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SENATE BILL 433

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

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO REQUIRE THAT THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL CONSIDER CHARTER SCHOOLS WHEN APPROVING APPLICATIONS FOR CAPITAL OUTLAY PROJECTS.

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

Section 1. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. FUND--DISTRIBUTION.--

A. The council shall approve an application for grant assistance from the fund when the council determines that:

(1) a critical need exists requiring action;

(2) the residents of the school district have

provided available resources to the school district to meet

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1 its capital outlay requirements;

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

4 (4) the school district is in a county or
5 counties [~~which~~] that have participated in a reappraisal
6 program and the reappraised values are on the tax rolls or
7 will be used for the tax year 1979 as certified by the
8 property tax division of the taxation and revenue department;

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

12 (6) unless a determination and certification
13 have been made pursuant to Subsection D of this section, the
14 school district:

15 (a) is indebted at not less than
16 seventy-five percent of the total debt authorized by law; or

17 (b) within the last three years, was
18 indebted at the level required in Subparagraph (a) of this
19 paragraph and received a grant pursuant to this section for
20 the initial stages of a project and currently has a critical
21 need for an additional grant to complete the same project;

22 [~~and~~]

23 (7) the application includes the capital
24 needs of any charter schools located in the school district or
25 the school district has shown that the capital needs of the

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1 charter schools in the district are not as great as the
2 capital need requested in the application; and

3 [~~(7)~~] (8) the school district has submitted a
4 five-year facilities plan that includes enrollment
5 projections.

6 B. The council shall consider all applications for
7 assistance from the fund and, after a public hearing, shall
8 either approve or deny the application. Applications for
9 grant assistance shall only be accepted by the council after a
10 school district has complied with the provisions of this
11 section. The council shall list all applications in order of
12 priority, and all allocations shall be made on a priority
13 basis, except:

14 (1) twenty million dollars (\$20,000,000) of
15 the proceeds from supplemental severance tax bonds issued
16 annually in fiscal years 2001 through 2003 shall be set aside
17 for allocation solely for projects in districts that are
18 eligible for funding from the fund and that receive grants
19 from the federal government as assistance to areas affected by
20 federal activity authorized in accordance with Title 20 of the
21 United States Code, commonly known as "PL 874 funds" or
22 "impact aid"; and

23 (2) in the case of an emergency, the order of
24 priority shall first reflect those projects [~~which~~] that have
25 been previously funded but are not as yet completed, excluding

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1 expansion of those projects and contingent upon maintenance of
2 the required local support.

3 C. Money in the fund shall be disbursed by warrant
4 of the department of finance and administration on vouchers
5 signed by the secretary of finance and administration
6 following certification by the council that the application
7 has been approved.

8 D. If the council makes a determination and
9 certifies to the state board that, after January 1, 2001,
10 either a constitutional amendment has been adopted that
11 provides additional or supplemental revenue sources for public
12 school capital outlay funding or another long-term revenue
13 source exists that is expected to exceed sixty million dollars
14 (\$60,000,000) per year, then, in all subsequent application
15 and allocation cycles, the following provisions apply:

16 (1) all school districts are eligible to
17 apply for funding from the fund, regardless of percentage of
18 indebtedness;

19 (2) priorities for funding shall be given to
20 those capital projects that:

21 (a) are necessary for health and
22 safety;

23 (b) were previously funded by the
24 council but are not yet completed;

25 (c) are for school districts with low

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1 assessed valuation compared to other districts;

2 (d) provide necessary classrooms due to
3 student population increases or that improve existing school
4 facilities, including portable classroom facilities that have
5 been used for a long period of time; and

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

10 (3) in establishing the priority for capital
11 projects to be funded, the council shall consider:

12 (a) the school district's total
13 assessed valuation per student;

14 (b) the school district's remaining
15 bonding capacity;

16 (c) other sources of revenue available
17 to the school district for capital outlay projects; and

18 (d) whether the project is shown as a
19 priority project in the school district's most recent five-
20 year facilities plan;

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

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1 Outlay Act. In establishing the criteria and standards, the
2 council shall consider:

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

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

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

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

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

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

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

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

16 E. The council shall promulgate such rules as are
17 necessary to carry out the provisions of the Public School
18 Capital Outlay Act. "