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**SENATE BILL 282**

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

**INTRODUCED BY**

**Pete Campos**

**AN ACT**

RELATING TO CAPITAL PROJECTS; ENACTING THE CAPITAL PROJECTS ACT; CREATING THE CAPITAL PROJECTS COUNCIL; PROVIDING PROCEDURES FOR EVALUATING AND PRIORITIZING PROPOSED CAPITAL PROJECTS.

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

**Section 1. SHORT TITLE.** -- This act may be cited as the "Capital Projects Act".

**Section 2. FINDINGS AND PURPOSE.** --

**A. The legislature finds that:**

(1) the cost of needed state and local capital improvement and infrastructure projects annually exceeds the available funding resources;

(2) it has become difficult to adequately evaluate and prioritize proposed capital outlay projects to

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1 ensure that the available resources are expended in the most  
2 cost-effective manner; and

3 (3) the current system for evaluating and  
4 prioritizing proposed capital outlay projects could be  
5 improved by delegating those functions to independent experts.

6 B. The purpose of the Capital Projects Act is to  
7 create a council of experts to evaluate and prioritize  
8 proposed statewide and local capital outlay projects and to  
9 monitor and oversee projects authorized by the legislature to  
10 ensure that appropriations are expended in the most cost-  
11 effective manner.

12 Section 3. DEFINITIONS.--As used in the Capital Projects  
13 Act:

14 A. "capital project" means repair, renovation or  
15 construction of a facility; purchase of land; or acquisition  
16 of capital equipment of a long-term nature;

17 B. "council" means the capital projects council;  
18 and

19 C. "fund" means the capital projects fund.

20 Section 4. CAPITAL PROJECTS COUNCIL-- CREATION--  
21 APPOINTMENT.--

22 A. The "capital projects council" is created. The  
23 council shall consist of seventeen members as follows:

24 (1) the secretary of finance and  
25 administration;

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- 1 (2) the secretary of general services;
- 2 (3) the superintendent of public instruction;
- 3 (4) the secretary of highway and
- 4 transportation;
- 5 (5) a member of the house of representatives,
- 6 appointed by the speaker of the house;
- 7 (6) a member of the senate, appointed by the
- 8 president pro tempore of the senate;
- 9 (7) a member representing post-secondary
- 10 four-year state educational institutions;
- 11 (8) a member representing post-secondary two-
- 12 year public educational institutions;
- 13 (9) a member representing Native American
- 14 nations, tribes and pueblos;
- 15 (10) a member representing the
- 16 municipalities;
- 17 (11) a member representing the counties;
- 18 (12) a member representing the construction
- 19 industry; and
- 20 (13) five members representing the public at
- 21 large, each one residing in a different public regulation
- 22 commission district as determined pursuant to the Public
- 23 Regulation Commission Apportionment Act.

24 B. The members designated in Paragraphs (7)

25 through (13) of Subsection A of this section shall:

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1 (1) be appointed for three-year terms by the  
2 governor with the advice and consent of the senate; provided  
3 that four of the initial members shall be appointed for one-  
4 year terms, four shall be appointed for two-year terms and  
5 three shall be appointed for three-year terms;

6 (2) have expertise in capital financing,  
7 planning or construction;

8 (3) serve until their successors have been  
9 qualified;

10 (4) be appointed in such a manner that  
11 reflects the ethnic, economic, geographic and professional  
12 diversity of the state;

13 (5) be appointed in such a manner so that no  
14 more than six shall be members of the same political party;  
15 and

16 (6) be removed only in the manner provided  
17 for removal of members of boards of regents under Article 12,  
18 Section 13 of the constitution of New Mexico.

19 C. The council shall elect a chairman and such  
20 other officers as it deems necessary. The council shall meet  
21 at the call of the chairman and shall meet not less than  
22 quarterly. Public members of the council shall receive per  
23 diem and mileage expenses pursuant to the Per Diem and Mileage  
24 Act.

25 Section 5. CAPITAL PROJECTS COUNCIL-- POWERS-- DUTIES. --

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A. The council may:

(1) subject to legislative appropriation, appoint and employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of the Capital Projects Act;

(2) enter into those contracts, including joint powers agreements, necessary to carry out the provisions of the Capital Projects Act;

(3) conduct research and studies to improve the planning and prioritizing of capital projects and the allocation of available resources;

(4) apply for and receive grants and donations in the name of the state to carry out the provisions of the Capital Projects Act;

(5) appoint such committees and subcommittees as are necessary to perform its duties; and

(6) adopt rules necessary to carry out the provisions of the Capital Projects Act.

B. The council shall:

(1) prepare an annual operating budget for submission to the legislature;

(2) after July 1, 2003, pursuant to Section 7 of the Capital Projects Act, accept proposals for capital projects, prioritize the proposals and, by December 1, 2003 and each year thereafter, make recommendations to the

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1 legislature for funding the prioritized projects;

2 (3) for capital projects specifically  
3 authorized by the legislature after January 1, 2003 and funded  
4 by appropriations to the fund, enter into those agreements  
5 necessary to complete the capital project, including such  
6 reporting requirements and conditions as are necessary to  
7 ensure that the projects are completed in a timely and cost-  
8 effective manner;

9 (4) coordinate all planning, oversight,  
10 monitoring and reporting functions of state government  
11 regarding capital projects authorized by law. All agencies,  
12 political subdivisions, instrumentalities and institutions of  
13 the state shall assist the council in complying with this  
14 requirement. For capital projects authorized but not finished  
15 prior to July 1, 2003, all agencies, political subdivisions,  
16 instrumentalities and institutions of the state that have been  
17 authorized to receive or distribute appropriations for those  
18 capital projects shall submit such reports and information to  
19 the council as required by rule of the council. The  
20 provisions of this paragraph do not apply to:

21 (a) capital projects funded pursuant to  
22 the Public School Capital Outlay Act;

23 (b) capital improvements funded  
24 pursuant to the Public School Capital Improvements Act; and

25 (c) capital projects authorized by

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1 legislation enacted after July 1, 2002 that specifically  
2 excludes the capital project from the provisions of the  
3 Capital Projects Act;

4 (5) develop criteria and procedures for  
5 evaluating and prioritizing proposals for capital projects;  
6 and

7 (6) develop such reporting requirements for  
8 capital projects as are necessary to ensure that the projects  
9 are implemented in a cost-effective manner and consistent with  
10 the original purpose.

11 Section 6. CAPITAL PROJECTS FUND. --

12 A. The "capital projects fund" is created. The  
13 fund shall consist of appropriations made by the legislature,  
14 severance tax bond proceeds and grants, bequests and gifts  
15 received by the council. Money in the fund may be used only  
16 for capital projects authorized by the legislature. Except as  
17 provided in the Severance Tax Bonding Act for unexpended  
18 severance tax bond proceeds, money in the fund shall not  
19 revert.

20 B. Money in the fund shall be disbursed by warrant  
21 of the department of finance and administration on vouchers  
22 signed by the secretary of finance and administration.

23 Section 7. CAPITAL PROJECTS PRIORITIZATION. --

24 A. After July 1, 2003, any agency, political  
25 subdivision, instrumentality or institution of the state may

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1 submit a proposal for a capital project to the council. Each  
2 proposal shall contain:

3 (1) a detailed description of the proposed  
4 project;

5 (2) an explanation of the need for the  
6 proposed project;

7 (3) a description of the prime beneficiaries  
8 of the proposed project;

9 (4) the estimated total cost of the proposed  
10 project and an explanation of how the cost was derived;

11 (5) the amount and source of any matching  
12 funds;

13 (6) an explanation of how the project will be  
14 implemented and maintained and the amount and source of  
15 estimated implementation and maintenance costs; and

16 (7) any other information required by rule of  
17 the council.

18 B. Upon receipt of a proposal, the council shall  
19 investigate the statements and facts contained in the proposal  
20 and shall conduct such site visits and hearings as it deems  
21 necessary. The council shall consider all proposals and,  
22 after a public hearing, shall list all proposals in order of  
23 priority.

24 Section 8. TEMPORARY PROVISIONS. --

25 A. All existing balances in the capital projects



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1 fund repealed by Section 10 of this act shall be transferred  
2 to the capital projects fund created by Section 6 of the  
3 Capital Projects Act.

4 B. During fiscal year 2003, the capital projects  
5 council shall organize and perform its duties pursuant to the  
6 Capital Projects Act; except that the council shall not accept  
7 and prioritize proposals and make recommendations to the  
8 legislature as provided in Paragraph (2) of Subsection B of  
9 Section 5 of that act. The council shall submit to the first  
10 session of the forty-sixth legislature the criteria and  
11 procedures for evaluating and prioritizing proposals and the  
12 reporting requirements developed pursuant to Paragraphs (5)  
13 and (6) of Subsection B of Section 5 of the Capital Projects  
14 Act together with any recommendations of the council for  
15 proposed legislation.

16 Section 9. REPEAL. -- Section 15-3-24.1 NMSA 1978 (being  
17 Laws 1989, Chapter 315, Section 1) is repealed.

18 Section 10. EFFECTIVE DATE. -- The effective date of the  
19 provisions of this act is July 1, 2002.