

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 466

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING ADDITIONAL DUTIES FOR THE PUBLIC SCHOOL CAPITAL
OUTLAY COUNCIL RELATING TO THE OVERSIGHT AND APPROVAL OF
PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS; MAKING TRANSFERS OF
PERSONNEL, EQUIPMENT, APPROPRIATIONS AND OTHER PROPERTY FROM
THE STATE DEPARTMENT OF PUBLIC EDUCATION TO THE PUBLIC SCHOOL
CAPITAL OUTLAY COUNCIL.

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

Section 1. Section 22-24-6 NMSA 1978 (being Laws 1975,
Chapter 235, Section 6, as amended) is amended to read:

"22-24-6. COUNCIL CREATED--ORGANIZATION--DUTIES.--

A. There is created the "public school capital
outlay council", consisting of the:

(1) secretary of finance and administration

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1 or his designee;

2 (2) state superintendent or his designee;

3 (3) ~~[the]~~ governor or his designee;

4 (4) president of the New Mexico school boards
5 association or his designee;

6 (5) ~~[the]~~ director of the construction
7 industries division of the regulation and licensing department
8 or his designee;

9 (6) ~~[the]~~ president of the state board or his
10 designee;

11 (7) ~~[the]~~ director of the legislative
12 education study committee or his designee;

13 (8) ~~[the]~~ director of the legislative finance
14 committee or his designee; and

15 (9) ~~[the]~~ director of the legislative council
16 service or his designee.

17 B. The council shall:

18 (1) investigate all applications for
19 assistance from the fund and ~~[shall]~~ certify the approved
20 applications to the secretary of finance and administration
21 for distribution of funds;

22 ~~[C. The council shall]~~ (2) elect a chairman
23 from among the members. The council shall meet at the call of
24 the chairman;

25 ~~[D. The department of education shall]~~

1 (3) account for all distributions and [~~shall~~]
2 make annual reports to the legislative education study
3 committee and to the legislative finance committee;

4 (4) be responsible for overseeing and
5 monitoring all aspects of public school capital projects; and

6 (5) in addition to the deficiencies
7 correction unit created pursuant to Section 22-24-4.2 NMSA
8 1978, employ such other staff as is necessary to perform its
9 duties. On July 1, 2004, the deficiencies correction unit
10 shall be merged with the council staff employed pursuant to
11 this paragraph and the merged staff shall, under the direction
12 of the council, carry out all of the provisions of the Public
13 School Capital Outlay Act. All employees of the council shall
14 be exempt from the provisions of the Personnel Act."

15 Section 2. A new section of the Public School Capital
16 Outlay Act is enacted to read:

17 "[NEW MATERIAL] SCHOOL CONSTRUCTION--APPROVAL OF
18 COUNCIL.--

19 A. Each local school board shall secure the
20 approval of the council prior to the construction or letting
21 of contracts for construction of any school building or
22 related school structure or before reopening an existing
23 structure that was formerly used as a school building but that
24 has not been used for that purpose during the previous year.
25 No approval is required for enlarging an existing school that

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1 is now in use unless the enlargement is for the purpose of
2 changing the character of the school from an elementary school
3 to a secondary school or adding an elementary school to a
4 secondary school or a secondary school to an elementary
5 school. A written application shall be submitted to the
6 council requesting approval of the construction. The council
7 shall prescribe the form of the application that shall include
8 the following:

- 9 (1) a statement of need;
- 10 (2) the anticipated number of students
11 affected by the construction;
- 12 (3) the estimated cost;
- 13 (4) a description of the proposed
14 construction or structure to be built; and
- 15 (5) a map of the area showing existing
16 schools within a five-mile radius and any obstructions to
17 attending the schools, such as railroad tracks, rivers and
18 limited-access highways.

19 B. The council shall give its approval to an
20 application if it reasonably determines that:

- 21 (1) the construction will not cause an
22 unnecessary proliferation of school construction;
- 23 (2) the construction is needed in the school
24 district;
- 25 (3) the construction is feasible;

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1 (4) the cost of the construction is
2 reasonable; and

3 (5) the school district is financially able
4 to pay for the construction.

5 C. Within thirty days after the receipt of an
6 application filed pursuant to this section, the council shall
7 in writing notify the local school board making the
8 application of its approval or disapproval of the application.

9 D. Each local school board shall submit plans and
10 specifications to the council before expending twenty-five
11 thousand dollars (\$25,000) or more on erecting, remodeling or
12 making additions to any public school building or structure.
13 The council shall review the plans and specifications and
14 recommend to the local school board any cost-effective changes
15 that the council deems appropriate; provided that the council
16 shall review and recommend factors relating to only the
17 educational aspects of the construction. Any contract to
18 expend money pursuant to plans and specifications not approved
19 as provided by this subsection is void and constitutes no
20 charge in law or equity against the local school board or the
21 school district.

22 E. The provisions of this section apply only to
23 those projects not funded in whole or in part with money from
24 the public school capital outlay fund, and, in the event of
25 any conflict between the requirements of this section and

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1 other provisions of the Public School Capital Outlay Act, the
2 other provisions shall prevail and a local school board is not
3 required to comply with the conflicting provisions of this
4 section."

5 Section 3. TEMPORARY PROVISION--SEPARATION OF
6 FUNCTIONS.--The public school capital outlay council and the
7 state department of public education shall jointly identify
8 and clarify those state planning, funding and construction
9 functions and associated personnel and property relating to
10 public school capital outlay that would reasonably be within
11 the duties and powers of the public school capital outlay
12 council and those that should remain in the state department
13 of public education. The council and the department shall
14 regularly report on their progress to the public school
15 capital outlay task force and shall solicit and receive input
16 and advice from the task force. The council and the
17 department shall, no later than December 15, 2002, report
18 their conclusions and recommendations to the public school
19 capital outlay task force, the legislature and the governor
20 and, upon the approval of the secretary of finance and
21 administration, the identified personnel and property shall be
22 transferred pursuant to Section 4 of this act.

23 Section 4. TEMPORARY PROVISION--TRANSFER.--All
24 personnel, budgets, funds, appropriations, records, contracts,
25 equipment and other property of the state department of public

1 education used to administer the public school capital outlay
 2 program are transferred to the public school capital outlay
 3 council. All references to the state department of public
 4 education or the school capital outlay unit of the state
 5 department of public education in any agreement, regulation,
 6 grant document or other legal document relating to public
 7 school capital outlay shall be deemed to refer to the public
 8 school capital outlay council.

9 Section 5. REPEAL.--Sections 22-20-1, 22-20-3 and
 10 22-20-4 NMSA 1978 (being Laws 1967, Chapter 16, Sections 270
 11 and 272 and Laws 2001, Chapter 338, Section 4, as amended) are
 12 repealed.

13 Section 6. EFFECTIVE DATE.--The effective date of the
 14 provisions of Sections 1, 2, 4 and 5 of this act is July 1,
 15 2003.

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