

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 134

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING CRITERIA AND PROCEDURES
FOR FUNDING PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS FOR PUBLIC
SCHOOL BUILDINGS; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX
BONDS AND SUPPLEMENTAL SEVERANCE TAX BONDS; CREATING THE PUBLIC
SCHOOL CAPITAL OUTLAY TASK FORCE; MAKING APPROPRIATIONS;
DECLARING AN EMERGENCY.

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

Section 1. Section 7-27-12 NMSA 1978 (being Laws 1961,
Chapter 5, Section 10, as amended) is amended to read:

"7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED. --

A. The state board of finance shall issue and sell
all severance tax bonds when authorized to do so by any law
that sets out the amount of the issue and the recipient of the

1 money.

2 B. The state board of finance shall also issue and
3 sell severance tax bonds authorized by Sections 72-14-36
4 through 72-14-42 NMSA 1978, and such authority as has been
5 given to the interstate stream commission to issue and sell
6 such bonds is transferred to the state board of finance. The
7 state board of finance shall issue and sell all severance tax
8 bonds only when so instructed by resolution of the governing
9 body or ~~[executive head]~~ by written direction from an
10 authorized officer of the recipient of the bond money.

11 C. Except as provided in Subsection D of this
12 section, proceeds from supplemental severance tax bonds shall
13 be used only for public school ~~[critical]~~ capital outlay
14 projects pursuant to the Public School Capital Outlay Act or
15 ~~[for infrastructure renovation and expansion at the state's~~
16 ~~public post-secondary educational institutions and other~~
17 ~~institutions confirmed as state educational institutions in~~
18 ~~Article 12, Section 11 of the constitution of New Mexico~~
19 ~~pursuant to a plan developed and approved by the commission on~~
20 ~~higher education to fund the highest priority significant needs~~
21 ~~identified by the commission.~~

22 ~~D. The state board of finance shall issue and sell~~
23 ~~all supplemental severance tax bonds when authorized to do so~~
24 ~~by any law that sets out the amount of the issue and names the~~
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1 ~~public school capital outlay council or the commission on~~
 2 ~~higher education as the recipient of the money. The state~~
 3 ~~board of finance shall issue and sell supplemental severance~~
 4 ~~tax bonds only when so instructed by resolution of the public~~
 5 ~~school capital outlay council or by resolution of the~~
 6 ~~commission on higher education pursuant to certification by the~~
 7 ~~governing bodies of the appropriate educational institutions]~~
 8 the Public School Capital Improvements Act.

9 D. Proceeds from supplemental severance tax bonds
 10 issued pursuant to Paragraph (2) of Subsection A of Section 19
 11 of Chapter 6 of Laws 1999 (1st S.S.) shall be used for the
 12 purposes specified in that paragraph.

13 E. Except as provided in Subsection F of this
 14 section, the state board of finance shall issue and sell all
 15 supplemental severance tax bonds when so instructed by
 16 resolution of the public school capital outlay council pursuant
 17 to Section 7-27-12.2 NMSA 1978.

18 F. The state board of finance shall issue and sell
 19 supplemental severance tax bonds authorized by Paragraph (2) of
 20 Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.)
 21 when so instructed by resolution of the commission on higher
 22 education. "

23 Section 2. A new section of the Severance Tax Bonding
 24 Act, Section 7-27-12.2 NMSA 1978, is enacted to read:

25 . 136591. 4

1 "7-27-12. 2. [~~NEW MATERIAL~~] SUPPLEMENTAL SEVERANCE TAX
2 BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS. --

3 A. The public school capital outlay council is
4 authorized to certify by resolution that proceeds of
5 supplemental severance tax bonds are needed for public school
6 capital outlay projects pursuant to Section 22-24-5 NMSA 1978
7 or for the state distribution for public school capital
8 improvements pursuant to the Public School Capital Improvements
9 Act. The resolution shall specify the total amount needed.

10 B. The state board of finance may issue and sell
11 supplemental severance tax bonds in compliance with the
12 Severance Tax Bonding Act when the public school capital outlay
13 council certifies by resolution the need for the issuance of
14 the bonds. The amount of the bonds sold at each sale shall not
15 exceed the lesser of the amount certified by the council or the
16 amount that may be issued pursuant to the restrictions of
17 Section 7-27-14 NMSA 1978.

18 C. The state board of finance shall schedule the
19 issuance and sale of the bonds in the most expeditious and
20 economical manner possible.

21 D. The proceeds from the sale of the bonds are
22 appropriated as follows:

23 (1) the amount certified by the superintendent
24 of public instruction as necessary to make the full
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1 distribution pursuant to Section 22-25-9 NMSA 1978 is
 2 appropriated to the public school capital improvements fund for
 3 the purpose of carrying out the provisions of the Public School
 4 Capital Improvements Act; and

5 (2) the remainder of the proceeds is
 6 appropriated to the public school capital outlay fund for the
 7 purpose of making awards of grant assistance pursuant to
 8 Section 22-24-5 NMSA 1978, except that, of the proceeds
 9 received from the sale of the bonds in fiscal year 2002, fifty
 10 million dollars (\$50,000,000) shall be used for projects to
 11 correct outstanding deficiencies pursuant to Sections 22-24-4.1
 12 and 22-24-4.2 NMSA 1978. "

13 Section 3. Section 7-27-27 NMSA 1978 (being Laws 1961,
 14 Chapter 5, Section 27, as amended) is amended to read:

15 "7-27-27. PURPOSE AND INTENT. --The purpose of the
 16 Severance Tax Bonding Act is to establish the authority who
 17 shall issue and sell all severance tax bonds [~~and supplemental~~
 18 ~~severance tax bonds~~] for financing specific projects authorized
 19 by the legislature and all supplemental severance tax bonds
 20 pursuant to Section 7-27-12.2 NMSA 1978 and to guarantee
 21 redemption of such bonds by revenue derived from the receipts
 22 from taxes levied upon natural resource products severed and
 23 saved from the soil and such other money as the legislature may
 24 from time to time determine. It is intended that projects to
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1 be financed from the fund shall include [~~but not be limited to~~]
2 the construction of public school buildings, other buildings
3 for state institutions and water resource projects; and it is
4 further intended that the income from water resource projects
5 in excess of the amount required for operation and maintenance
6 of the project shall be used to repay the severance tax bonding
7 fund. "

8 Section 4. A new Section 22-20-4 NMSA 1978 is enacted to
9 read:

10 "22-20-4. [NEW MATERIAL] APPLICABILITY. -- The provisions
11 of Chapter 22, Article 20 NMSA 1978 do not apply to public
12 school capital outlay projects subject to the oversight of the
13 public school capital outlay council pursuant to the Public
14 School Capital Outlay Act. "

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

17 "22-24-4. FUND CREATED--USE. --

18 A. There is created the "public school capital
19 outlay fund". Balances remaining in the fund at the end of
20 each fiscal year shall not revert.

21 B. Money in the fund may be used only for capital
22 expenditures deemed by the council necessary for an adequate
23 educational program.

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

17 D. Applications for assistance from the fund shall
18 be made by local school districts to the council in accordance
19 with requirements of the council.

20 E. The council shall review all requests for
21 assistance from the fund and shall allocate funds only for
22 those capital outlay projects [~~that cannot be financed by the~~
23 ~~school district from other sources and~~] that meet the criteria
24 of the Public School Capital Outlay Act.
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1 F. Money in the fund shall be disbursed by warrant
2 of the department of finance and administration on vouchers
3 signed by the secretary of finance and administration following
4 certification by the council that an application has been
5 approved. "

6 Section 6. A new section of the Public School Capital
7 Outlay Act, Section 22-24-4.1 NMSA 1978, is enacted to read:

8 "22-24-4.1. [NEW MATERIAL] OUTSTANDING DEFICIENCIES--
9 ASSESSMENT--CORRECTION. --

10 A. No later than September 1, 2001, the council
11 shall define and develop guidelines, consistent with the codes
12 adopted by the construction industries commission pursuant to
13 the Construction Industries Licensing Act, for school districts
14 to use to identify outstanding serious code deficiencies in
15 public school buildings and grounds that may adversely affect
16 the health or safety of students and school personnel.

17 B. A local school district shall use these
18 guidelines to complete a self-assessment of the outstanding
19 health or safety deficiencies within the district and provide
20 cost projections to correct the outstanding deficiencies.

21 C. The council shall develop a methodology for
22 prioritizing projects that will correct the deficiencies.

23 D. After a public hearing and to the extent that
24 money is available in the fund for such purposes, the council
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1 shall approve allocations from the fund on the established
 2 priority basis and, working with the school district and
 3 pursuant to the Procurement Code, enter into construction
 4 contracts with contractors to correct the deficiencies.

5 E. In entering into construction contracts to
 6 correct deficiencies pursuant to this section, the council
 7 shall include such terms and conditions as necessary to ensure
 8 that the state money is expended in the most prudent manner
 9 possible and consistent with the original purpose.

10 F. Any serious code deficiency that may adversely
 11 affect the health or safety of students or school personnel may
 12 be corrected pursuant to this section, regardless of the local
 13 effort or percentage of indebtedness of the school district.

14 G. It is the intent of the legislature that all
 15 outstanding serious code deficiencies in public schools and
 16 grounds that may adversely affect the health or safety of
 17 students and school personnel be identified and funded pursuant
 18 to this section no later than June 30, 2004."

19 Section 7. A new section of the Public School Capital
 20 Outlay Act, Section 22-24-4.2 NMSA 1978, is enacted to read:

21 "22-24-4.2. [NEW MATERIAL] DEFICIENCIES CORRECTION UNIT. --

22 A. A "deficiencies correction unit" is created as
 23 part of the public school capital outlay council. The unit
 24 shall be headed by a director, selected by the council, who

25 . 136591. 4

1 shall be versed in construction, architecture or project
2 management. Within budgetary constraints, the director shall
3 employ or contract with such technical and administrative
4 personnel as are necessary to carry out the provisions of this
5 section. The director shall be exempt from the provisions of
6 the Personnel Act.

7 B. The deficiencies correction unit shall:

8 (1) work with the local school districts to
9 validate the assessment of the outstanding serious health or
10 safety code deficiencies and the projected costs to correct the
11 deficiencies;

12 (2) work with the districts to provide direct
13 oversight of the management and construction of the health or
14 safety projects;

15 (3) oversee all aspects of the contracts
16 entered into by the council to correct the health or safety
17 deficiencies;

18 (4) conduct on-site inspections while the
19 deficiencies correction work is being done to assure that the
20 construction specifications are being met and periodically
21 inspect all of the documents relating to the projects;

22 (5) require the use of standardized
23 construction documents as defined by the property control
24 division of the general services department and the use of a
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1 standardized process for change orders; and

2 (6) have access to the premises of a project
3 and any documentation relating to the project. "

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

6 "22-24-5. [~~FUND--DISTRIBUTION~~] PUBLIC SCHOOL CAPITAL
7 OUTLAY PROJECTS-- APPLICATION-- GRANT ASSISTANCE. --

8 A. For project allocation cycles occurring before
9 September 1, 2003, the council shall approve an application for
10 grant assistance from the fund for a public school capital
11 outlay project not wholly funded pursuant to Section 22-24-4.1
12 NMSA 1978, when the council determines that:

13 (1) a [~~critical~~] need exists requiring action;

14 (2) the residents of the school district have
15 provided available resources to the school district to meet its
16 capital outlay requirements;

17 (3) the school district has used its capital
18 resources in a prudent manner;

19 [~~(4) the school district is in a county or~~
20 ~~counties which have participated in a reappraisal program and~~
21 ~~the reappraised values are on the tax rolls or will be used for~~
22 ~~the tax year 1979 as certified by the property tax division of~~
23 ~~the taxation and revenue department;~~

24 (5)] (4) the school district has provided

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1 insurance for buildings of the school district in accordance
2 with the provisions of Section 13-5-3 NMSA 1978;

3 ~~[(6) unless a determination and certification~~
4 ~~have been made pursuant to Subsection D of this section]~~

5 (5) the school district:

6 (a) is indebted at not less than
7 ~~[seventy-five]~~ sixty-five percent of the total general
8 obligation debt authorized by law; or

9 (b) within the last three years, was
10 indebted at the level required in Subparagraph (a) of this
11 paragraph and received a grant pursuant to this section for the
12 initial stages of a project and currently has a critical need
13 for an additional grant to complete the same project; and

14 ~~[(7)]~~ (6) the school district has submitted a
15 five-year facilities plan that includes enrollment projections.

16 B. The council shall consider all applications for
17 assistance from the fund and, after a public hearing, shall
18 either approve or deny the application. Applications for grant
19 assistance shall only be accepted by the council after a school
20 district has complied with the provisions of this section. The
21 council shall list all applications in order of priority, and
22 all allocations shall be made on a priority basis, except:

23 (1) twenty million dollars (\$20,000,000) of
24 the proceeds from supplemental severance tax bonds issued
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1 ~~[annually in fiscal years 2001 through 2003]~~ in fiscal year
 2 2001 and fifty million dollars (\$50,000,000) of the proceeds
 3 from supplemental severance tax bonds issued annually in fiscal
 4 years 2002 and 2003 shall be set aside for allocation solely
 5 for projects in school districts that are eligible for funding
 6 from the fund and that receive grants from the federal
 7 government as assistance to areas affected by federal activity
 8 authorized in accordance with Title 20 of the United States
 9 Code, commonly known as "PL 874 funds" or "impact aid"; and

10 (2) in the case of an emergency, the order of
 11 priority shall first reflect those projects ~~[which]~~ that have
 12 been previously funded but are not as yet completed, excluding
 13 expansion of those projects and contingent upon maintenance of
 14 the required local support.

15 ~~[C. Money in the fund shall be disbursed by warrant~~
 16 ~~of the department of finance and administration on vouchers~~
 17 ~~signed by the secretary of finance and administration following~~
 18 ~~certification by the council that the application has been~~
 19 ~~approved.~~

20 ~~D. If the council makes a determination and~~
 21 ~~certifies to the state board that after January 1, 2001, either~~
 22 ~~a constitutional amendment has been adopted that provides~~
 23 ~~additional or supplemental revenue sources for public school~~
 24 ~~capital outlay funding or another long term revenue source~~

1 ~~exists that is expected to exceed sixty million dollars~~
2 ~~(\$60,000,000) per year, then, in all subsequent application and~~
3 ~~allocation cycles]~~

4 C. For allocation cycles beginning after September
5 1, 2003, the following provisions apply:

6 (1) all school districts are eligible to apply
7 for funding from the fund, regardless of percentage of
8 indebtedness;

9 (2) priorities for funding shall be ~~[given to~~
10 ~~those capital projects that:~~

11 ~~(a) are necessary for health and safety;~~

12 ~~(b) were previously funded by the~~
13 ~~council but are not yet completed;~~

14 ~~(c) are for school districts with low~~
15 ~~assessed valuation compared to other districts;~~

16 ~~(d) provide necessary classrooms due to~~
17 ~~student population increases or that improve existing school~~
18 ~~facilities, including portable classroom facilities that have~~
19 ~~been used for a long period of time; and~~

20 ~~(e) are renovation projects that will~~
21 ~~forestall substantial capital outlay costs in the future~~
22 ~~rather than new construction, unless health and safety concerns~~
23 ~~require new construction;~~

24 (3) ~~in establishing the priority for capital~~
25

1 ~~projects to be funded, the council shall consider:~~

2 ~~(a) the school district's total assessed~~
3 ~~valuation per student;~~

4 ~~(b) the school district's remaining~~
5 ~~bonding capacity;~~

6 ~~(c) other sources of revenue available~~
7 ~~to the school district for capital outlay projects; and~~

8 ~~(d) whether the project is shown as a~~
9 ~~priority project in the school district's most recent five-year~~
10 ~~facilities plan] determined by using the statewide adequacy~~
11 ~~standards developed pursuant to Subsection D of this section;~~

12 ~~[(4)] (3)~~ after consulting with the staff
13 architect of the property control division of the general
14 services department, the council shall establish criteria [~~and~~
15 ~~standards~~] to be used in public school capital outlay projects
16 that receive grant assistance pursuant to the Public School
17 Capital Outlay Act. In establishing the criteria, [~~and~~
18 ~~standards~~] the council shall consider:

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

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

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

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

7 [~~(6)~~] (5) except as provided in Paragraph (6)
8 of this subsection, a project approved and ranked by the
9 council shall be funded within available resources in
10 accordance with the following formula:

11 (school district final prior year
12 assessed valuation per MEM ÷ the state
13 average final prior year assessed
14 valuation per MEM) x 0.5. The product is
15 subtracted from 1.0 and the difference is
16 then multiplied by seventy-five percent.
17 The product of that calculation added to
18 (the percent of bonding capacity used x
19 0.25) equals the percentage of the cost
20 of the approved project to be funded from
21 the fund. "MEM" means the total
22 enrollment of students attending public
23 school in a school district in the final
24 funded prior school year, with
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1 kindergarten being counted as 0.5. In
2 those instances in which the formula
3 provides less than 0.1, 0.1 shall be used
4 as the state's share; ~~and~~

5 ~~(7)~~ (6) in those instances in which a school
6 district has used all of its local resources, the council may
7 fund the total amount of a project; and

8 (7) no application for grant assistance from
9 the fund shall be approved unless the council determines that:

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

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

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

18 (d) the school district has submitted a
19 five-year facilities plan that includes enrollment projections;

20 (e) the school district is willing and
21 able to pay any portion of the total cost of the public school
22 capital outlay project that, according to Paragraph (5) of this
23 subsection established by law, is not funded with grant
24 assistance from the fund; and
25

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

5 D. After consulting with the public school capital
6 outlay task force and other experts, no later than September 1,
7 2002, the council shall develop statewide adequacy standards
8 applicable to all school districts. The standards shall
9 establish the minimum acceptable level for the physical
10 condition and capacity of buildings, the educational
11 suitability of facilities and the need for technological
12 infrastructure. The amount of outstanding deviation from the
13 standards shall be used by the council after September 1, 2003
14 in evaluating and prioritizing public school capital outlay
15 projects.

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

23 F. Upon request, the council shall work with, and
24 provide assistance and information to, the public school
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1 capital outlay task force.

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

10 ~~[E.]~~ H. The council shall promulgate such rules as
11 are necessary to carry out the provisions of the Public School
12 Capital Outlay Act.

13 I. No later than September 1 of each year, the
14 council shall prepare a report summarizing its activities
15 during the previous fiscal year. The report shall describe in
16 detail all projects funded, the progress of projects previously
17 funded but not completed, the criteria used to prioritize and
18 fund projects and all other council actions. The report shall
19 be submitted to the legislative finance committee, the
20 legislative education study committee, the state board and the
21 governor. "

22 Section 9. A new section of the Public School Capital
23 Outlay Act, Section 22-24-5.1 NMSA 1978, is enacted to read:

24 "22-24-5.1. [NEW MATERIAL] COUNCIL ASSISTANCE AND

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1 OVERSIGHT. -- In providing grant assistance pursuant to Section
2 22-24-5 NMSA 1978, the council shall:

3 A. assist school districts in identifying critical
4 capital outlay needs and in preparing grant applications;

5 B. take such actions as are necessary to assist
6 school districts in implementing the projects for which grants
7 are made, including assistance with the preparation of requests
8 for bids or proposals, contract negotiations and contract
9 implementation;

10 C. take such actions as are necessary to ensure
11 cost savings and efficiencies for those school districts that
12 are not large enough to maintain their own construction
13 management staff; and

14 D. include such reporting requirements and
15 conditions and take such actions as are necessary to ensure
16 that the grants are expended in the most prudent manner
17 possible and consistent with the original purpose for which
18 they were made. In order to ensure compliance with the intent
19 of this subsection, the council may:

20 (1) access the premises of a project and
21 review any documentation relating to a project;

22 (2) withhold all or part of the amount of
23 grant assistance available for a project for grounds
24 established by rule of the council; and
25

1 (3) if it determines that a project is
 2 repeatedly in substantial noncompliance with any reporting
 3 requirement or condition, take over the direct administration
 4 of the project until the project is completed."

5 Section 10. Section 22-25-9 NMSA 1978 (being Laws 1975
 6 (S.S.), Chapter 5, Section 9, as amended by Laws 1988, Chapter
 7 64, Section 44 and also by Laws 1988, Chapter 66, Section 2) is
 8 amended to read:

9 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
 10 TAX UNDER CERTAIN CIRCUMSTANCES. --

11 A. [The director] Except as provided in Subsection
 12 C of this section, the state superintendent shall distribute to
 13 any school district that has imposed a tax under the Public
 14 School Capital Improvements Act an amount from the public
 15 school capital improvements fund that is equal to the amount by
 16 which the revenue estimated to be received from the imposed
 17 tax, at the rate certified by the department of finance and
 18 administration in accordance with Section 22-25-7 NMSA 1978,
 19 assuming a one hundred percent collection rate, is less than an
 20 amount calculated by multiplying the school district's first
 21 forty-days' total program units [~~times thirty-five dollars~~
 22 ~~(\$35.00)] by the dollar amount specified in Subsection B of
 23 this section and further multiplying the product obtained by
 24 the tax rate approved by the qualified electors in the most
 25~~

1 recent election on the question of imposing a tax under the
2 Public School Capital Improvements Act. The distribution shall
3 be made each year that the tax is imposed in accordance with
4 Section 22-25-7 NMSA 1978; provided that no state distribution
5 from the public school capital improvements fund may be used
6 for capital improvements to any administration building of a
7 school district. In the event that sufficient funds are not
8 available in the public school capital improvements fund to
9 make the state distribution provided for in this section, the
10 dollar per program unit figure shall be reduced as necessary.

11 B. In calculating the state distribution pursuant
12 to Subsection A of this section, the following amounts shall be
13 used:

14 (1) fifty dollars (\$50.00) per program unit;

15 and

16 (2) for fiscal year 2005 and thereafter, an
17 additional amount certified to the state superintendent by the
18 public school capital outlay council. No later than June 1,
19 2004 and each June 1 thereafter, the council shall determine
20 the amount needed in the next fiscal year for public school
21 capital outlay projects pursuant to the Public School Capital
22 Outlay Act and the amount of revenue, from all sources,
23 available for the projects. If, in the sole discretion of the
24 council, the amount available exceeds the amount needed, the
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1 council may certify an additional amount pursuant to this
2 paragraph; provided that the sum of the amount calculated
3 pursuant to this paragraph plus the amount in Paragraph (1) of
4 this subsection shall not result in a total statewide
5 distribution that, in the opinion of the council, exceeds one-
6 half of the total revenue estimated to be received from taxes
7 imposed pursuant to the Public School Capital Improvements Act.

8 C. Notwithstanding the amount calculated to be
9 distributed pursuant to Subsections A and B of this section, no
10 school district, the voters of which have approved a tax
11 pursuant to Section 22-25-3 NMSA 1978, shall receive a
12 distribution less than an amount equal to five dollars (\$5.00)
13 multiplied by the school district's first forty days' total
14 program units and further multiplying the product obtained by
15 the approved tax rate.

16 D. In making distributions pursuant to this
17 section, the state superintendent shall include such reporting
18 requirements and conditions as are required by rule of the
19 public school capital outlay council. The council shall adopt
20 such requirements and conditions as are necessary to ensure
21 that the distributions are expended in the most prudent manner
22 possible and consistent with the original purpose as specified
23 in the authorizing resolution. Copies of reports or other
24 information received by the state superintendent in response to
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1 the requirements and conditions shall be forwarded to the
2 council. "

3 Section 11. Laws 1999 (1st S.S.), Chapter 6, Section 19
4 is amended to read:

5 "Section 19. SUPPLEMENTAL SEVERANCE TAX BONDS--PURPOSE
6 FOR WHICH ISSUED-- APPROPRIATION OF PROCEEDS. --

7 A. The state board of finance may issue and sell
8 supplemental severance tax bonds in compliance with the
9 Severance Tax Bonding Act in the following amounts for the
10 following purposes upon the following certification:

11 (1) an amount not exceeding one hundred
12 million dollars (\$100,000,000) when the public school capital
13 outlay council certifies by resolution the need for the
14 issuance of the bonds for public school critical capital outlay
15 projects pursuant to the Public School Capital Outlay Act; and

16 (2) an amount not exceeding twenty-five
17 million dollars (\$25,000,000) when the commission on higher
18 education certifies by resolution the need for the issuance of
19 the bonds for infrastructure renovation and expansion at the
20 state's public post-secondary educational institutions or other
21 educational institutions confirmed in Article 12, Section 11 of
22 the constitution of New Mexico pursuant to a plan developed and
23 approved by the commission on higher education to fund the
24 highest priority significant needs identified by the
25 commi ssi on.

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1 ~~[C.]~~ B. The state board of finance shall schedule
 2 the issuance and sale of the bonds in the most expeditious and
 3 economical manner possible upon a finding by the board that the
 4 projects have been developed sufficiently to justify the
 5 issuance and that the projects can proceed to contract within a
 6 reasonable time. The state board of finance shall further take
 7 the appropriate steps necessary to comply with the Internal
 8 Revenue Code of 1986, as amended.

9 ~~[D.]~~ C. The proceeds from the sale of the bonds
 10 pursuant to Paragraph (1) of Subsection A of this section are
 11 appropriated to the public school capital outlay fund to carry
 12 out the provisions of the Public School Capital Outlay Act. If
 13 the public school capital outlay council has not certified the
 14 need for the issuance of the bonds by the end of fiscal year
 15 ~~[2004]~~ 2001, authorization provided in this section shall
 16 expire. Any unexpended or unencumbered balance remaining from
 17 the proceeds of bonds issued pursuant to Paragraph (1) of
 18 Subsection A of this section at the end of fiscal year 2006
 19 shall revert to the severance tax bonding fund.

20 ~~[E.]~~ D. The proceeds from the sale of the bonds in
 21 Paragraph (2) of Subsection A of this section are appropriated
 22 to the commission on higher education for distribution to the
 23 governing bodies of the educational institutions who have
 24 certified projects for funding with the bond proceeds. If the
 25 commission on higher education has not certified the need for

. 136591. 4

1 the issuance of the bonds by the end of fiscal year 2004,
2 authorization provided in this section shall expire. Any
3 unexpended or unencumbered balance remaining from the proceeds
4 of bonds issued pursuant to Paragraph (2) of Subsection A of
5 this section at the end of fiscal year 2006 shall revert to the
6 severance tax bonding fund."

7 Section 12. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY
8 TASK FORCE-- CREATION-- STAFF. --

9 A. The "public school capital outlay task force" is
10 created. The task force consists of twenty members as follows:

11 (1) the dean of the university of New Mexico
12 school of law, or his designee;

13 (2) the dean of the New Mexico state
14 university college of engineering or his designee;

15 (3) the secretary of finance and
16 administration or his designee;

17 (4) the state investment officer or his
18 designee;

19 (5) the superintendent of public instruction
20 or his designee;

21 (6) the chairmen of the legislative finance
22 committee, the senate education committee and the house
23 education committee or their designees;

24 (7) a minority party member of the house of
25 representatives, appointed by the New Mexico legislative

1 council;

2 (8) a minority party member of the senate,
3 appointed by the New Mexico legislative council;

4 (9) two public members who have expertise in
5 education and finance appointed by the speaker of the house of
6 representatives;

7 (10) two public members who have expertise in
8 education and finance appointed by the president pro tempore of
9 the senate;

10 (11) three public members who have expertise
11 in education and finance appointed by the governor; and

12 (12) three superintendents of school districts
13 or their designees that receive grants from the federal
14 government as assistance to areas affected by federal activity
15 authorized in accordance with Title 20 of the United States
16 Code, appointed by the New Mexico legislative council in
17 consultation with the governor.

18 B. The chair of the task force shall be appointed
19 by the New Mexico legislative council. The public school
20 capital outlay task force shall meet at the call of the chair
21 but no less than six times each fiscal year.

22 C. The public members of the public school capital
23 outlay task force shall receive per diem and mileage pursuant
24 to the Per Diem and Mileage Act.

25 D. The legislative council service, with assistance

. 136591. 4

1 from the department of finance and administration, the
2 investment office, the state department of public education,
3 the legislative education study committee and the legislative
4 finance committee, shall provide staff for the public school
5 capital outlay task force.

6 Section 13. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY
7 TASK FORCE--DUTIES.--The public school capital outlay task
8 force shall:

9 A. study and evaluate the progress and
10 effectiveness of programs administered pursuant to the Public
11 School Capital Outlay Act and the Public School Capital
12 Improvements Act;

13 B. evaluate the existing revenue streams and other
14 potential revenues as an adequate long-term funding source for
15 public school capital outlay projects and recommend any changes
16 that may be more cost-effective or appropriate;

17 C. evaluate the effectiveness and fairness of the
18 formula used in determining the amount of grant assistance that
19 an approved public school capital outlay project may receive
20 from the public school capital outlay fund and recommended any
21 proposed changes to the legislature;

22 D. monitor and assist the public school capital
23 outlay council as it:

24 (1) defines outstanding public school capital
25 outlay deficiencies pursuant to Section 22-24-4.1 NMSA 1978;

. 136591. 4

1 (2) works with school districts in conducting
 2 a self-assessment of the projects needed to correct the
 3 outstanding deficiencies and establishes criteria for
 4 addressing those needs;

5 (3) develops statewide adequacy standards that
 6 establish the minimum acceptable level for the physical
 7 condition and capacity of public school buildings, the
 8 educational suitability of educational facilities and the need
 9 for technological infrastructure; and

10 (4) develops guidelines and procedures for
 11 reporting requirements and conditions to ensure that the grants
 12 are expended in the most prudent manner possible and consistent
 13 with the original purpose for which they were made; and

14 E. no later than December 1 of each year, report
 15 the results of its analyses and its findings and
 16 recommendations to the governor and the legislature.

17 Section 14. SEVERANCE TAX BONDS--PURPOSE--APPROPRIATION
 18 OF PROCEEDS.--The state board of finance may issue and sell
 19 severance tax bonds in fiscal years 2002 and 2003 in compliance
 20 with the Severance Tax Bonding Act in an amount not exceeding a
 21 total of one hundred million dollars (\$100,000,000) when the
 22 public school capital outlay council certifies the need for the
 23 issuance of the bonds. The state board of finance shall
 24 schedule the issuance and sale of the bonds in the most
 25 expeditious and economical manner possible. The proceeds from

. 136591. 4

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1 the sale of the bonds are appropriated to the public school
2 capital outlay fund for the purpose of providing grant
3 assistance for public school capital outlay projects that are
4 needed to correct outstanding deficiencies pursuant to Section
5 22-24-4.1 NMSA 1978. Any unexpended or unencumbered balance
6 remaining at the end of fiscal year 2006 shall revert to the
7 severance tax bonding fund. If the public school capital
8 outlay council has not certified the need for the issuance of
9 the bonds by the end of fiscal year 2003, the authorization
10 provided in this section shall expire.

11 Section 15. APPROPRIATIONS. --

12 A. Two million three hundred thousand dollars
13 (\$2,300,000) is appropriated from the general fund to the state
14 department of public education for expenditure in fiscal years
15 2001 through 2003 for the purpose of completing a statewide
16 needs and cost assessment of all school districts in order to
17 identify all needed public school capital outlay projects. Any
18 unexpended or unencumbered balance remaining at the end of
19 fiscal year 2003 shall revert to the general fund.

20 B. One million one hundred thousand dollars
21 (\$1,100,000) is appropriated from the general fund to the
22 deficiency correction unit for expenditure in fiscal years 2001
23 and 2002 for the purpose of carrying out its duties pursuant to
24 the Public School Capital Outlay Act. Any unexpended or
25 unencumbered balance remaining at the end of fiscal year 2002

1 shall revert to the general fund.

2 C. Fifty million dollars (\$50,000,000) is
3 appropriated from the general fund to the public school capital
4 outlay fund for expenditure in fiscal years 2001 through 2004
5 for the purpose of correcting deficiencies pursuant to Section
6 22-24-4.1 NMSA 1978. Any unexpended or unencumbered balance
7 remaining at the end of fiscal year 2004 shall not revert but
8 shall be used for the purpose of providing grant assistance
9 pursuant to Section 22-24-5 NMSA 1978.

10 D. One hundred million dollars (\$100,000,000) is
11 appropriated from the general fund to the public school capital
12 outlay fund for expenditure in fiscal years 2002 through 2004
13 for the purpose of correcting deficiencies pursuant to Section
14 22-24-4.1 NMSA 1978. The appropriation is contingent upon the
15 secretary of general services and the secretary of finance and
16 administration certifying that the public school capital outlay
17 council has, by rule, adopted a project management system to
18 ensure that the projects will be constructed in the most cost-
19 effective and efficient manner. Any unexpended or unencumbered
20 balance remaining at the end of fiscal year 2004 shall not
21 revert but shall be used for the purpose of providing grant
22 assistance pursuant to Section 22-24-5 NMSA 1978.

23 E. Twenty thousand dollars (\$20,000) is
24 appropriated from the general fund to the legislative council
25 service for expenditure in fiscal years 2001 and 2002 for the

. 136591. 4

1 purpose of paying per diem and mileage for public members of
2 the public school capital outlay task force. Any unexpended or
3 unencumbered balance remaining at the end of fiscal year 2002
4 shall revert to the general fund.

5 Section 16. REPEAL. --Laws 2000, Chapter 95, Section 2 and
6 Laws 2000 (2nd S.S.), Chapter 11, Section 3 are repealed.

7 Section 17. DELAYED REPEAL. --Sections 12 and 13 of this
8 act are repealed effective January 1, 2004.

9 Section 18. EFFECTIVE DATE. --The effective date of
10 Sections 1 through 3 and 8 of this act is July 1, 2001.

11 Section 19. EMERGENCY. --It is necessary for the public
12 peace, health and safety that this act take effect immediately.

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