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SENATE BILL 167

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

INTRODUCED BY

Ben D. Altamirano

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 SHORT-TERM SEVERANCE TAX BONDS, SUPPLEMENTAL SEVERANCE TAX BONDS AND STATEWIDE PUBLIC SCHOOL GENERAL OBLIGATION 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

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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 of the recipient of the bond money.

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

21 ~~D. The state board of finance shall issue and sell~~
22 ~~all supplemental severance tax bonds when authorized to do so~~
23 ~~by any law that sets out the amount of the issue and names the~~
24 ~~public school capital outlay council or the commission on~~
25 ~~higher education as the recipient of the money. The state~~

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1 ~~board of finance shall issue and sell supplemental severance~~
2 ~~tax bonds only when so instructed by resolution of the public~~
3 ~~school capital outlay council or by resolution of the~~
4 ~~commission on higher education pursuant to certification by~~
5 ~~the governing bodies of the appropriate educational~~
6 ~~institutions]~~ the Public School Capital Improvements Act.

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

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

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

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

24 "7-27-12.2. [NEW MATERIAL] SUPPLEMENTAL SEVERANCE TAX
25 BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS.--

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

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

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

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

22 (1) in fiscal year 2002, the proceeds are
23 appropriated to the public school capital outlay fund for the
24 purpose of making awards of grant assistance pursuant to
25 Section 22-24-5 NMSA 1978; and

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1 (2) in fiscal year 2003 and subsequent fiscal
2 years:

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

9 (b) the remainder of the proceeds is
10 appropriated to the public school capital outlay fund for the
11 purpose of making awards of grant assistance pursuant to
12 Section 22-24-5 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
19 authorized by the legislature and all supplemental severance
20 tax bonds pursuant to Section 7-27-12.2 NMSA 1978 and to
21 guarantee redemption of such bonds by revenue derived from the
22 receipts from taxes levied upon natural resource products
23 severed and saved from the soil and such other money as the
24 legislature may from time to time determine. It is intended
25 that projects to be financed from the fund shall include [~~but~~

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1 ~~not be limited to~~] the construction of buildings for state
2 institutions and water resource projects; and it is further
3 intended that the income from water resource projects in
4 excess of the amount required for operation and maintenance of
5 the project shall be used to repay the severance tax bonding
6 fund. "

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

9 "22-24-4. FUND CREATED--USE. --

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

13 B. Money in the fund may be used only for capital
14 expenditures deemed by the council necessary for an adequate
15 educational program.

16 C. The council may authorize the purchase by the
17 property control division of the general services department
18 of property to be loaned to school districts to meet a
19 temporary requirement. Payment for these purchases shall be
20 made from the fund. Title and custody to the property shall
21 rest in the property control division. The council shall
22 authorize the lending of the property to school districts upon
23 request and upon finding that sufficient need exists.
24 Application for use or return of state-owned portable
25 classroom buildings shall be submitted by school districts to

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1 the council. Expenses of maintenance of the property while in
2 the custody of the property control division shall be paid
3 from the fund; expenses of maintenance and insurance of the
4 property while in the custody of a school district shall be
5 the responsibility of the school district. The council may
6 authorize the permanent disposition of the property by the
7 property control division with prior approval of the state
8 board of finance.

9 D. Applications for assistance from the fund shall
10 be made by local school districts to the council in accordance
11 with requirements of the council.

12 E. The council shall review all requests for
13 assistance from the fund and shall allocate funds only for
14 those capital outlay projects [~~that cannot be financed by the~~
15 ~~school district from other sources and~~] that meet the criteria
16 of the Public School Capital Outlay Act.

17 F. Money in the fund shall be disbursed by warrant
18 of the department of finance and administration on vouchers
19 signed by the secretary of finance and administration
20 following certification by the council that an application has
21 been approved. "

22 Section 5. A new section of the Public School Capital
23 Outlay Act, Section 22-24-4.1 NMSA 1978, is enacted to read:

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

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A. The council shall:

(1) develop guidelines for defining and identifying outstanding deficiencies in public school buildings and grounds that may adversely affect the health or safety of students and school personnel or that are in substantive violation of a federal, state or local law or ordinance;

(2) work with local school boards to complete their self-assessment of the needs and costs of public school capital outlay projects that will correct outstanding deficiencies;

(3) develop a methodology for prioritizing applications for grant assistance for projects that will correct outstanding deficiencies; and

(4) after a public hearing, and to the extent that money is available in the fund for such purposes, approve applications for allocations from the fund on the established priority basis.

B. All school districts are eligible to apply for and receive grant assistance pursuant to this section.

C. To the extent that money is available in the fund for grant assistance pursuant to this section, all deficiencies in public school buildings and grounds, as defined by the council pursuant to Subsection A of this section, shall be identified and corrected pursuant to this

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1 section no later than June 30, 2004. "

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

4 "22-24-5. [~~FUND--DISTRIBUTION~~] PUBLIC SCHOOL CAPITAL
5 OUTLAY PROJECTS--APPLICATION--GRANT ASSISTANCE. --

6 A. Unless a certification has been made pursuant
7 to Subsection C of this section, for public school capital
8 outlay projects not wholly funded pursuant to Section
9 22-24-4.1 NMSA 1978, the council shall approve an application
10 for grant assistance from the fund when the council determines
11 that:

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

14 (2) the residents of the school district have
15 provided available resources to the school district to meet
16 its 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~~
22 ~~for the tax year 1979 as certified by the property tax~~
23 ~~division of the taxation and revenue department;~~

24 (5)] (4) the school district has provided
25 insurance for buildings of the school district in accordance

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1 with the provisions of Section 13-5-3 NMSA 1978;

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

4 (5) the school district;

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

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

13 [~~(7)~~] (6) the school district has submitted a
14 five-year facilities plan that includes enrollment
15 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
19 grant assistance shall only be accepted by the council after a
20 school district has complied with the provisions of this
21 section. The council shall list all applications in order of
22 priority, and all allocations shall be made on a priority
23 basis, except:

24 (1) twenty million dollars (\$20,000,000) of
25 the proceeds from supplemental severance tax bonds issued

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1 annually in fiscal years 2001 through [2003] 2004 shall be set
2 aside for allocation solely for projects in school districts
3 that are eligible for funding from the fund and that receive
4 grants from the federal government as assistance to areas
5 affected by federal activity authorized in accordance with
6 Title 20 of the United States Code, commonly known as "PL 874
7 funds" or "impact aid"; and

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

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

18 ~~D. If the council makes a determination and~~
19 ~~certifies to the state board that after January 1, 2001,~~
20 ~~either a constitutional amendment has been adopted that~~
21 ~~provides additional or supplemental revenue sources for public~~
22 ~~school capital outlay funding or another long-term revenue~~
23 ~~source exists that is expected to exceed sixty million dollars~~
24 ~~(\$60,000,000) per year, then, in all subsequent application~~
25 ~~and allocation cycles]~~

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1 C. If the secretary of state certifies that the
2 amendment to the constitution of New Mexico proposed by the
3 first regular session of the forty-fifth legislature and
4 entitled "A JOINT RESOLUTION PROPOSING TO AMEND THE
5 CONSTITUTION OF NEW MEXICO TO PROVIDE FOR AN ONGOING LIMITED
6 AUTHORIZATION FOR STATEWIDE PUBLIC SCHOOL GENERAL OBLIGATION
7 BONDS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, EXPANDING OR
8 REPAIRING PUBLIC SCHOOL BUILDINGS AND TO PROVIDE LIMITS ON THE
9 TOTAL AMOUNT OF SUCH BONDS THAT MAY BE OUTSTANDING AND LIMITS
10 ON THE PROPERTY TAX THAT MAY BE LEVIED TO PAY THE PRINCIPAL
11 AND INTEREST DUE ON THE BONDS" has been adopted by the people,
12 then, effective July 1, 2004, the following provisions apply:

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

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

18 ~~(a) are necessary for health and~~
19 ~~safety;~~

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

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

24 ~~(d) provide necessary classrooms due to~~
25 ~~student population increases or that improve existing school~~

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1 ~~facilities, including portable classroom facilities that have~~
2 ~~been used for a long period of time; and~~

3 ~~(e) are renovation projects that will~~
4 ~~forestall substantial capital outlay costs in the future~~
5 ~~rather than new construction, unless health and safety~~
6 ~~concerns require new construction;~~

7 ~~(3) in establishing the priority for capital~~
8 ~~projects to be funded, the council shall consider:~~

9 ~~(a) the school district's total~~
10 ~~assessed valuation per student;~~

11 ~~(b) the school district's remaining~~
12 ~~bonding capacity;~~

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

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

20 [(4)] (3) after consulting with the staff
21 architect of the property control division of the general
22 services department, the council shall establish criteria [and
23 standards] to be used in public school capital outlay projects
24 that receive grant assistance pursuant to the Public School
25 Capital Outlay Act. In establishing the criteria, [and

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1 ~~standards]~~ the council shall consider:

2 (a) the feasibility of using design,
3 build and finance arrangements for public school capital
4 outlay projects;

5 (b) the potential use of more durable
6 construction materials that may reduce long-term operating
7 costs; and

8 (c) any other financing or construction
9 concept that may maximize the dollar effect of the state grant
10 assistance;

11 [~~(5)~~] (4) no more than ten percent of the
12 combined total of grants in a funding cycle shall be used for
13 retrofitting existing facilities for technology
14 infrastructure;

15 [~~(6)~~] (5) a project approved and ranked by
16 the council shall be funded within available resources in
17 accordance with [~~the following formula:~~

18 ~~(school district final prior year~~
19 ~~assessed valuation per MEM ÷ the state~~
20 ~~average final prior year assessed~~
21 ~~valuation per MEM) x 0.5. The product~~
22 ~~is subtracted from 1.0 and the~~
23 ~~difference is then multiplied by~~
24 ~~seventy-five percent. The product of~~
25 ~~that calculation added to (the percent~~

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1 of ~~bonding capacity used x 0.25~~ equals
2 the ~~percentage of the cost of the~~
3 ~~approved project to be funded from the~~
4 ~~fund. "MEM" means the total enrollment~~
5 ~~of students attending public school in a~~
6 ~~school district in the final funded~~
7 ~~prior school year, with kindergarten~~
8 ~~being counted as 0.5. In those~~
9 ~~instances in which the formula provides~~
10 ~~less than 0.1, 0.1 shall be used as the~~
11 ~~state's share; and] a formula~~
12 established by law;

13 [~~7~~] (6) in those instances in which a
14 school district has used all of its local resources, the
15 council may fund the total amount of a project; and

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

18 (a) the public school capital outlay
19 project is needed;

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

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

25 (d) the school district has submitted a

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1 five-year facilities plan that includes enrollment
2 projections;

3 (e) the school district is willing to
4 pay any portion of the total cost of the public school capital
5 outlay project that, according to the formula established by
6 law, is not funded with grant assistance from the fund; and

7 (f) the school district has agreed, in
8 writing, to comply with any reporting requirements or
9 conditions imposed by the council pursuant to Section
10 22-24-5.1 NMSA 1978.

11 D. After consulting with the public school capital
12 outlay task force and other experts, no later than July 1,
13 2004, the council shall develop statewide adequacy standards
14 that establish the minimum acceptable level for the physical
15 condition and capacity of buildings, the educational
16 suitability of facilities and the need for technological
17 infrastructure. The amount of outstanding deviation from the
18 standards shall be used by the council in evaluating and
19 prioritizing public school capital outlay projects.

20 E. It is the intent of the legislature that grant
21 assistance made pursuant to this section allow every school
22 district to meet the standards developed pursuant to
23 Subsection D of this section; provided, however, that nothing
24 in the Public School Capital Outlay Act or the development of
25 standards pursuant to that act prohibits a school district

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1 from using local funds to exceed the statewide adequacy
2 standards.

3 F. Upon request, the council shall work with, and
4 provide assistance and information to, the public school
5 capital outlay task force as the task force develops a
6 recommmendation for a formula for determining the amount of
7 grant assistance that an approved project may receive from the
8 fund.

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

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

21 Section 7. A new section of the Public School Capital
22 Outlay Act, Section 22-24-5.1 NMSA 1978, is enacted to read:

23 "22-24-5.1. [NEW MATERIAL] COUNCIL ASSISTANCE AND
24 OVERSIGHT.--In providing grant assistance pursuant to the
25 Public School Capital Outlay Act, the council shall:

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

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

8 C. take such actions as are necessary to ensure
9 cost savings and efficiencies for those school districts that
10 are not large enough to maintain their own construction
11 management staff, including bundling projects between two or
12 more school districts and using common construction management
13 firms, architects or other professionals; 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; and

24 (3) if it determines that a project is
25 repeatedly in substantial noncompliance with any reporting

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1 requirement or condition, take over the direct administration
2 of the project until the project is completed."

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

7 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
8 TAX UNDER CERTAIN CIRCUMSTANCES. --

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

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1 that no state distribution from the public school capital
2 improvements fund may be used for capital improvements to any
3 administration building of a school district. In the event
4 that sufficient funds are not available in the public school
5 capital improvements fund to make the state distribution
6 provided for in this section, the dollar per program unit
7 figure shall be reduced as necessary.

8 B. In calculating the state distribution pursuant
9 to Subsection A of this section, the following amounts shall
10 be used:

11 (1) for fiscal years 2002 through 2004, fifty
12 dollars (\$50.00) per program unit;

13 (2) for fiscal year 2005, seventy dollars
14 (\$70.00) per program unit;

15 (3) for fiscal year 2006, ninety dollars
16 (\$90.00) per program unit; and

17 (4) for fiscal year 2007 and thereafter, the
18 amount per program unit certified to the state superintendent
19 by the public school capital outlay council. No later than
20 June 1, 2006 and each June 1 thereafter, the council shall
21 calculate and certify the amount necessary to maintain the
22 state distribution at approximately the same amount as the
23 revenue estimated to be received from the imposed tax.

24 C. In making distributions pursuant to this
25 section, the state superintendent shall include such reporting

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1 requirements and conditions as are required by rule of the
2 public school capital outlay council. The council shall adopt
3 such requirements and conditions as are necessary to ensure
4 that the distributions are expended in the most prudent manner
5 possible and consistent with the original purpose as specified
6 in the authorizing resolution. Copies of reports or other
7 information received by the state superintendent in response
8 to the requirements and conditions shall be forwarded to the
9 council. "

10 Section 9. Laws 1999 (1st S.S.), Chapter 6, Section 19
11 is amended to read:

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

14 A. The state board of finance may issue and sell
15 supplemental severance tax bonds in compliance with the
16 Severance Tax Bonding Act in the following amounts for the
17 following purposes upon the following certification:

18 (1) an amount not exceeding one hundred
19 million dollars (\$100,000,000) when the public school capital
20 outlay council certifies by resolution the need for the
21 issuance of the bonds for public school critical capital
22 outlay projects pursuant to the Public School Capital Outlay
23 Act; and

24 (2) an amount not exceeding twenty-five
25 million dollars (\$25,000,000) when the commission on higher

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1 education certifies by resolution the need for the issuance of
2 the bonds for infrastructure renovation and expansion at the
3 state's public post-secondary educational institutions or
4 other educational institutions confirmed in Article 12,
5 Section 11 of the constitution of New Mexico pursuant to a
6 plan developed and approved by the commission on higher
7 education to fund the highest priority significant needs
8 identified by the commission.

9 ~~[C.]~~ B. The state board of finance shall schedule
10 the issuance and sale of the bonds in the most expeditious and
11 economical manner possible upon a finding by the board that
12 the projects have been developed sufficiently to justify the
13 issuance and that the projects can proceed to contract within
14 a reasonable time. The state board of finance shall further
15 take the appropriate steps necessary to comply with the
16 Internal Revenue Code of 1986, as amended.

17 ~~[D.]~~ C. The proceeds from the sale of the bonds
18 pursuant to Paragraph (1) of Subsection A of this section are
19 appropriated to the public school capital outlay fund to carry
20 out the provisions of the Public School Capital Outlay Act.
21 If the public school capital outlay council has not certified
22 the need for the issuance of the bonds by the end of fiscal
23 year ~~[2004]~~ 2001, authorization provided in this section shall
24 expire. Any unexpended or unencumbered balance remaining from
25 the proceeds of bonds issued pursuant to Paragraph (1) of

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1 Subsection A of this section at the end of fiscal year 2006
2 shall revert to the severance tax bonding fund.

3 ~~[E.]~~ D. The proceeds from the sale of the bonds in
4 Paragraph (2) of Subsection A of this section are appropriated
5 to the commission on higher education for distribution to the
6 governing bodies of the educational institutions who have
7 certified projects for funding with the bond proceeds. If the
8 commission on higher education has not certified the need for
9 the issuance of the bonds by the end of fiscal year 2004,
10 authorization provided in this section shall expire. Any
11 unexpended or unencumbered balance remaining from the proceeds
12 of bonds issued pursuant to Paragraph (2) of Subsection A of
13 this section at the end of fiscal year 2006 shall revert to
14 the severance tax bonding fund. "

15 Section 10. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY
16 TASK FORCE-- CREATION-- STAFF. --

17 A. The "public school capital outlay task force"
18 is created. The task force consists of eighteen members as
19 follows:

20 (1) the dean of the university of New Mexico
21 school of law;

22 (2) the secretary of finance and
23 administration or his designee;

24 (3) the state investment officer or his
25 designee;

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1 (4) the superintendent of public instruction
2 or his designee;

3 (5) the chairmen of the legislative finance
4 committee, the senate education committee and the house
5 education committee or their designees;

6 (6) a minority party member of the house of
7 representatives, appointed by the New Mexico legislative
8 council;

9 (7) a minority party member of the senate,
10 appointed by the New Mexico legislative council;

11 (8) two public members who have expertise in
12 education and finance appointed by the speaker of the house of
13 representatives;

14 (9) two public members who have expertise in
15 education and finance appointed by the president pro tempore
16 of the senate;

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

19 (11) two members representing school
20 districts that receive grants from the federal government as
21 assistance to areas affected by federal activity authorized in
22 accordance with Title 20 of the United States Code, appointed
23 by the New Mexico legislative council in consultation with the
24 governor.

25 B. The chair of the task force shall be appointed

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1 by the New Mexico legislative council. The public school
2 capital outlay task force shall meet at the call of the chair
3 but no less than six times each fiscal year.

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

7 D. The legislative council service, with
8 assistance from the department of finance and administration,
9 the investment office, the state department of public
10 education, the legislative education study committee and the
11 legislative finance committee, shall provide staff for the
12 public school capital outlay task force.

13 Section 11. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY
14 TASK FORCE--DUTIES.--The public school capital outlay task
15 force shall:

16 A. study and evaluate the progress and
17 effectiveness of programs administered pursuant to the Public
18 School Capital Outlay Act and the Public School Capital
19 Improvements Act;

20 B. evaluate the existing revenue streams for
21 funding public school capital outlay projects and recommend
22 any changes that may be more cost-effective or appropriate;

23 C. no later than January 15, 2002, recommend to
24 the legislature a formula for determining the amount of grant
25 assistance that an approved public school capital outlay

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1 project may receive from the public school capital outlay
2 fund. The recommended formula shall contain a sliding scale
3 local matching requirement that takes into account the
4 relative tax base of the school district and the relative
5 local funding effort of the district and that results in an
6 aggregate average participation rate by school districts
7 statewide of approximately fifty percent;

8 D. monitor and assist the public school capital
9 outlay council as it:

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

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

16 (3) develops statewide adequacy standards
17 that establish the minimum acceptable level for the physical
18 condition and capacity of public school buildings, the
19 educational suitability of educational facilities and the need
20 for technological infrastructure; and

21 (4) develops guidelines and procedures for
22 reporting requirements and conditions to ensure that the
23 grants are expended in the most prudent manner possible and
24 consistent with the original purpose for which they were made;
25 and

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

4 Section 12. [NEW MATERIAL] SHORT TITLE. -- Sections 12
5 through 23 of this act may be cited as the "Statewide Public
6 School General Obligation Bond Act".

7 Section 13. [NEW MATERIAL] PURPOSE. -- For the purpose of
8 providing funds for public school capital expenditures as
9 authorized in Article 9, Section 8 of the constitution of New
10 Mexico and in the Statewide Public School General Obligation
11 Bond Act, general obligation indebtedness of the state is
12 authorized.

13 Section 14. [NEW MATERIAL] AUTHORIZATION FOR BONDS--
14 DESIGNATION. --

15 A. Pursuant to Article 9, Section 8 of the
16 constitution of New Mexico, the public school capital outlay
17 council is designated as the body authorized to certify that
18 proceeds from statewide public school general obligation bonds
19 are needed for public school capital outlay projects.

20 B. Subject to the provisions of Subsection D of
21 this section, the public school capital outlay council is
22 authorized to certify by resolution that proceeds of statewide
23 public school general obligation bonds are needed for public
24 school capital outlay projects pursuant to Section 22-24-5
25 NMSA 1978. The resolution shall specify the amount needed for

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1 each project.

2 C. Upon certification by the public school capital
3 outlay council that proceeds from statewide public school
4 general obligation bonds are needed for public school capital
5 outlay projects and pursuant to the provisions of the
6 Statewide Public School General Obligation Bond Act, the state
7 board of finance shall issue statewide public school general
8 obligation bonds in the amount certified by the council.

9 D. No certification shall be made pursuant to this
10 section until the public school capital outlay council has
11 estimated the total amount needed for public school capital
12 outlay projects and the amount available from other revenue
13 sources, including supplemental severance tax bond proceeds
14 and legislative appropriations. A certification may be made
15 only for the difference by which the total amount needed
16 exceeds the amount available from other revenue sources.

17 Section 15. [NEW MATERIAL] BOND TERMS. --

18 A. The state board of finance, except as limited
19 by the Statewide Public School General Obligation Bond Act,
20 shall determine the terms, covenants and conditions of bonds
21 issued pursuant to that act, including:

- 22 (1) date or dates of issue, denominations and
23 maturities;
- 24 (2) principal amounts;
- 25 (3) rate or rates of interest; and

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1 (4) provisions for redemption, including
2 premiums, registration and refundability, whether the bonds
3 are issued in one or more series and other covenants relating
4 to the bonds and the issuance thereof.

5 B. The bonds shall be in such form as the state
6 board of finance determines with an appropriate series
7 designation and shall bear interest payable as set forth in
8 the resolution of the state board of finance.

9 C. Payment of the principal of the bonds shall
10 begin not more than two years after the date of their
11 issuance. Both principal and interest shall be payable in
12 lawful money of the United States at the office of the paying
13 agent within or without the state as the state board of
14 finance may direct.

15 D. The bonds shall be executed with the manual or
16 facsimile signature of the governor or the state treasurer,
17 and the seal or a facsimile of the seal of the state shall be
18 placed on each bond, except for any series of bonds issued in
19 book entry or similar form without the delivery of physical
20 securities.

21 E. The bonds shall be issued in accordance with
22 the provisions of the Statewide Public School General
23 Obligation Bond Act, the Supplemental Public Securities Act
24 and the Uniform Facsimile Signature of Public Officials Act
25 and may be issued in accordance with the Public Securities

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1 Short-Term Interest Rate Act.

2 F. The full faith and credit of the state is
3 pledged for the prompt payment when due of the principal of
4 and interest on all bonds issued and sold pursuant to the
5 Statewide Public School General Obligation Bond Act.

6 Section 16. [NEW MATERIAL] EXPENDITURES. --The proceeds
7 from the sale of the bonds shall be expended solely for
8 providing money for public school capital outlay projects in
9 amounts not to exceed the amounts set forth in the
10 certification of the public school capital outlay council and
11 to pay expenses incurred under Section 18 of the Statewide
12 Public School General Obligation Bond Act. Any proceeds from
13 the sale of the bonds that are not required for those purposes
14 shall be used for the purpose of paying the principal of and
15 interest on the bonds.

16 Section 17. [NEW MATERIAL] SALE. --The bonds authorized
17 under the Statewide Public School General Obligation Bond Act
18 shall be sold by the state board of finance at such time and
19 in such manner and amounts as the board may elect. The bonds
20 may be sold at private sale or at public sale, in either case
21 at not less than par plus accrued interest to the date of
22 delivery. If sold at public sale, the state board of finance
23 shall publish a notice of the time and place of sale in a
24 newspaper of general circulation in the state and may also
25 publish the notice in a recognized financial journal outside

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1 the state. The required publications shall be made once each
2 week for two consecutive weeks prior to the date fixed for the
3 sale, the last publication thereof to be at least five days
4 prior to the date of the sale. The notice shall specify the
5 amount, denomination, maturity and description of the bonds to
6 be offered for sale and the place, date and hour at which the
7 sealed bids shall be received. At the time and place
8 specified in the notice, the state board of finance shall open
9 the bids in public and shall award the bonds to the bidder or
10 bidders offering the best price for the bonds. The state
11 board of finance may reject any or all bids and readvertise
12 and may waive any irregularity in a bid. All bids, except
13 that of the state, shall be accompanied by a deposit of two
14 percent of the principal amount of the bonds in a form
15 acceptable to the state board of finance. The deposit of an
16 unsuccessful bidder shall be returned upon rejection of the
17 bid. The state board of finance may also sell the bonds or
18 any part of the bonds to the state treasurer or state
19 investment officer. The state treasurer or state investment
20 officer is authorized to purchase any of the bonds for
21 investment. The bonds are legal investments for any person or
22 board charged with the investment of any public funds and may
23 be accepted as security for any deposit of public money.

24 Section 18. [NEW MATERIAL] EXPENSES.--The expenses
25 incurred by the state board of finance in or relating to the

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1 preparation and sale of the bonds shall be paid out of the
2 proceeds from the sale of the bonds, and all rebate, penalty,
3 interest and other obligations of the state relating to the
4 bonds and bond proceeds under the Internal Revenue Code of
5 1986, as amended, shall be paid from earnings on bond proceeds
6 or other money of the state, legally available for such
7 payments.

8 Section 19. [NEW MATERIAL] TAX LEVY. -- To provide for the
9 payment of the principal of and interest on the bonds issued
10 and sold pursuant to the provisions of the Statewide Public
11 School General Obligation Bond Act, there shall be and there
12 is hereby imposed and levied during each year in which any of
13 the bonds are outstanding an ad valorem tax on all property in
14 the state subject to property taxation for state purposes
15 sufficient to pay the interest as it becomes due on the bonds,
16 together with an amount sufficient to provide a sinking fund
17 to pay the principal of the bonds as it becomes due and, if
18 permitted by law, ad valorem taxes may be collected to pay
19 administrative costs incident to the collection of such taxes.
20 The taxes shall be imposed, levied, assessed and collected at
21 the times and in the manner that other property taxes for
22 state purposes are imposed, levied, assessed and collected.
23 It is the duty of all tax officials and authorities to cause
24 these taxes to be imposed, levied, assessed and collected.

25 Section 20. [NEW MATERIAL] STATE TREASURER-- DUTIES. -- The

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1 state treasurer shall keep separate accounts of all money
2 collected pursuant to the taxes imposed and levied pursuant to
3 the provisions of the Statewide Public School General
4 Obligation Bond Act and shall use this money only for the
5 purposes of paying the principal of and interest on the bonds
6 as they become due and any expenses relating thereto.

7 Section 21. [NEW MATERIAL] IRREPEALABLE CONTRACT--
8 AUTHORITY FOR ISSUANCE. --An owner of bonds issued pursuant to
9 the provisions of the Statewide Public School General
10 Obligation Bond Act may, either at law or in equity, by suit,
11 action or mandamus, enforce and compel the performance of the
12 duties required by that act of any officer or entity mentioned
13 in that act. The provisions of that act constitute an
14 irrevocable contract with the owners of any of the bonds
15 issued pursuant to that act for the faithful performance of
16 which the full faith and credit of the state is pledged.
17 Without reference to any other act of the legislature of the
18 state, the Statewide Public School General Obligation Bond Act
19 is full authority for the issuance and sale of the bonds
20 authorized in that act, and such bonds shall have all the
21 qualities of investment securities under the Uniform
22 Commercial Code of the state, shall not be invalid for any
23 irregularity or defect in the proceedings for the issuance and
24 sale of the bonds and shall be incontestable in the hands of
25 bona fide purchasers or holders thereof for value. All bonds

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1 issued under the provisions of that act, and the interest
2 thereon, are exempt from taxation by the state and any
3 subdivision or public body thereof.

4 Section 22. [NEW MATERIAL] BOND RESTRICTIONS. -- No bonds
5 shall be issued pursuant to the Statewide Public School
6 General Obligation Bond Act if:

7 A. the total amount of outstanding bonds issued
8 pursuant to that act would exceed two percent of the assessed
9 valuation of all the property subject to taxation in the state
10 as shown by the preceding general assessment; or

11 B. the annual tax levy necessary to pay the
12 principal and interest due on all outstanding bonds issued
13 pursuant to that act would exceed three mills on each dollar
14 of assessed valuation.

15 Section 23. [NEW MATERIAL] APPROPRIATION OF PROCEEDS. --
16 Proceeds from bonds sold pursuant to the Statewide Public
17 School General Obligation Bond Act are appropriated to the
18 public school capital outlay fund for the purpose of offering
19 grant assistance pursuant to Section 22-24-5 NMSA 1978 for
20 certified public school capital outlay projects.

21 Section 24. SHORT-TERM SEVERANCE TAX BONDS--PURPOSE--
22 APPROPRIATION OF PROCEEDS. --The state board of finance may
23 issue and sell severance tax bonds in fiscal years 2002 and
24 2003 in compliance with the Severance Tax Bonding Act in an
25 amount not exceeding a total of one hundred million dollars

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1 (\$100,000,000) when the public school capital outlay council
2 certifies the need for the issuance of the bonds. The state
3 board of finance shall schedule the issuance and sale of the
4 bonds in the most expeditious and economical manner possible;
5 provided that the term of the bonds shall not extend beyond
6 the fiscal year in which they are issued. The proceeds from
7 the sale of the bonds are appropriated to the public school
8 capital outlay fund for the purpose of providing grant
9 assistance for public school capital outlay projects that are
10 needed to correct outstanding deficiencies pursuant to Section
11 22-24-4.1 NMSA 1978. Any unexpended or unencumbered balance
12 remaining at the end of fiscal year 2006 shall revert to the
13 severance tax bonding fund. If the public school capital
14 outlay council has not certified the need for the issuance of
15 the bonds by the end of fiscal year 2003, the authorization
16 provided in this section shall expire.

17 Section 25. APPROPRIATIONS. --

18 A. Two million three hundred thousand dollars
19 (\$2,300,000) is appropriated from the general fund to the
20 state department of public education for expenditure in fiscal
21 years 2001 through 2003 for the purpose of completing the
22 needs and cost assessment required by Paragraph (2) of
23 Subsection A of Section 22-24-4.1 NMSA 1978. Any unexpended
24 or unencumbered balance remaining at the end of fiscal year
25 2003 shall revert to the general fund.

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1 B. Four hundred thousand dollars (\$400,000) is
2 appropriated from the general fund to the state department of
3 public education for expenditure in fiscal year 2002 for the
4 purpose of assisting the public school capital outlay council
5 in performing those duties required of it pursuant to the
6 Public School Capital Outlay Act. The appropriation may be
7 expended by the department in the manner deemed by the
8 department and council to be the most expedient and cost
9 effective, including expenditures for employees and for
10 contractual services. Any unexpended or unencumbered balance
11 remaining at the end of fiscal year 2002 shall revert to the
12 general fund.

13 C. Two hundred million dollars (\$200,000,000) is
14 appropriated from the general fund to the public school
15 capital outlay fund for expenditures in fiscal years 2001
16 through 2004 for the purpose of providing grant assistance to
17 school districts for the purpose of correcting deficiencies
18 pursuant to Section 22-24-4.1 NMSA 1978. Any unexpended or
19 unencumbered balance remaining at the end of fiscal year 2004
20 shall not revert but shall be used for the purpose of
21 providing grant assistance pursuant to Section 22-24-5 NMSA
22 1978.

23 D. Fourteen million dollars (\$14,000,000) is
24 appropriated from the general fund to the public school
25 capital improvements fund for expenditure in fiscal year 2002

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1 and subsequent fiscal years for the purpose of making state
2 distributions pursuant to the Public School Capital
3 Improvements Act. Any unexpended or unencumbered balance
4 remaining at the end of a fiscal year shall not revert.

5 E. Twenty thousand dollars (\$20,000) is
6 appropriated from the general fund to the legislative council
7 service for expenditure in fiscal years 2001 and 2002 for the
8 purpose of paying per diem and mileage for public members of
9 the public school capital outlay task force. Any unexpended
10 or unencumbered balance remaining at the end of fiscal year
11 2002 shall revert to the general fund.

12 Section 26. REPEAL. -- Laws 2000, Chapter 95, Section 2
13 and Laws 2000 (2nd S.S.), Chapter 11, Section 3 are repealed.

14 Section 27. DELAYED REPEAL. -- Sections 10 and 11 of this
15 act are repealed effective January 1, 2004.

16 Section 28. EFFECTIVE DATES. --

17 A. The effective date of Sections 1 through 3 and
18 8 of this act is July 1, 2001.

19 B. The effective date of Sections 12 through 23 of
20 this act is the January 1 following the date that the
21 secretary of state certifies that the amendment to the
22 constitution of New Mexico proposed by the first regular
23 session of the forty-fifth legislature and entitled "A JOINT
24 RESOLUTION PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO
25 TO PROVIDE FOR AN ONGOING LIMITED AUTHORIZATION FOR STATEWIDE

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1 PUBLIC SCHOOL GENERAL OBLIGATION BONDS FOR THE PURPOSE OF
2 ACQUIRING, CONSTRUCTING, EXPANDING OR REPAIRING PUBLIC SCHOOL
3 BUILDINGS AND TO PROVIDE LIMITS ON THE TOTAL AMOUNT OF SUCH
4 BONDS THAT MAY BE OUTSTANDING AND LIMITS ON THE PROPERTY TAX
5 THAT MAY BE LEVIED TO PAY THE PRINCIPAL AND INTEREST DUE ON
6 THE BONDS" has been adopted by the people.

7 Section 29. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect
9 immediately.

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