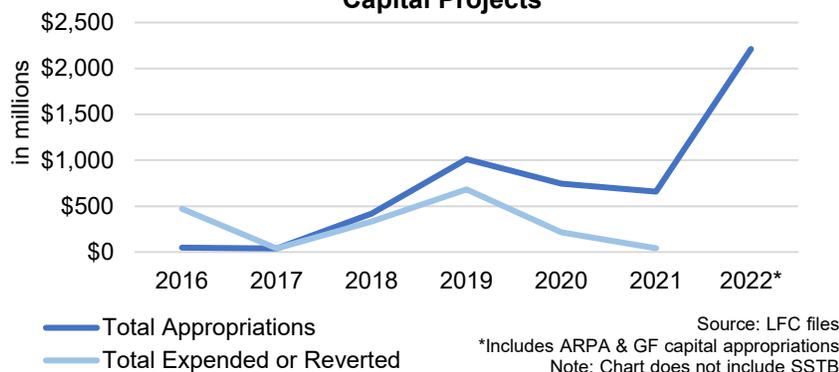




Policy Options to Improve Project Success

Strong state revenues and an influx of federal dollars have created a historic opportunity to make meaningful infrastructure investments in communities across New Mexico, but using these funds effectively will be challenging absent a focused effort to address longstanding barriers to project success. Economic conditions that may or may not be temporary and systemic issues unique to New Mexico’s approach to financing public infrastructure both present hurdles to timely completion of high-priority projects. A large volume of appropriations combined with supply chain disruptions, rising construction costs, and labor issues associated with the pandemic are contributing to high outstanding balances across thousands of active capital projects. In the coming year, balances are likely to grow and bottlenecks to further tighten as \$2.2 billion in appropriations to over 1,400 additional state and local projects come online. Those projects are expected to put total outstanding capital funds in the ballpark of \$4 billion this summer.

Chart 1. Strong Revenues and Construction Bottlenecks are Contributing to High Balances for Capital Projects



This brief identifies policy options to support three goals: 1) moving existing projects, 2) prioritizing future capital outlay to high-priority, ready projects, and 3) positioning New Mexico to capitalize on federal funds. Options for both local and state-owned projects are included, with a primary focus on local projects. Specific barriers to effective use of capital funds are identified in the first section of the brief and a menu of potential solutions is provided to address each barrier. **Attachment A** is provided to illustrate that some solutions can address multiple issues. The issues and solutions detailed below were developed by LFC staff in collaboration with Department of Finance and Administration (DFA) staff. At the direction of the committee, staff will further develop any set of preferred solutions in ongoing collaboration with the executive and local stakeholders.

How to Move Existing Projects, Prioritize Future Capital Outlay, and Capitalize on Federal Funds

The 2022 General Appropriation Act included \$8 million to the Department of Finance and Administration for cost overruns for state-owned capital outlay projects. Additionally, the General Services Department received a flexible appropriation of \$10.4 million in the 2022 capital bill for state-owned projects.

Issue: Inflation

Rising construction costs and supply chain issues are contributing to project delays, forcing entities to reduce project scope, and may jeopardize project completion. Compared to other funding sources, capital outlay has limited flexibility during the course of a project to address shortfalls.

Options for Moving Projects:

- Expand existing set-asides to address budget shortfalls due to rising construction costs for local and state-owned capital outlay projects and establish criteria for distributing these funds.
- Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.

Issue: Piecemeal Funding

Capital outlay projects often receive only partial funding. Piecemeal funding makes it more difficult to secure contractors, strains local and state agency project management capacity, contributes to project delays, and can drive up overall costs. Piecemeal funding can occur because projects are funded for less than the amount requested or because projects are funded before planning has occurred, when total projects costs are unknown.

Options for Moving Projects:

- Encourage legislators to prioritize 2023 capital outlay to fill funding gaps for existing projects that have received partial funding. Task staff with identifying these projects prior to the 2023 session.
- Create a set-aside to be used to complete funding for construction-ready projects that previously received only partial funding through capital outlay and establish criteria for distributing these funds.
- Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.

Options for Prioritizing Future Capital Outlay:

- Encourage legislators to prioritize 2023 capital outlay for new projects to those that can be fully funded with capital outlay appropriations.
- Encourage or require legislators to utilize a readiness to proceed or project vetting checklist as minimum criteria prior to appropriating funds. (See **Attachment B** for LFC recommended criteria.)
- Encourage coordination among legislators in a shared district to fully fund priority projects.
- Encourage legislators to only fund planning (\$50,000) for new projects that have yet to complete a planning process OR to direct these projects to the Local Government Planning Fund at the New Mexico Finance Authority (NMFA), where grants of up to \$50,000 are available for planning.

Approximately 40% of projects to receive funding in the 2022 capital outlay bill received 50% or less of requested funds, with \$140 million appropriated to projects for which \$1.3 billion was requested.

Issue: Fragmented Finance System

Limited capital outlay dollars are often appropriated to projects for which other dedicated funding sources exist, including grant funding. Due to a lack of centralized infrastructure planning, capital outlay dollars are not used strategically to supplement such sources for communities or projects of greatest need. This can contribute to rural v. urban inequity, lead to project delays, and increase overall costs, particularly when communities opt to continue to chase capital outlay dollars to fully fund projects. Water and wastewater projects are among the most common capital outlay appropriations even though other dedicated funding sources exist, including underutilized federal funds.

Options for Prioritizing Future Capital Outlay:

- Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.
- Complete a statewide needs assessment for critical infrastructure and use it to guide funding decisions.

Water and Wastewater

- Appropriate additional funding to the Water Trust Board and/or the Local Government Planning Fund AND discourage legislators from funding water and wastewater projects with capital outlay OR encourage legislators to only fund planning for water and wastewater projects (\$50,000).
- Explore opportunities to strategically use state money to incentivize use of the Clean Water State Revolving Fund and Drinking Water State Revolving Fund for communities with little debt capacity.
- Create a centralized water infrastructure office to coordinate funding for water and wastewater projects and provide cradle-to-grave project management support OR create a water team within a more general central infrastructure office.

Parks and Recreation

- Discourage legislators from funding parks and recreation projects with 2023 capital outlay and instead direct these projects to the New Mexico Outdoor Recreation Grant Program, administered by DFA.
- Evaluate implementation of the dedicated recreation funding source through DFA and consider additional appropriations to the fund.

Rural Infrastructure

- Consider establishing additional dedicated funding sources like the outdoor recreation program for rural infrastructure.

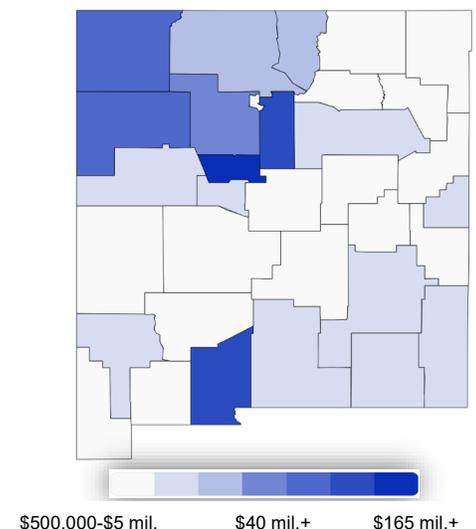
Public Schools

- Direct staff to provide the committee with an update later this interim on changes to Public Schools Capital Outlay Council funding policies, potential 2023 legislative initiatives, and implications for 2023 capital outlay appropriations.

Table 1. Outstanding Capital Outlay Projects by County, 2018-2021

County	Total Projects	Total Outstanding Balance
Statewide	46	\$15,136,346
Bernalillo	761	\$169,842,302
Catron	22	\$1,547,164
Chaves	48	\$15,269,319
Cibola	37	\$14,775,791
Colfax	40	\$6,838,063
Curry	18	\$10,509,671
De Baca	5	\$537,404
Dona Ana	178	\$65,132,136
Eddy	28	\$14,080,596
Grant	49	\$15,998,395
Guadalupe	22	\$1,423,651
Harding	10	\$1,298,810
Hidalgo	17	\$3,586,980
Lea	35	\$12,275,591
Lincoln	45	\$7,367,274
Los Alamos	4	\$1,565,000
Luna	24	\$5,698,712
McKinley	188	\$57,225,165
Mora	31	\$3,434,579
Otero	40	\$14,947,774
Quay	13	\$2,687,958
Rio Arriba	160	\$23,668,273
Roosevelt	20	\$4,545,928
San Juan	135	\$52,692,929
San Miguel	82	\$12,868,417
Sandoval	159	\$41,418,118
Santa Fe	181	\$68,580,685
Sierra	17	\$2,583,914
Socorro	26	\$4,544,696
Taos	77	\$24,286,144
Torrance	51	\$6,440,473
Union	9	\$1,274,912
Valencia	56	\$16,142,983

Chart 2. Outstanding Capital Outlay Balances by County, 2018-2021



Issue: Local Capacity

Limited technical, financial, and administrative capacity at the local level makes it difficult to access funding for projects and to keep funded projects moving.

Options for Moving Projects:

- Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.
- Provide funding to increase staffing within Councils of Governments (COG) to provide technical and administrative support to local governments seeking funding.
- Increase funding to DFA for grant administration initiatives.
- Appropriate funding to the State Auditor to assist mutual domestic water associations and other rural and low-income entities in becoming audit compliant.
- Amend Executive Order to allow an exemption from audit compliance for entities for which a capital outlay appropriation triggers the audit requirement.
- Require small entities such as mutual domestics that do not meet funding requirements and lack capacity to manage projects to request funding through sponsor fiscal agents such as their county government and provide the sponsor fiscal agent with a portion of the appropriation as an administrative fee.

Options for Capitalizing on Federal Funds:

- Appropriate additional funding to be used as local match for competitive federal grants and establish criteria for distributing those funds.

Issue: Project Management and Oversight

Management and oversight of capital outlay projects is distributed across numerous state agencies with varying capacity to provide effective project management and technical support to local governments. What capacity does exist is currently strained by the number of active projects.

Options for Moving Projects:

- Determine best practices for state agencies in advancing state-owned and local capital projects and identify agencies where staffing numbers, structure, or practices limit implementation of those best practices. For example, project management staff rather than project administrators at the Local Government Division of DFA.
- Make compensation more competitive for specialized technical staff within key agencies. For example, professional engineers at the New Mexico Environment Department.
- Consider making a portion of capital outlay appropriations available for project management assistance for small entities.
- Consider creation of a public-private model that would manage projects on behalf of local governments lacking the capacity or means.
- Create positions within the Senate and House chief clerks' offices to assist citizen legislators with monitoring local capital projects throughout the year.

- Encourage local governing bodies to require staff to provide monthly or quarterly updates directly to the governing bodies on the status of capital projects.

Issue: Procurement and Delivery Methods

Limited flexibility in procurement may contribute to project delays and cost overruns, particularly in the current environment where project costs can increase significantly even on a monthly basis.

Options for Moving Projects:

- Determine best practices for procurement for efficient, responsible use of capital dollars and identify barriers to implementation of those best practices. Research topics could include design/build and construction management contracts and rural incentives.
- Direct staff to analyze the potential for public-private partnerships to improve project efficiency and success.

Issue: Reauthorizations

The reauthorization process allowing for a change of purpose and/or time extension for capital funds without thorough legislative review perpetuates common problems with capital projects, including lack of planning and prioritization, piecemeal funding, and low investment by grantees in efficiently completing projects.

Options for Moving Projects:

- Require reauthorizations to be only for the original project or for completion of an ongoing project.
- Allow only one change of purpose or extension of time for a project.
- Limit the time extension to one year rather than two years.
- Reauthorizations for both local and state projects may have varying circumstances that require more than one reauthorization and time extension but should be reviewed and approved by a House or Senate finance committee.
- Adopt House and Senate rules relating to reauthorizations.
- Require a minimum \$50,000 for reauthorization of severance tax bond projects; small amounts amortized over a 10-year period may impact bond ratings.
- Propose the Legislative Council Service (LCS) reauthorization request form include a question asking if the requesting entity is audit compliant.

Issue: Volume and Timing of Capital Outlay Requests

Legislators receive a large volume of requests and must make funding decisions within a short period of time with limited staff support. This makes project vetting difficult and inconsistent.

Options for Prioritizing Future Capital Outlay:

- Encourage legislators to utilize a readiness to proceed or project vetting checklist as minimum criteria prior to appropriating funds to local projects. (See **Attachment B** for LFC recommended criteria.)
- Direct staff to work with DFA and LCS to ensure recommended criteria for local capital outlay are consistent across agencies and used consistently in training.

Table 2. Reauthorizations for Capital Funding

Year	No. of Projects	Amount Outstanding (in millions)
2013	49	\$30.3
2014	55	\$43.5
2015	79	\$28.2
2016	102	\$49.2
2017	130	\$32.3
2018	127	\$62.0
2019	113	\$45.1
2020	118	\$62.0
2021	89	\$40.4
2022	136	\$56.0
TOTAL	998	\$449.0

Source: LFC Post Session Publications

- Modify the capital outlay request form to align with recommended vetting criteria to the greatest extent possible.
- Create a statutory requirement for local governments to develop Infrastructure Capital Improvement Plans to improve project planning and prioritization before funding is requested from legislators.

Issue: Maximizing Federal Funding

Lack of statewide infrastructure planning and local capacity issues put New Mexico at a disadvantage in seeking new competitive federal grants for infrastructure.

Options for Capitalizing on Federal Funds:

- Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.
- Provide funding to increase staffing within COGs to provide technical and administrative support to local governments seeking funding.
- Appropriate additional funding to be used as local match for competitive federal grants and establish criteria for distributing those funds.

Next Steps

- Table 3 (below) summarizes priority short and longer term options identified by LFC staff from the larger menu included in this brief.
- LFC staff will further develop any preferred policy options identified by the subcommittee and report back on those options at future subcommittee meetings or capital outlay quarterly report hearings.
- Two additional capital outlay subcommittee meetings are scheduled this interim for briefings on state agency capital requests and the development of the statewide capital framework.

Table 3. Recommended Priority Policy Options

Short Term	Medium to Long Term
<ul style="list-style-type: none"> • Set aside funding to address inflation-driven budget shortfalls for funded projects and establish criteria for distributing those funds. • Prioritize 2023 capital outlay to fill funding gaps for existing projects that previously received only partial funding and for new projects that can be fully funded. • Utilize a “readiness to proceed” checklist as minimum criteria prior to appropriating funds to local projects and encourage coordination among legislators in shared districts to fully fund priority projects. • Appropriate additional funding to be used as local match for competitive federal grants and establish criteria for distributing those funds. • Appropriate additional funding to the Water Trust Board and discourage legislators from funding water and wastewater projects with capital outlay. 	<ul style="list-style-type: none"> • Create a centralized infrastructure office or entity responsible for standardizing project management across agencies, and coordinating and navigating state and federal funding streams for local projects. • Determine best practices for state agencies in advancing local and state-owned capital projects and identify agencies where staffing numbers, structure, practices, or compensation limit implementation of those practices. • Provide funding to increase staffing within COGs to provide technical and administrative support to local governments to secure funding and execute projects.

Options to Improve Capital Outlay Project Success

Policy Options		Issues									
		Inflation	Piecemeal Funding	Local Capacity	Project Management and Oversight	Fragmented Finance System	Procurement and Delivery	Volume and Timing of Capital Requests	Maximizing Federal Funding	Reauthorizations	
Options for Moving Projects											
Short Term	1	Expand existing set-asides to address budget shortfalls due to rising construction costs for local and state-owned capital outlay projects and establish criteria for distributing these funds.	X		X				X		X
	2	Create a set-aside to be used to complete funding for construction-ready projects that previously received only partial funding through capital outlay and establish criteria for distributing these funds.	X	X	X				X		X
	3	Encourage legislators to prioritize 2023 capital outlay to fill funding gaps for existing projects that have receive partial funding. Task staff with identifying these projects prior to the 2023 session.	X	X		X			X		X
	4	Increase funding to DFA for grant administration initiatives.									
Medium to Long Term	5	Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.	X	X	X	X	X		X	X	X
	6	Provide funding to increase staffing within CoGs to provide technical and administrative support to local governments seeking funding.			X	X	X		X	X	
	7	Consider the following changes to current reauthorization practices: require reauthorizations to be for the original project or for the completion of an ongoing project; allow only one change of purpose or extension of time for a project; limit the time extension to one year rather than two years; allow House or Senate finance committees to review reauthorizations; adopt House and Senate rules relating to reauthorizations; require a minimum \$50,000 for reauthorization of severance tax bond projects; propose the LCS reauthorization request form include a question asking if the entity is audit compliant.				X					X
	8	Determine best practices for procurement for efficient, responsible use of capital dollars and identify barriers to implementation of those best practices. Research topics could include design/build and construction management contracts and rural incentives.			X				X		
	9	Direct staff to analyze the potential for public-private partnerships to improve project efficiency and success.			X				X		
	10	Consider creation of a public-private model that would manage projects on behalf of local governments lacking the capacity or means.			X	X			X		
	11	Encourage local governing bodies to require staff to provide monthly or quarterly updates directly to the governing bodies on the status of capital projects.			X	X					
	12	Appropriate funding to the State Auditor to assist mutual domestic water associations and other rural and low-income entities in becoming audit compliant.			X						
	13	Amend Executive Order to allow an exemption from audit compliance for entities for which a capital outlay appropriation triggers the audit requirement.			X						
	14	Require small entities such as mutual domestics that do not meet funding requirements and lack capacity to manage projects to request funding through sponsor fiscal agents such as their county government and provide the sponsor fiscal agent with a portion of the appropriation as an administrative fee.			X	X					
	15	Make compensation more competitive for specialized technical staff within key agencies. For example, project engineers at the New Mexico Environment Department.			X	X					
	16	Determine best practices for state agencies in advancing state-owned and local capital outlay and identify agencies where staffing numbers, structure, or practices limit implementation of those best practices. For example, project management staff rather than project administration at the Local Government Division in the Department of Finance and Administration.			X	X			X		
	17	Create positions within the Senate and House Chief Clerk's Office to assist citizen legislators with monitoring local capital projects throughout the year.		X		X					X
	18	Consider making a portion of capital outlay appropriations available for project management assistance for small entities.			X	X					
Options for Prioritizing Future Capital Outlay											
Short Term	19	Encourage or require legislators to prioritize 2023 capital outlay for new projects to those that can be fully funded with capital outlay appropriations.		X	X						X
	20	Direct staff to work with DFA and LCS to ensure recommended criteria for local capital outlay are consistent across agencies and used consistently in training.		X					X		
	21	Discourage legislators from funding parks and recreation projects with 2023 capital outlay and instead direct these projects to the New Mexico Outdoor Recreation Grant Program, administered by DFA.		X	X	X	X				X
	22	Direct staff to provide the committee with an update later this interim on changes to Public Schools Capital Outlay Council funding policies, potential 2023 legislative initiatives and implications for 2023 capital outlay appropriations.					X				
Medium to Long Term	23	Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.	X	X	X	X	X		X	X	X
	24	Complete a statewide needs assessment for critical infrastructure and use it to guide funding decisions.		X	X				X	X	X
	25	Encourage legislators to <u>only</u> fund planning (\$50,000) for new projects that have yet to complete a planning process <u>OR</u> direct these projects to the Local Government Planning Fund at the New Mexico Finance Authority, where grants of up to \$50,000 are available for planning.		X						X	
	26	Appropriate additional funding to the Water Trust Board and/or the Local Government Planning Fund <u>AND</u> discourage legislators from funding water and wastewater projects with capital outlay. <u>OR</u> encourage members to only provide planning funding to water and wastewater projects (\$50,000).		X		X	X			X	
	27	Explore opportunities to strategically use state money to incentivize use of the Clean Water State Revolving Fund and Drinking Water State Revolving Fund for communities with little debt capacity.		X			X			X	
	28	Create a centralized water infrastructure office to coordinate funding for water and wastewater projects and provide cradle-to-grave project management support <u>OR</u> create a water team within a more general central infrastructure office.		X	X	X	X			X	X
	29	Evaluate implementation of the dedicated recreation funding source through DFA and consider additional appropriations to the fund.		X	X	X	X				X
	30	Consider establishing additional dedicated funding sources like the outdoor recreation program for rural infrastructure.		X	X		X				X
	31	Modify the capital outlay request form so the information legislators receive aligns with recommended vetting criteria to the greatest extent possible.		X					X		
	32	Put an Infrastructure Capital Improvement Plan (ICIP) requirement for local governments into statute to improve project planning and prioritization at the local level before funding is requested from legislators.		X					X		X
	33	Encourage coordination among legislators in a shared district to fully fund priority projects.		X	X						X
	34	Encourage legislators to utilize a readiness to proceed or project vetting checklist as minimum criteria prior to appropriating funds to local projects. (See Attachment B for LFC recommended criteria.)		X							X
Options for Capitalizing on Federal Funds											
M to LT	35	Create a centralized infrastructure office or entity responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams for local projects.	X	X	X	X	X		X	X	X
	36	Appropriate additional funding to be used as local match for competitive federal grants and establish criteria for distributing those funds.		X	X					X	
	37	Provide funding to increase staffing within COGs to provide technical and administrative support to local governments seeking funding.			X	X	X		X	X	

Attachment B.

CAPITAL OUTLAY VETTING CRITERIA

LFC encourages legislators to use criteria in evaluating capital outlay requests. The criteria are intended to provide insight into the significance of the need the project would address, how ready projects are to proceed to construction, how well-planned the project is and its current status, how realistic requested funding amounts are, local commitment to the project, and need for grant assistance.

NEED

1. Project will reduce potential or actual health and safety hazards and liability issues or will provide sustainable infrastructure for economic development and growth.
2. Project is a high priority on governmental entity's Infrastructure Capital Improvement Plan (ICIP).
3. Project enhances the ability of public entities to provide direct services to students, staff, or the general public
4. Project is required by federal, state or judicial mandate.
5. Project will prevent deterioration of asset or will correct infrastructure problems of asset.

PLANNING & READINESS

1. A formal planning document has already been completed.
2. Project cost estimate is based on a complete planning document and represents a cost-effective solution to the need the project addresses, among potential alternatives that were analyzed.
3. Local entity is audit compliant.
4. Local entity does not have outstanding projects without activity or expenditures.
5. Non-governmental entities are encouraged to get pre-approval from a local government agreeing to include project in ICIP and to serve as fiscal agent for the project.
6. Project has had public input and buy-in.
7. Project has been designed to be energy efficient in its operation.
8. Construction of project can be successfully phased, so that each phase will be operational.
9. Land, property, rights of way, or easements required to begin construction have already been acquired.
10. Operational costs of project upon completion have been identified and planned for.

FUNDING & LOCAL INVESTMENT

1. Request fully funds the project or a functional phase, provides required matching funds for a federal grant, or is necessary to complete a project that has already received partial funding.
2. Funding requested could not be secured through other sources.
3. Local entity has committed some local revenues to the project.
4. Local government body takes an active role in its capital projects, including regular updates from staff on the status of ongoing projects.