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**SENATE BILL 516**

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

**INTRODUCED BY**

**Carlos R. Cisneros**

**AN ACT**

**RELATING TO TAXATION; AUTHORIZING CERTAIN COUNTIES TO IMPOSE A  
COUNTY EDUCATION GROSS RECEIPTS TAX FOR CONSTRUCTION AND  
RENOVATION OF PUBLIC SCHOOLS AND OTHER EDUCATIONAL FACILITIES;  
AUTHORIZING THE ISSUANCE OF COUNTY EDUCATION GROSS RECEIPTS  
TAX REVENUE BONDS; AMENDING AND ENACTING SECTIONS OF THE NMSA  
1978; DECLARING AN EMERGENCY.**

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

**Section 1. A new section of the County Local Option  
Gross Receipts Taxes Act, Section 7-20E-20 NMSA 1978, is  
enacted to read:**

**"7-20E-20. [NEW MATERIAL] COUNTY EDUCATION GROSS  
RECEIPTS TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF  
REVENUE. --**

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1           A. Upon submission of a resolution to the  
2 governing body pursuant to Subsection C of this section, the  
3 governing body of a county shall enact an ordinance imposing  
4 an excise tax at a rate of one-half of one percent on any  
5 person engaging in business in the county for the privilege of  
6 engaging in business in the county. The tax imposed pursuant  
7 to this subsection may be referred to as the "county education  
8 gross receipts tax".

9           B. The governing body, at the time of enacting an  
10 ordinance imposing a county education gross receipts tax  
11 pursuant to Subsection A of this section shall dedicate the  
12 revenue only for the payment of county education gross  
13 receipts tax bonds for public school capital projects and off-  
14 campus instruction program capital projects, if any, in the  
15 county. The tax shall be imposed for the period necessary for  
16 payment of the principal and interest on the county education  
17 gross receipts tax revenue bonds issued to accomplish the  
18 purpose for which the revenue is dedicated, but the period  
19 shall not exceed ten years from the effective date of the  
20 ordinance imposing the tax.

21           C. Upon a finding of need, the boards of every  
22 school district in a county that is either located wholly  
23 within the exterior boundaries of the county or that has a  
24 student membership no more than ten percent of whom reside  
25 outside the exterior boundaries of the county may enter into a

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1 joint agreement to submit a resolution to the governing body  
2 of the county requiring the governing body to impose a county  
3 education gross receipts tax and to issue county education  
4 gross receipts tax revenue bonds for funding public school  
5 capital projects and, if applicable, off-campus instruction  
6 program capital projects. The boards must agree to provide at  
7 least one-fourth of the bond proceeds for capital projects for  
8 an off-campus instruction program, if one of the school  
9 districts in the county has established such a program. The  
10 remaining revenues shall be distributed proportionately to  
11 each school district for public school capital outlay projects  
12 based on the ratio that the population of each school  
13 district, according to the 2000 federal decennial census,  
14 bears to the population of all of the school districts in the  
15 county who are parties to the agreement.

16 D. An ordinance imposing the county education  
17 gross receipts tax shall not go into effect until after an  
18 election is held and a majority of the voters in the county  
19 voting in the election votes in favor of imposing the tax.  
20 The governing body shall adopt a resolution calling for an  
21 election within sixty days of the date the ordinance is  
22 adopted on the question of imposing the tax. The question  
23 shall be submitted to the voters of the county as a separate  
24 question at a general election or at a special election called  
25 for that purpose by the governing body. A special election

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1 shall be called, conducted and canvassed in substantially the  
2 same manner as provided by law for general elections. If a  
3 majority of the voters voting on the question approves the  
4 ordinance imposing the county education gross receipts tax,  
5 then the ordinance shall become effective in accordance with  
6 the provisions of the County Local Option Gross Receipts Taxes  
7 Act. If the question of imposing the county education gross  
8 receipts tax fails, a resolution from the boards of school  
9 districts in the county may not again be proposed to the  
10 governing body requesting imposition of the tax for a period  
11 of one year from the date of the election.

12 E. The proceeds from county education gross  
13 receipts tax revenue bonds shall be administered by the  
14 governing body and disbursed by the county treasurer to the  
15 respective school districts in the amounts and for the  
16 purposes authorized in this section and as set out in the  
17 resolution submitted by the boards to the governing body.

18 F. As used in this section:

19 (1) "board" means the governing body of  
20 a school district;

21 (2) "capital projects" means the  
22 designing, constructing and equipping of new buildings; the  
23 remodeling, renovating or making additions to and equipping  
24 existing buildings; or the improving or equipping of the  
25 grounds surrounding buildings;

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1 (3) "county" means a class B county  
2 with a population of less than twenty-five thousand according  
3 to the 1990 federal decennial census and a net taxable value  
4 for property tax purposes for the 1999 property tax year of  
5 more than five hundred million dollars (\$500,000,000); and

6 (4) "off-campus instruction program"  
7 means a program established by a school district pursuant to  
8 the Off-Campus Instruction Act. "

9 Section 2. Section 4-62-1 NMSA 1978 (being Laws 1992,  
10 Chapter 95, Section 1, as amended) is amended to read:

11 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF  
12 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

13 A. In addition to any other law authorizing a  
14 county to issue revenue bonds, a county may issue revenue  
15 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the  
16 purposes specified in this section. The term "pledged  
17 revenues", as used in Chapter 4, Article 62 NMSA 1978, means  
18 the revenues, net income or net revenues authorized to be  
19 pledged to the payment of particular revenue bonds as  
20 specifically provided in Subsections B through [K] L of this  
21 section.

22 B. Gross receipts tax revenue bonds may be issued  
23 for one or more of the following purposes:

24 (1) constructing, purchasing, furnishing,  
25 equipping, rehabilitating, making additions to or making

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1 improvements to one or more public buildings or purchasing or  
2 improving ground relating thereto, including but not  
3 necessarily limited to acquiring and improving parking lots,  
4 or any combination of the foregoing;

5 (2) acquiring or improving county or public  
6 parking lots, structures or facilities or any combination of  
7 the foregoing;

8 (3) purchasing, acquiring or rehabilitating  
9 firefighting equipment or any combination of the foregoing;

10 (4) acquiring, extending, enlarging,  
11 bettering, repairing, otherwise improving or maintaining storm  
12 sewers and other drainage improvements, sanitary sewers,  
13 sewage treatment plants, water utilities or other water,  
14 wastewater or related facilities, including but not limited to  
15 the acquisition of rights of way and water and water rights,  
16 or any combination of the foregoing;

17 (5) reconstructing, resurfacing, maintaining,  
18 repairing or otherwise improving existing alleys, streets,  
19 roads or bridges or any combination of the foregoing or laying  
20 off, opening, constructing or otherwise acquiring new alleys,  
21 streets, roads or bridges or any combination of the foregoing;  
22 provided that any of the foregoing improvements may include  
23 the acquisition of rights of way;

24 (6) purchasing, acquiring, constructing,  
25 making additions to, enlarging, bettering, extending or

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1 equipping airport facilities or any combination of the  
2 foregoing, including without limitation the acquisition of  
3 land, easements or rights of way;

4 (7) purchasing or otherwise acquiring or  
5 clearing land or purchasing, otherwise acquiring and  
6 beautifying land for open space;

7 (8) acquiring, constructing, purchasing,  
8 equipping, furnishing, making additions to, renovating,  
9 rehabilitating, beautifying or otherwise improving public  
10 parks, public recreational buildings or other public  
11 recreational facilities or any combination of the foregoing;

12 (9) acquiring, constructing, extending,  
13 enlarging, bettering, repairing or otherwise improving or  
14 maintaining solid waste disposal equipment, equipment for  
15 operation and maintenance of sanitary landfills, sanitary  
16 landfills, solid waste facilities or any combination of the  
17 foregoing; or

18 (10) acquiring, constructing, extending,  
19 bettering, repairing or otherwise improving public transit  
20 systems or any regional transit systems or facilities.

21 A county may pledge irrevocably any or all of the revenue  
22 from the first one-eighth of one percent increment and the  
23 third one-eighth of one percent increment of the county gross  
24 receipts tax and the county infrastructure gross receipts tax  
25 for payment of principal and interest due in connection with,

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1 and other expenses related to, gross receipts tax revenue  
2 bonds for any of the purposes authorized in this section or  
3 specific purposes or for any area of county government  
4 services. If the revenue from the first one-eighth of one  
5 percent increment or the third one-eighth of one percent  
6 increment of the county gross receipts tax or the county  
7 infrastructure gross receipts tax is pledged for payment of  
8 principal and interest as authorized by this subsection, the  
9 pledge shall require the revenues received from that increment  
10 of the county gross receipts tax or the county infrastructure  
11 gross receipts tax to be deposited into a special bond fund  
12 for payment of the principal, interest and expenses. At the  
13 end of each fiscal year, money remaining in the special bond  
14 fund after the annual obligations for the bonds are fully met  
15 may be transferred to any other fund of the county.

16 Revenues in excess of the annual principal and interest  
17 due on gross receipts tax revenue bonds secured by a pledge of  
18 gross receipts tax revenue may be accumulated in a debt  
19 service reserve account. The governing body of the county may  
20 appoint a commercial bank trust department to act as trustee  
21 of the proceeds of the tax and to administer the payment of  
22 principal of and interest on the bonds.

23 C. Fire protection revenue bonds may be issued for  
24 acquiring, extending, enlarging, bettering, repairing,  
25 improving, constructing, purchasing, furnishing, equipping or

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1       rehabilitating any independent fire district project or  
2       facilities, including where applicable purchasing, otherwise  
3       acquiring or improving the ground for the project, or any  
4       combination of such purposes. A county may pledge irrevocably  
5       any or all of the county fire protection excise tax revenue  
6       for payment of principal and interest due in connection with,  
7       and other expenses related to, fire protection revenue bonds.  
8       These bonds may be referred to in Chapter 4, Article 62 NMSA  
9       1978 as "fire protection revenue bonds".

10               D. Environmental revenue bonds may be issued for  
11       the acquisition and construction of solid waste facilities,  
12       water facilities, wastewater facilities, sewer systems and  
13       related facilities. A county may pledge irrevocably any or  
14       all of the county environmental services gross receipts tax  
15       revenue for payment of principal and interest due in  
16       connection with, and other expenses related to, environmental  
17       revenue bonds. These bonds may be referred to in Chapter 4,  
18       Article 62 NMSA 1978 as "environmental revenue bonds".

19               E. Gasoline tax revenue bonds may be issued for  
20       the acquisition of rights of way for and the construction,  
21       reconstruction, resurfacing, maintenance, repair or other  
22       improvement of county roads and bridges. A county may pledge  
23       irrevocably any or all of the county gasoline tax revenue for  
24       payment of principal and interest due in connection with, and  
25       other expenses related to, county gasoline tax revenue bonds.

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1 These bonds may be referred to in Chapter 4, Article 62 NMSA  
2 1978 as "gasoline tax revenue bonds".

3 F. Utility revenue bonds or joint utility revenue  
4 bonds may be issued for acquiring, extending, enlarging,  
5 bettering, repairing or otherwise improving water facilities,  
6 sewer facilities, gas facilities or electric facilities or for  
7 any combination of the foregoing purposes. A county may  
8 pledge irrevocably any or all of the net revenues from the  
9 operation of the utility or joint utility for which the  
10 particular utility or joint utility bonds are issued to the  
11 payment of principal and interest due in connection with, and  
12 other expenses related to, utility or joint utility revenue  
13 bonds. These bonds may be referred to in Chapter 4, Article  
14 62 NMSA 1978 as "utility revenue bonds" or "joint utility  
15 revenue bonds".

16 G. Project revenue bonds may be issued for  
17 acquiring, extending, enlarging, bettering, repairing,  
18 improving, constructing, purchasing, furnishing, equipping or  
19 rehabilitating any revenue-producing project, including as  
20 applicable purchasing, otherwise acquiring or improving the  
21 ground therefor and including but not limited to acquiring and  
22 improving parking lots, or may be issued for any combination  
23 of the foregoing purposes. The county may pledge irrevocably  
24 any or all of the net revenues from the operation of the  
25 revenue-producing project for which the particular project

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1 revenue bonds are issued to the payment of the interest on and  
2 principal of the project revenue bonds. The net revenues of  
3 any revenue-producing project may not be pledged to the  
4 project revenue bonds issued for any other revenue-producing  
5 project that is clearly unrelated in nature; but nothing in  
6 this subsection prevents the pledge to any of the project  
7 revenue bonds of the revenues received from existing, future  
8 or disconnected facilities and equipment that are related to  
9 and that may constitute a part of the particular revenue-  
10 producing project. A general determination by the governing  
11 body that facilities or equipment is reasonably related to and  
12 [~~constitute~~] constitutes a part of a specified revenue-  
13 producing project shall be conclusive if set forth in the  
14 proceedings authorizing the project revenue bonds. As used in  
15 Chapter 4, Article 62 NMSA 1978:

16 (1) "project revenue bonds" means the bonds  
17 authorized in this subsection; and

18 (2) "project revenues" means the net revenues  
19 of revenue-producing projects that may be pledged to project  
20 revenue bonds pursuant to this subsection.

21 H. Fire district revenue bonds may be issued for  
22 acquiring, extending, enlarging, bettering, repairing,  
23 improving, constructing, purchasing, furnishing, equipping and  
24 rehabilitating any fire district project, including where  
25 applicable purchasing, otherwise acquiring or improving the

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1 ground therefor, or for any combination of the foregoing  
2 purposes. The county may pledge irrevocably any or all of the  
3 revenues received by the fire district from the fire  
4 protection fund as provided in the Fire Protection Fund Law  
5 and any or all of the revenues provided for the operation of  
6 the fire district project for which the particular bonds are  
7 issued to the payment of the interest on and principal of the  
8 bonds. The revenues of a fire district project shall not be  
9 pledged to the bonds issued for a fire district project that  
10 clearly is unrelated in its purpose; but nothing in this  
11 section prevents the pledge to such bonds of revenues received  
12 from existing, future or disconnected facilities and equipment  
13 that are related to and that may constitute a part of the  
14 particular fire district project. A general determination by  
15 the governing body of the county that facilities or equipment  
16 is reasonably related to and [~~constitute~~] constitutes a part  
17 of a specified fire district project shall be conclusive if  
18 set forth in the proceedings authorizing the fire district  
19 bonds.

20 I. Law enforcement protection revenue bonds may be  
21 issued for the repair and purchase of law enforcement  
22 apparatus and equipment that meet nationally recognized  
23 standards. The county may pledge irrevocably any or all of  
24 the revenues received by the county from the law enforcement  
25 protection fund distributions pursuant to the Law Enforcement

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1 Protection Fund Act to the payment of the interest on and  
2 principal of the law enforcement protection revenue bonds.

3 J. Hospital emergency gross receipts tax revenue  
4 bonds may be issued for [~~acquisition~~] acquiring, equipping,  
5 remodeling or [~~improvement of~~] improving a county hospital or  
6 county health facility. A county may pledge irrevocably to  
7 the payment of the interest on and principal of the hospital  
8 emergency gross receipts tax revenue bonds any or all of the  
9 revenues received by the county from a county hospital  
10 emergency gross receipts tax imposed pursuant to Section  
11 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a  
12 loan for [~~acquisition~~] acquiring, equipping, remodeling or  
13 [~~improvement of~~] improving a county hospital or county health  
14 facility.

15 K. Economic development gross receipts tax revenue  
16 bonds may be issued for the purpose of furthering economic  
17 development projects as defined in the Local Economic  
18 Development Act. A county may pledge irrevocably any or all  
19 of the county infrastructure gross receipts tax to the payment  
20 of the interest on and principal of the economic development  
21 gross receipts tax revenue bonds for [~~any of the purposes~~] the  
22 purpose authorized in this subsection.

23 L. County education gross receipts tax revenue  
24 bonds may be issued for public school or off-campus  
25 instruction program capital projects as authorized in Section

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1 7-20E-20 NMSA 1978. A county may pledge irrevocably any or  
2 all of the county education gross receipts tax revenue to the  
3 payment of interest on and principal of the county education  
4 gross receipts tax revenue bonds for the purpose authorized in  
5 this section.

6 [E-] M Except for the purpose of refunding  
7 previous revenue bond issues, no county may sell revenue bonds  
8 payable from pledged revenue after the expiration of two years  
9 from the date of the ordinance authorizing the issuance of the  
10 bonds or, for bonds to be issued and sold to the New Mexico  
11 finance authority as authorized in Subsection C of Section  
12 4-62-4 NMSA 1978, after the expiration of two years from the  
13 date of the resolution authorizing the issuance of the bonds.  
14 However, any period of time during which a particular revenue  
15 bond issue is in litigation shall not be counted in  
16 determining the expiration date of that issue.

17 [M-] N. No bonds may be issued by a county, other  
18 than an H class county, a class B county as defined in Section  
19 4-36-8 NMSA 1978 or a class A county as described in Section  
20 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,  
21 repair or construct a utility unless the utility is regulated  
22 by the public regulation commission pursuant to the Public  
23 Utility Act and the issuance of the bonds is approved by the  
24 commission. For purposes of Chapter 4, Article 62 NMSA 1978,  
25 a "utility" includes but is not limited to a water,

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1 wastewater, sewer, gas or electric utility or joint utility  
2 serving the public. H class counties shall obtain public  
3 regulation commission approvals required by Section  
4 3-23-3 NMSA 1978.

5 [N-] 0. Any law that imposes or authorizes the  
6 imposition of a county gross receipts tax, a county  
7 environmental services gross receipts tax, a county fire  
8 protection excise tax, a county infrastructure gross receipts  
9 tax, the county education gross receipts tax, the gasoline tax  
10 or the county hospital emergency gross receipts tax, or that  
11 affects any of those taxes, shall not be repealed or amended  
12 in such a manner as to impair outstanding revenue bonds that  
13 are issued pursuant to Chapter 4, Article 62 NMSA 1978 and  
14 that may be secured by a pledge of those taxes unless the  
15 outstanding revenue bonds have been discharged in full or  
16 provision has been fully made therefor.

17 [0-] P. As used in this section:

18 (1) "county infrastructure gross receipts tax  
19 revenue" means the revenue from the county infrastructure  
20 gross receipts tax transferred to the county pursuant to  
21 Section 7-1-6.13 NMSA 1978;

22 (2) "county education gross receipts tax  
23 revenue" means the revenue from the county education gross  
24 receipts tax transferred to the county pursuant to Section  
25 7-1-6.13 NMSA 1978;

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1                    [~~(2)~~] (3) "county environmental services  
2 gross receipts tax revenue" means the revenue from the county  
3 environmental services gross receipts tax transferred to the  
4 county pursuant to Section 7-1-6.13 NMSA 1978;

5                    [~~(3)~~] (4) "county fire protection excise tax  
6 revenue" means the revenue from the county fire protection  
7 excise tax transferred to the county pursuant to Section  
8 7-1-6.13 NMSA 1978;

9                    [~~(4)~~] (5) "county gross receipts tax revenue"  
10 means the revenue attributable to the first one-eighth of one  
11 percent and the third one-eighth of one percent increments of  
12 the county gross receipts tax transferred to the county  
13 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution  
14 related to the first one-eighth of one percent made pursuant  
15 to Section 7-1-6.16 NMSA 1978;

16                    [~~(5)~~] (6) "gasoline tax revenue" means the  
17 revenue from that portion of the gasoline tax distributed to  
18 the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA  
19 1978; and

20                    [~~(6)~~] (7) "public building" includes but is  
21 not limited to fire stations, police buildings, county or  
22 regional jails, county or regional juvenile detention  
23 facilities, libraries, museums, auditoriums, convention halls,  
24 hospitals, buildings for administrative offices, courthouses  
25 and garages for housing, repairing and maintaining county

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1 vehicles and equipment.

2 [P.] Q. As used in Chapter 4, Article 62 NMSA  
3 1978, the term "bond" means any obligation of a county issued  
4 under Chapter 4, Article 62 NMSA 1978, whether designated as a  
5 bond, note, loan, warrant, debenture, lease-purchase agreement  
6 or other instrument evidencing an obligation of a county to  
7 make payments. "

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

10 "22-24-5. FUND--DISTRIBUTION. --

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

- 14 (1) a critical need exists requiring action;
- 15 (2) the residents of the school district have  
16 provided available resources to the school district to meet  
17 its capital outlay requirements;
- 18 (3) the school district has used its capital  
19 resources in a prudent manner;
- 20 (4) the school district is in a county or  
21 counties ~~[which]~~ that have participated in a reappraisal  
22 program and the reappraised values are on the tax rolls or  
23 will be used for the tax year 1979 as certified by the  
24 property tax division of the taxation and revenue department;
- 25 (5) 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, the  
5 school district:

6 (a) is indebted at not less than  
7 seventy-five percent of the total debt authorized by law,  
8 provided that the amount of education gross receipts tax  
9 revenue bond debt incurred by a county for public school  
10 capital projects of the school district shall be deemed to be  
11 indebtedness for purposes of meeting the requirement of this  
12 subparagraph; or

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

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

20 B. The council shall consider all applications for  
21 assistance from the fund and, after a public hearing, shall  
22 either approve or deny the application. Applications for  
23 grant assistance shall only be accepted by the council after a  
24 school district has complied with the provisions of this  
25 section. The council shall list all applications in order of

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1 priority, and all allocations shall be made on a priority  
2 basis, except:

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

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

17 C. 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 the application  
21 has been approved.

22 D. If the council makes a determination and  
23 certifies to the state board that, after January 1, 2001,  
24 either a constitutional amendment has been adopted that  
25 provides additional or supplemental revenue sources for public

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1 school capital outlay funding or another long-term revenue  
2 source exists that is expected to exceed sixty million dollars  
3 (\$60,000,000) per year, then, in all subsequent application  
4 and allocation cycles, the following provisions apply:

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

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

10 (a) are necessary for health and  
11 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  
23 concerns require new construction;

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

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- 1 (a) the school district's total  
2 assessed valuation per student;
- 3 (b) the school district's remaining  
4 bonding capacity;
- 5 (c) other sources of revenue available  
6 to the school district for capital outlay projects; and
- 7 (d) whether the project is shown as a  
8 priority project in the school district's most recent five-  
9 year facilities plan;
- 10 (4) after consulting with the staff architect  
11 of the property control division of the general services  
12 department, the council shall establish criteria and standards  
13 to be used in public school capital outlay projects that  
14 receive grant assistance pursuant to the Public School Capital  
15 Outlay Act. In establishing the criteria and standards, the  
16 council shall consider:
- 17 (a) the feasibility of using design,  
18 build and finance arrangements for public school capital  
19 outlay projects;
- 20 (b) the potential use of more durable  
21 construction materials that may reduce long-term operating  
22 costs; and
- 23 (c) any other financing or construction  
24 concept that may maximize the dollar effect of the state grant  
25 assistance;

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

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

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

underscored material = new  
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state's share; and

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

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

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.