and

1 regional education cooperative's actual expenditures, which
2 shall include actual salary expenditures and actual benefit
3 expenditures reported by job category specified in the
4 standard chart of accounts at the local education agency
5 level, at the school site level and, if applicable, at the
6 regional education cooperative level;

7 (5) the reporting system shall report the
8 expenditures for each of the major categories specified in
9 the chart of accounts for school sites and local education
10 agencies; and

11 (6) the reporting system shall make it
12 possible to determine how school sites and local education
13 agencies budget seventy-five percent of their federal impact
14 aid and forest reserve revenue and seventy-five percent of
15 their local revenue from the one-half mill school district
16 property tax and revenue from the Oil and Gas Ad Valorem
17 Production Tax Act and the Oil and Gas Production Equipment
18 Ad Valorem Tax Act.

19 C. The standard chart of accounts shall include
20 the reporting of revenues received at all levels, including
21 local, state and federal funds.

22 D. As used in this section:

23 (1) "local education agency" means a school
24 district or state-chartered charter school; and

25 (2) "reporting system" means the statewide

1 online financial reporting system."

2 SECTION 5. Section 22-8-25 NMSA 1978 (being Laws 1981,
3 Chapter 176, Section 5, as amended) is amended to read:

4 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
5 DETERMINATION OF AMOUNT.--

6 A. To determine the amount of the state
7 equalization guarantee distribution, the department shall:

8 (1) calculate the number of program units to
9 which each school district or charter school is entitled
10 using an average of the MEM on the second and third reporting
11 dates of the prior year; or

12 (2) calculate the number of program units to
13 which a school district or charter school operating under an
14 approved year-round school calendar is entitled using an
15 average of the MEM on appropriate dates established by the
16 department; or

17 (3) calculate the number of program units to
18 which a school district or charter school with a MEM of two
19 hundred or less is entitled by using an average of the MEM on
20 the second and third reporting dates of the prior year or the
21 MEM on the first reporting date of the current year,
22 whichever is greater; provided that the calculation of
23 program units using the MEM on the first reporting date of
24 the current school year shall exclude enrollment growth
25 program units;

1 (4) using the results of the calculations in
2 Paragraph (1), (2) or (3) of this subsection and the staffing
3 cost multiplier from the October report of the prior school
4 year, establish a total program cost of the school district
5 or charter school;

6 (5) deduct the total amount of guaranteed
7 energy savings contract payments that the department
8 determines will be made to the school district from the
9 public school utility conservation fund during the fiscal
10 year for which the state equalization guarantee distribution
11 is being computed; and

12 (6) deduct ninety percent of the amount
13 certified for the school district by the department pursuant
14 to the Energy Efficiency and Renewable Energy Bonding Act.

15 B. Reduction of a school district's state
16 equalization guarantee distribution shall cease when the
17 school district's cumulative reductions equal its
18 proportional share of the cumulative debt service payments
19 necessary to service the bonds issued pursuant to the Energy
20 Efficiency and Renewable Energy Bonding Act.

21 C. The amount of the state equalization guarantee
22 distribution to which a school district is entitled is the
23 balance remaining after the deductions made in Paragraphs (5)
24 and (6) of Subsection A of this section.

25 D. The amount of the state equalization guarantee

1 distribution to which a state-chartered charter school is
2 entitled is the difference between the state-chartered
3 charter school's program cost and the two percent withheld by
4 the department for administrative services.

5 E. The state equalization guarantee distribution
6 shall be distributed prior to June 30 of each fiscal year.
7 In the event that a school district or charter school has
8 received more state equalization guarantee funds than its
9 entitlement, a refund shall be made by the school district or
10 charter school to the state general fund."

11 SECTION 6. Section 22-8-31 NMSA 1978 (being Laws 1967,
12 Chapter 16, Section 84, as amended) is amended to read:

13 "22-8-31. STATE-SUPPORT RESERVE FUND.--

14 A. The "state-support reserve fund" is created.

15 B. The state-support reserve fund shall be used
16 only to augment the appropriations for the state equalization
17 guarantee distribution in order to ensure, to the extent of
18 the amount undistributed in the fund, that the maximum
19 figures for such distribution established by law shall not be
20 reduced.

21 C. The undistributed money in the state-support
22 reserve fund shall be invested by the state treasurer in
23 interest-bearing securities of the United States government
24 or in certificates of deposit in qualified banks and in
25 savings and loan associations whose deposits are insured with

1 an agency of the United States. The state treasurer may
2 deposit money from the state-support reserve fund or any
3 other fund in one or more accounts with any such bank or
4 federally insured savings and loan association, but the state
5 treasurer, in any official capacity, shall not deposit money
6 from that fund or any other fund in any one federally insured
7 savings and loan association the aggregate of which would
8 exceed the amount of federal savings and loan insurance
9 corporation insurance for a single public account. Income
10 from these investments shall be periodically credited to the
11 general fund.

12 D. At least forty-five days before the money is
13 needed, the chief shall notify the state treasurer in writing
14 of the amount that will be needed for distribution.

15 E. It is the intent of the legislature that the
16 state-support reserve fund be reimbursed in the amount of the
17 yearly distribution by appropriation in the year following
18 the distribution so that the fund at the beginning of each
19 fiscal year shall have a credit balance of at least ten
20 million dollars (\$10,000,000).

21 F. Distribution from the state-support reserve
22 fund shall be made in the same manner and on the same basis
23 as the state equalization guarantee distribution."

24 SECTION 7. Section 22-18-1 NMSA 1978 (being Laws 1967,
25 Chapter 16, Section 228, as amended) is amended to read:

1 "22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO
2 ISSUE.--

3 A. After consideration of the priorities for the
4 school district's capital needs as shown by the facility
5 assessment database maintained by the public school
6 facilities authority and subject to the provisions of Article
7 9, Section 11 of the constitution of New Mexico and Sections
8 6-15-1 and 6-15-2 NMSA 1978, a school district may issue
9 general obligation bonds for the purpose of:

10 (1) erecting, remodeling, making additions
11 to and furnishing school buildings, including teacher
12 housing;

13 (2) purchasing or improving school grounds;

14 (3) purchasing computer software and
15 hardware for student use in public schools;

16 (4) providing matching funds for capital
17 outlay projects funded pursuant to the Public School Capital
18 Outlay Act; or

19 (5) any combination of these purposes.

20 B. The bonds shall be fully negotiable and
21 constitute negotiable instruments within the meaning and for
22 all purposes of the Uniform Commercial Code."

23 SECTION 8. Section 22-24-5 NMSA 1978 (being Laws 1975,
24 Chapter 235, Section 5, as amended) is amended to read:

25 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--

1 APPLICATION--GRANT ASSISTANCE.--

2 A. Applications for grant assistance, approval of
3 applications, prioritization of projects and grant awards
4 shall be conducted pursuant to the provisions of this
5 section.

6 B. Except as provided in Sections 22-24-4.3,
7 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions
8 govern grant assistance from the fund for a public school
9 capital outlay project not wholly funded pursuant to Section
10 22-24-4.1 NMSA 1978:

11 (1) all school districts are eligible to
12 apply for funding from the fund, regardless of percentage of
13 indebtedness;

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

18 (a) the council shall apply the
19 standards to charter schools to the same extent that they are
20 applied to other public schools;

21 (b) the council may award grants
22 annually to school districts for the purpose of repairing,
23 renovating or replacing public school building systems in
24 existing buildings as identified in Section 22-24-4.6 NMSA
25 1978;

1 (c) the council shall adopt and apply
2 adequacy standards appropriate to the unique needs of the
3 constitutional special schools;

4 (d) the council may award school
5 security system project grants to school districts pursuant
6 to the provisions of Section 22-24-4.7 NMSA 1978; and

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

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

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

20 (b) the potential use of more durable
21 construction materials that may reduce long-term operating
22 costs;

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

25 (d) any other financing or construction

1 concept that may maximize the dollar effect of the state
2 grant assistance;

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

7 (5) no later than May 1 of each calendar
8 year, the phase one formula value shall be calculated for
9 each school district in accordance with the following
10 procedure:

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

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

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

23 (d) the lowest value listed pursuant to
24 Subparagraph (c) of this paragraph is subtracted from the
25 highest value listed pursuant to that subparagraph;

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

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

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

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

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

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

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

1 as the value for the subject school district;

2 (p) the phase one formula value shall
3 equal a fraction the numerator of which is the value for the
4 subject school district in the current year plus the value
5 for that school district in each of the two preceding years
6 and the denominator of which is three; and

7 (q) as used in this paragraph, "MEM"
8 means the average full-time-equivalent enrollment of students
9 attending public school in a school district on the second
10 and third reporting dates of the prior school year;

11 (6) no later than May 1 of each calendar
12 year, the phase two formula value shall be calculated for
13 each school district in accordance with the following
14 procedure:

15 (a) the sum of the final prior five
16 years net taxable value for a school district multiplied by
17 nine ten-thousandths for that school district is calculated
18 for each school district;

19 (b) the value calculated pursuant to
20 Subparagraph (a) of this paragraph is added to the average
21 unrestricted revenue used for capital expenditures pursuant
22 to Subsection K of this section;

23 (c) the maximum allowable gross square
24 foot per student multiplied by the replacement cost per
25 square foot divided by forty-five is calculated for each

1 school district;

2 (d) in fiscal years 2022 through 2024,
3 the value calculated pursuant to Subparagraph (a) of this
4 paragraph divided by the value calculated pursuant to
5 Subparagraph (c) of this paragraph is calculated for each
6 school district and in fiscal year 2025 and subsequent fiscal
7 years, the value calculated pursuant to Subparagraph (b) of
8 this paragraph divided by the value calculated pursuant to
9 Subparagraph (c) of this paragraph is calculated for each
10 school district;

11 (e) in those instances in which the
12 calculation pursuant to Subparagraph (d) of this paragraph
13 yields a value equal to or greater than one, the phase two
14 formula value shall be zero for the subject school district;

15 (f) in those instances in which the
16 calculation pursuant to Subparagraph (d) of this paragraph
17 yields a value of ninety-hundredths or more but less than
18 one, the phase two formula value shall be one minus the value
19 calculated in Subparagraph (d) of this paragraph; and

20 (g) in those instances in which the
21 calculation pursuant to Subparagraph (d) of this paragraph
22 yields a value less than ninety-hundredths, the phase two
23 formula value shall be one minus the value calculated in
24 Subparagraph (d) of this paragraph plus the school district
25 population density factor;

1 (7) the state share of a project approved by
2 the council shall be funded within available resources
3 pursuant to the provisions of this paragraph. Except as
4 provided in Section 22-24-5.7 NMSA 1978 and except as
5 adjusted pursuant to Paragraph (9), (10), (11) or (12) of
6 this subsection, the amount to be distributed from the fund
7 for an approved project shall equal the total project cost
8 multiplied by the following percentage, except that in no
9 case shall the state share be less than six percent:

10 (a) for fiscal years prior to fiscal
11 year 2020, the percentage shall be the phase one formula
12 value;

13 (b) for fiscal year 2020, the
14 percentage shall be the sum of eight-tenths multiplied by the
15 phase one formula value and two-tenths multiplied by the
16 phase two formula value;

17 (c) for fiscal year 2021, the
18 percentage shall be the sum of six-tenths multiplied by the
19 phase one formula value and four-tenths multiplied by the
20 phase two formula value;

21 (d) for fiscal year 2022, the
22 percentage shall be the sum of four-tenths multiplied by the
23 phase one formula value and six-tenths multiplied by the
24 phase two formula value;

25 (e) for fiscal year 2023, the

1 percentage shall be the sum of two-tenths multiplied by the
2 phase one formula value and eight-tenths multiplied by the
3 phase two formula value; and

4 (f) for fiscal year 2024 and
5 thereafter, the percentage shall be the phase two formula
6 value;

7 (8) as used in this subsection:

8 (a) "governmental entity" includes an
9 Indian nation, tribe or pueblo;

10 (b) "phase one formula value" for a
11 state-chartered charter school means the phase one formula
12 value calculated pursuant to Paragraph (5) of this subsection
13 for the school district in which the state-chartered charter
14 school is physically located;

15 (c) "phase two formula value" for a
16 state-chartered charter school means the phase two formula
17 value calculated pursuant to Paragraph (6) of this subsection
18 for the school district in which the state-chartered charter
19 school is physically located;

20 (d) "subject school district" means the
21 school district that has submitted the application for
22 funding and in which the approved public school capital
23 outlay project will be located; and

24 (e) "total project cost" means the
25 total amount necessary to complete the public school capital

1 outlay project less any insurance reimbursement received by
2 the school district for the project;

3 (9) the amount to be distributed from the
4 fund for an approved project pursuant to Paragraph (7) of
5 this subsection shall be 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
11 not rejected by the subject school district, is calculated;
12 provided that: 1) an appropriation made in a fiscal year
13 shall be deemed to be accepted by a school district unless,
14 prior to June 1 of that fiscal year, the school district
15 notifies the department of finance and administration and the
16 public education department that the school district is
17 rejecting the appropriation; 2) the total shall exclude any
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
21 the Technology for Education Act; 3) the total shall exclude
22 any appropriation previously made to the subject school
23 district that is reauthorized for expenditure by another
24 recipient; 4) the total shall exclude one-half of the amount
25 of any appropriation made or reauthorized after January 1,

1 2007 if the purpose of the appropriation or reauthorization
2 is to fund, in whole or in part, a capital outlay project
3 that, when prioritized by the council pursuant to this
4 section either in the immediately preceding funding cycle or
5 in the current funding cycle, ranked in the top one hundred
6 fifty projects statewide; 5) the total shall exclude the
7 proportionate share of any appropriation made or reauthorized
8 after January 1, 2008 for a capital project that will be
9 jointly used by a governmental entity other than the subject
10 school district. Pursuant to criteria adopted by rule of the
11 council and based upon the proposed use of the capital
12 project, the council shall determine the proportionate share
13 to be used by the governmental entity and excluded from the
14 total; and 6) unless the grant award is made to the state-
15 chartered charter school or unless the appropriation was
16 previously used to calculate a reduction pursuant to this
17 paragraph, the total shall exclude appropriations made after
18 January 1, 2007 for nonoperating purposes of a specific
19 state-chartered charter school, regardless of whether the
20 charter school is a state-chartered charter school at the
21 time of the appropriation or later opts to become a state-
22 chartered charter school;

23 (b) the percentage used for the subject
24 school district for the applicable fiscal year pursuant to
25 Paragraph (7) of this subsection is subtracted from one;

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;
10 and

11 (e) the amount to be distributed from
12 the fund pursuant to Paragraph (7) of this subsection shall
13 be reduced by the amount calculated pursuant to Subparagraph
14 (d) of this paragraph;

15 (10) the amount calculated pursuant to
16 Paragraph (7) of this subsection, after any reduction
17 pursuant to Paragraph (9) of this subsection, may be
18 increased by an additional five percent if the council finds
19 that the subject school district has been exemplary in
20 implementing and maintaining a preventive maintenance
21 program. The council shall adopt such rules as are necessary
22 to implement the provisions of this paragraph;

23 (11) the council may adjust the amount of
24 local share otherwise required if it determines that a school
25 district has made a good-faith effort to use all of its local

1 resources. Before making any adjustment to the local share,
2 the council shall consider whether:

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

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

25 (c) the school district: 1) has an

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

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

20 (13) no application for grant assistance
21 from the fund shall be approved unless the council determines
22 that:

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

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

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

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

15 (e) the school district is willing and
16 able to pay any portion of the total cost of the public
17 school capital outlay project that, according to Paragraph
18 (7), (9), (10) or (11) of this subsection, is not funded with
19 grant assistance from the fund;

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

1 (g) the school district has agreed, in
2 writing, to comply with any reporting requirements or
3 conditions imposed by the council pursuant to Section
4 22-24-5.1 NMSA 1978.

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

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

24 (1) no grant shall be awarded unless the
25 council determines that, at the time of exercising the option

1 to purchase the facility by the school district or charter
2 school, the facility will equal or exceed the statewide
3 adequacy standards and the building standards for public
4 school facilities;

5 (2) no grant shall be awarded unless the
6 school district and the need for the facility meet all of the
7 requirements for grant assistance pursuant to the Public
8 School Capital Outlay Act;

9 (3) the total project cost shall equal the
10 total payments that would be due under the agreement if the
11 school district or charter school would eventually acquire
12 title to the facility;

13 (4) the portion of the total project cost to
14 be paid from the fund may be awarded as one grant, but
15 disbursements from the fund shall be made from time to time
16 as lease payments become due;

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

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

25 E. In order to encourage private capital

1 investment in the construction of public school facilities,
2 the purchase of a privately owned school facility that is, at
3 the time of application, in use by a school district may be
4 considered a public school capital outlay project and
5 eligible for grant assistance pursuant to this section if the
6 council finds that:

7 (1) at the time of the initial use by the
8 school district, the facility to be purchased equaled or
9 exceeded the statewide adequacy standards and the building
10 standards for public school facilities;

11 (2) at the time of application, attendance
12 at the facility to be purchased is at seventy-five percent or
13 greater of design capacity and the attendance at other
14 schools in the school district that the students at the
15 facility would otherwise attend is at eighty-five percent or
16 greater of design capacity; and

17 (3) the school district and the capital
18 outlay project meet all of the requirements for grant
19 assistance pursuant to the Public School Capital Outlay Act;
20 provided that, when determining the deviation from the
21 statewide adequacy standards for the purposes of evaluating
22 and prioritizing the project, the students using the facility
23 shall be deemed to be attending other schools in the school
24 district.

25 F. It is the intent of the legislature that grant

1 assistance made pursuant to this section allows every school
2 district to meet the standards developed pursuant to
3 Subsection C of this section; provided, however, that nothing
4 in the Public School Capital Outlay Act or the development of
5 standards pursuant to that act prohibits a school district
6 from using other funds available to the district to exceed
7 the statewide adequacy standards.

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

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

19 I. Upon the recommendation of the authority, the
20 council shall develop building standards for public school
21 facilities and shall promulgate other such rules as are
22 necessary to carry out the provisions of the Public School
23 Capital Outlay Act.

24 J. No later than December 15 of each year, the
25 council shall prepare a report summarizing its activities

1 during the previous fiscal year. The report shall describe
2 in detail all projects funded, the progress of projects
3 previously funded but not completed, the criteria used to
4 prioritize and fund projects and all other council actions.
5 The report shall be submitted to the public education
6 commission, the governor, the legislative finance committee,
7 the legislative education study committee and the
8 legislature.

9 K. As used in this section, "unrestricted revenue
10 used for capital expenditures" means the amount of revenue
11 certified by the department that was not restricted for a
12 particular purpose and used by a school district to make
13 capital outlay expenditures, as defined by the council's
14 rules. No later than July 1, 2024, the council shall adopt
15 rules identifying the procedure for calculating unrestricted
16 revenue used for capital expenditures after consulting with
17 school districts, including school districts with limited
18 bonding capacity for capital projects, the department, the
19 public school capital outlay oversight task force, the
20 legislative education study committee and the legislative
21 finance committee; provided that the rules shall provide for
22 the exclusion of revenue raised pursuant to the Public School
23 Capital Improvements Act and the Public School Buildings Act
24 and expenditures related to teacher housing. For the
25 purposes of the phase two formula value pursuant to Paragraph

1 (6) of Subsection B of this section, the average unrestricted
2 revenue used for capital expenditures shall be calculated as
3 follows:

4 (1) in fiscal year 2025, the amount shall be
5 equal to unrestricted revenue used for capital expenditures
6 in the most recent prior fiscal year for which data is
7 available multiplied by 0.2;

8 (2) in fiscal year 2026, the amount shall be
9 equal to the average unrestricted revenue used for capital
10 expenditures for the two most recent prior fiscal years for
11 which data is available multiplied by 0.4;

12 (3) in fiscal year 2027, the amount shall be
13 equal to the average unrestricted revenue used for capital
14 expenditures for the three most recent prior fiscal years for
15 which data is available multiplied by 0.6;

16 (4) in fiscal year 2028, the amount shall be
17 equal to the average unrestricted revenue used for capital
18 expenditures for the four most recent prior fiscal years for
19 which data is available multiplied by 0.8; and

20 (5) in fiscal year 2029 and subsequent
21 fiscal years, the amount shall be equal to the average
22 unrestricted revenue used for capital expenditures for the
23 five most recent prior fiscal years for which data is
24 available."

25 SECTION 9. Section 22-25-2 NMSA 1978 (being Laws 1975

1 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

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

4 A. "program unit" means the product of the program
5 element multiplied by the applicable cost differential
6 factor, as defined in Section 22-8-2 NMSA 1978; and

7 B. "capital improvements" means expenditures,
8 including payments made with respect to lease-purchase
9 arrangements as defined in the Education Technology Equipment
10 Act or the Public School Lease Purchase Act but excluding any
11 other debt service expenses, for:

12 (1) erecting, remodeling, making additions
13 to, providing equipment for or furnishing public school
14 buildings, including teacher housing and pre-kindergarten
15 classroom facilities;

16 (2) purchasing or improving public school or
17 pre-kindergarten grounds;

18 (3) maintenance of public school buildings,
19 including teacher housing, or public school or
20 pre-kindergarten grounds, including the purchasing or
21 repairing of maintenance equipment and participating in the
22 facility information management system as required by the
23 Public School Capital Outlay Act and including payments under
24 contracts with regional education cooperatives for
25 maintenance support services and expenditures for technical

1 training and certification for maintenance and facilities
2 management personnel, but excluding salary expenses of school
3 district employees;

4 (4) purchasing activity vehicles for
5 transporting students to extracurricular school activities;

6 (5) purchasing computer software and
7 hardware for student use in public school classrooms; and

8 (6) purchasing and installing education
9 technology improvements, excluding salary expenses of school
10 district employees, but including tools used in the
11 educational process that constitute learning and
12 administrative resources, and that may also include:

13 (a) satellite, copper and fiber-optic
14 transmission; computer and network connection devices;
15 digital communication equipment, including voice, video and
16 data equipment; servers; switches; portable media devices,
17 such as discs and drives to contain data for electronic
18 storage and playback; and the purchase or lease of software
19 licenses or other technologies and services, maintenance,
20 equipment and computer infrastructure information, techniques
21 and tools used to implement technology in schools and related
22 facilities; and

23 (b) improvements, alterations and
24 modifications to, or expansions of, existing buildings or
25 tangible personal property necessary or advisable to house or

1 otherwise accommodate any of the tools listed in this
2 paragraph."

3 SECTION 10. Section 22-26-2 NMSA 1978 (being Laws 1983,
4 Chapter 163, Section 2, as amended) is amended to read:

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

10 A. erecting, remodeling, making additions to,
11 providing equipment for or furnishing public school
12 buildings, including teacher housing and pre-kindergarten
13 classrooms belonging to the school district or charter school
14 located in the school district;

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

20 C. purchasing or improving public school grounds;

21 D. purchasing activity vehicles for transporting
22 students to and from extracurricular school activities;
23 provided that this authorization for expenditure does not
24 apply to school districts with a student MEM greater than
25 sixty thousand;

1 E. administering the projects undertaken pursuant
2 to Subsections A and C of this section, including
3 expenditures for facility maintenance software, project
4 management software, project oversight and district personnel
5 specifically related to administration of projects funded by
6 the Public School Buildings Act; provided that expenditures
7 pursuant to this subsection shall not exceed five percent of
8 the total project costs; and

9 F. purchasing and installing education technology
10 improvements, excluding salary expenses of school district
11 employees, but including tools used in the educational
12 process that constitute learning and administrative
13 resources, and that may also include:

14 (1) satellite, copper and fiber-optic
15 transmission; computer and network connection devices;
16 digital communication equipment, including voice, video and
17 data equipment; servers; switches; portable media devices,
18 such as discs and drives to contain data for electronic
19 storage and playback; and purchase or lease of software
20 licenses or other technologies and services, maintenance,
21 equipment and computer infrastructure information, techniques
22 and tools used to implement technology in schools and related
23 facilities; and

24 (2) improvements, alterations and
25 modifications to, or expansions of, existing buildings or

1 tangible personal property necessary or advisable to house or
2 otherwise accommodate any of the tools listed in this
3 subsection."

4 SECTION 11. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2021. _____

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