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SENATE BILL 653

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE HIGHER EDUCATION
CAPITAL OUTLAY ACT; CREATING THE HIGHER EDUCATION CAPITAL
OUTLAY COUNCIL AND THE HIGHER EDUCATION CAPITAL OUTLAY FUND;
PROVIDING PROCEDURES FOR CORRECTING OUTSTANDING DEFICIENCIES AT
STATE INSTITUTIONS; PROVIDING FOR THE ASSESSMENT,
PRIORITIZATION AND FUNDING OF FUTURE CRITICAL CAPITAL OUTLAY
PROJECTS; AUTHORIZING THE ISSUANCE OF SHORT-TERM SEVERANCE TAX
BONDS; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--Sections 1 through 6 of this act
may be cited as the "Higher Education Capital Outlay Act".

Section 2. DEFINITIONS.--As used in the Higher Education
Capital Outlay Act:

A. "council" means the higher education capital

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1 outlay council;

2 B. "fund" means the higher education capital outlay
3 fund; and

4 C. "institution" means a state educational
5 institution confirmed by Article 12, Section 11 of the
6 constitution of New Mexico or a two-year public post-secondary
7 educational institution created pursuant to statute.

8 Section 3. HIGHER EDUCATION CAPITAL OUTLAY COUNCIL.--

9 A. The "higher education capital outlay council" is
10 created, consisting of the following eleven members:

11 (1) the secretary of finance and
12 administration or the secretary's designee;

13 (2) the governor or the governor's designee;

14 (3) the director of the legislative finance
15 committee or the director's designee;

16 (4) the director of the legislative council
17 service or the director's designee;

18 (5) the secretary of higher education or the
19 secretary's designee;

20 (6) a representative of a four-year
21 institution, appointed by the council of university presidents;

22 (7) a representative of a two-year
23 institution, appointed by the New Mexico association of
24 community colleges;

25 (8) two members appointed by the president pro

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1 tempore of the senate; and

2 (9) two members appointed by the speaker of
3 the house of representatives.

4 B. The council shall review all applications for
5 assistance from the fund and shall certify the approved
6 applications for distribution of funds.

7 C. The council shall elect a chair from among its
8 members and shall meet at the call of the chair.

9 Section 4. FUND CREATED.--The "higher education capital
10 outlay fund" is created in the state treasury. The fund
11 consists of appropriations, gifts, grants, donations and
12 bequests made to the fund. The fund shall be administered by
13 the department of finance and administration. Income from the
14 fund shall be credited to the fund, and money in the fund shall
15 not be transferred or revert to any other fund at the end of a
16 fiscal year. Money in the fund is appropriated to the council
17 for the purposes of making grants to institutions for capital
18 outlay projects approved by the council. Expenditures shall be
19 made on warrant of the secretary of finance and administration
20 on vouchers signed by the chair of the council.

21 Section 5. OUTSTANDING DEFICIENCIES AT STATE
22 INSTITUTIONS--CORRECTION.--

23 A. After reviewing existing five-year facilities
24 plans and the facilities condition assessment for all
25 institutions, the council, in conjunction with the higher

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1 education department, shall verify the assessed outstanding
2 health, safety or infrastructure deficiencies and shall develop
3 a plan to correct the deficiencies.

4 B. To the extent that money has been appropriated
5 or is otherwise available in the fund for such purposes, the
6 council may approve allocations from the fund to the applicable
7 board of regents for the purpose of correcting the
8 deficiencies.

9 C. The council shall monitor the construction and
10 establish such other guidelines and conditions as it deems
11 necessary to ensure that the allocations from the fund pursuant
12 to this section are expended in the most prudent manner
13 possible and consistent with the original purpose.

14 Section 6. PROJECTS--APPLICATION--APPROVAL.--

15 A. After outstanding health, safety or
16 infrastructure deficiencies, as identified in the facilities
17 condition assessment and the five-year facilities plan, have
18 been corrected pursuant to Section 5 of the Higher Education
19 Capital Outlay Act, the council shall develop criteria for
20 assessing the other critical capital outlay needs of each
21 institution and for evaluating and prioritizing applications
22 for grant assistance from the fund.

23 B. Applications for grant assistance from the fund
24 shall be made by institutions to the council in accordance with
25 the requirements of the council. The council shall require as

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1 a condition of application that an institution have a current
2 five-year facilities plan.

3 C. Using the criteria developed pursuant to
4 Subsection A of this section, the council shall evaluate
5 applications and prioritize those projects most in need of
6 grant assistance from the fund. To the extent that money in
7 the fund is available, the council shall award grant assistance
8 for those prioritized projects.

9 D. Notwithstanding provisions in the Higher
10 Education Capital Outlay Act requiring application, evaluation
11 or prioritization, nothing in that act shall be deemed to
12 prevent the council from approving an allocation from the fund
13 for a capital outlay project if needed to address an emergency
14 situation at an institution in which the safety or health of
15 students or employees is threatened. The council may establish
16 a reserve in the fund for the purpose of making allocations
17 pursuant to this subsection.

18 E. In awarding grant assistance, the council may
19 require conditions and procedures necessary to ensure that the
20 money is expended in the most prudent manner.

21 F. No later than December 15 of each year, the
22 council shall prepare a report summarizing its activities
23 during the previous fiscal year. The report shall describe in
24 detail all projects funded, the progress of projects previously
25 funded but not completed, the criteria used to evaluate,

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1 prioritize and fund projects and all other council actions.
2 The report shall be submitted to the governor, the legislative
3 finance committee and the legislature.

4 Section 7. SHORT-TERM SEVERANCE TAX BONDS--HIGHER
5 EDUCATION CAPITAL OUTLAY.--In addition to the bonds issued
6 pursuant to Section 7-27-14 NMSA 1978 and notwithstanding the
7 limitations of that section, in compliance with the Severance
8 Tax Bonding Act, in fiscal year 2007, the state board of
9 finance may issue and sell severance tax bonds with a term that
10 does not extend beyond the fiscal year in which they are issued
11 in an amount not exceeding ninety million dollars (\$90,000,000)
12 when the higher education capital outlay council certifies by
13 resolution the need for the issuance of the bonds. The
14 proceeds from the sale of the bonds are appropriated to the
15 higher education capital outlay fund for the correction of
16 outstanding health, safety and infrastructure deficiencies at
17 public post-secondary educational institutions pursuant to
18 Section 5 of the Higher Education Capital Outlay Act; provided
19 that no severance tax bonds shall be issued pursuant to this
20 section:

21 A. until all other severance tax bonds and
22 supplemental severance tax bonds to be issued in fiscal year
23 2007 have been issued; and

24 B. unless the balance in the severance tax bonding
25 fund as of the date that the bonds are issued is greater than

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the sum of:

(1) the debt service on the severance tax bonds to be issued pursuant to this section;

(2) the debt service scheduled to be paid during the remainder of the fiscal year on all outstanding severance tax bonds and supplemental severance tax bonds; and

(3) the amount necessary to meet all principal and interest payments on outstanding bonds payable from the severance tax bonding fund on the next two ensuing semiannual payment dates.