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SENATE BILL 310

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Pete Campos

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; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--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
outlay council;

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

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

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

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

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

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

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

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

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

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

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

24 (8) two members appointed by the president pro
25 tempore of the senate; and

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

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

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

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

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

22 A. After reviewing existing five-year facilities
23 plans and the facilities condition assessment for all
24 institutions, the council, in conjunction with the higher
25 education department, shall verify the assessed outstanding

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1 health, safety or infrastructure deficiencies and shall develop
2 a plan to correct the deficiencies.

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

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

12 Section 6. PROJECTS--APPLICATION--APPROVAL.--

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

21 B. Applications for grant assistance from the fund
22 shall be made by institutions to the council in accordance with
23 the requirements of the council. The council shall require as
24 a condition of application that an institution have a current
25 five-year facilities plan.

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

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

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

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

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finance committee and the legislature.

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