

LFC HEARING BRIEF

AGENCY: LFC Staff

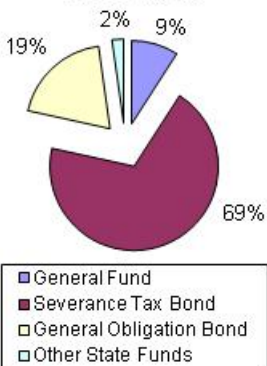
DATE: July 21, 2010

PURPOSE OF HEARING:
Capital Outlay Quarterly Report

PREPARED BY: Linda M. Kehoe, Principal Analyst;
Jeannae L. Leger, Fiscal Analyst;
Kyle Burns, Fiscal Analyst

EXPECTED OUTCOME:
Informational

Percent of Unexpended Capital Balances by Fund 2005-2010



Source: LFC

BACKGROUND INFORMATION

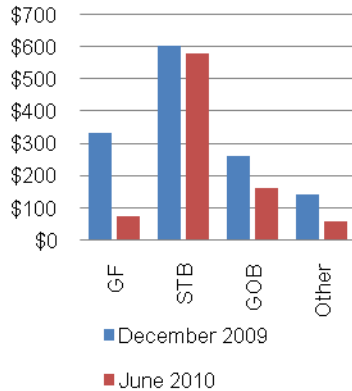
The July 2010 Capital Outlay Quarterly Report provides the Legislative Finance Committee (LFC) and members of the Legislature with the current fiscal accountability for outstanding capital funding appropriated between 2005 and 2010. The report shows appropriations, expenditures, and balances for all active capital projects. The data, updated as of June 15, 2010, is derived from the Capital Projects Monitoring System (CPMS) operated and maintained by the Department of Finance and Administration.

Data within the report does not include \$175.5 million general obligation bond (GOB) capacity authorized by the Legislature in 2010. The GOB funds and projects will be incorporated into the report if the bond issues are ratified by the electorate in November 2010. The four bond issues include: senior citizen center infrastructure and equipment (\$7.7 million); public school pre-kindergarten classrooms, public school books, and instructional materials (\$5 million); public, public school, academic, and tribal libraries (\$7 million); and higher education facilities statewide and special school capital improvements (\$155.6 million).

Quarterly Report Results. Analysis of data from the CPMS for outstanding capital funding authorized between 2005 and 2010 demonstrates the following:

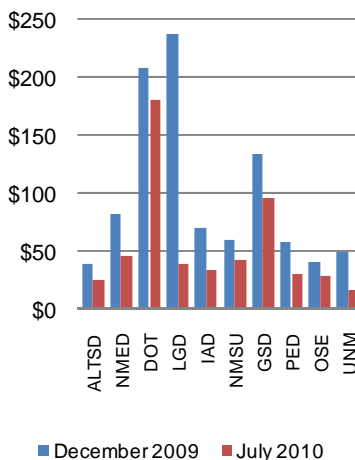
- Of \$3.2 billion appropriated, \$1 billion for 2,084 projects remains unexpended (percentage unexpended by fund listed in sidebar).
- An additional \$180 million was scheduled to revert on June 30, 2010; administering agencies are processing final payments and will close out the projects by July 30, 2010.
- Excluding reversions, unexpended balances by fund are: general fund (\$76 million), severance tax bonds (\$579.9 million), general obligation bonds (\$161.7 million), and other state funds (\$18.6 million).
- Since the December 2009 report, 2,796 projects totaling \$321.3 million were either voided or expended:
 - Senate Bill 182 in 2010 voided \$156 million in general fund and severance tax bonds for 2,492 projects. (Attachment A)

Balance Differences Between December 2009 and June 2010 by Fund
(in millions)



Source: LFC Files

Balance Differences Between December 2009 and June 2010 for Select Agencies
(in millions)



Source: LFC Files

- o \$165.1 million for 299 projects from other funding sources was expended.

- Of the \$1 billion unexpended funds, 1,524 projects totaling \$209 million are for projects sponsored by individual legislators and the executive; 560 projects totaling \$820 million are for state-owned assets, projects for economic development, higher education, senior citizens, Native American, judicial, local water and wastewater, and public school infrastructure statewide.
- Active projects “by sponsor” will be mailed immediately following the hearing.

2005-2010 Capital Outlay Funding "Outstanding" Projects Only

(in millions)

Year	Number of Projects	Amount Appropriated	Amount Expended	Amount Unexpended	Percent Unexpended by Year
2005	136	\$ 104.2	\$ 73.3	\$ 27.9	27%
2006	299	\$ 274.8	\$ 109.5	\$ 149.7	54%
2007	505	\$ 302.3	\$ 146.0	\$ 123.9	41%
2008	673	\$ 507.9	\$ 99.3	\$ 402.9	79%
2009	401	\$ 269.2	\$ 30.1	\$ 229.7	85%
2010	70	\$ 95.8	\$ 0.0	\$ 95.8	100%
Total	2,084	\$ 1,554.2	\$ 458.2	\$ 1,029.9	

Note: 2005 & 2006 outstanding projects expected to revert 6/30/09.

STATUS OF \$1 MILLION OR GREATER AND HIGHLIGHTS OF SELECT PROJECTS

- Data for the \$1 million or greater capital outlay report is derived from information provided by agencies. The administering agencies provide expenditures, milestones, and determine color ratings based on the following criteria:

Green – *Project on schedule*: Project is progressing as planned according to budget and timeline.

Yellow – *Behind schedule*: Project is not progressing on schedule, timelines are not being met, or unforeseen issues have delayed project.

Red – *No activity or bonds not sold*: Grant agreements not executed, funds have not been budgeted, no purchase(s) or draw-down(s) have been reported, language or anti-donation issues,

LEGEND		
G	Project on schedule	170
Y	Behind schedule or little activity	84
R	No activity or bonds not sold	30
Total Active Projects		284
Other report information:		
B	Appropriation expended or project complete	30
X	Additional funds needed	3

Projects Advancing with Federal Funds (ARRA)

- Santa Fe Indian School Wellness Center (\$5.1 million)
- Santa Teresa Port of Entry (\$10 million)
- Southern and Central New Mexico Correctional Facilities HVAC (\$1 million)
- State Police Vehicles (\$250,000)

scope of work has not been identified, no progress report has been reported by entities involved with the project, projects not ready for bond issuance, or a reauthorization is necessary to address language issues.

Blue – *Appropriation expended or project complete.*

- Of \$1 billion outstanding, LFC staff currently tracks \$557 million for 284 projects funded for \$1 million or greater, accounting for nearly 56 percent of all unexpended funds. (See Attachment B)
- In December 2009, there were 322 outstanding projects funded through appropriations of \$1 million or greater. Since the last quarterly report \$146.4 million was expended and 30 projects closed.

The following projects are highlighted based on the color rating, significant progress and expenditures in the last quarter, projects experiencing delays, projects with no expenditures, or stalled projects.

Completed Projects or Significant Activity Since Last Report.

Central New Mexico Community College

- \$11.3 million (GOB) authorized in 2006 for construction of classrooms and technology building; \$4.5 million expended since December 2009; appropriation is fully expended and construction is 80 percent complete; construction will be completed with CNM funds.

Clovis Community College

- \$3 million (GOB) authorized in 2006 for construction of the Allied Health Center; phase one is completed and operational; \$4 million (GOB) authorized in 2008 for phase II is currently under design and scheduled to bid in the next quarter.

South Valley Multipurpose Health Center

- \$5.4 million (general fund and STB) appropriated in 2005 and 2006 for construction of the multipurpose center; over \$2 million expended in the last quarter; project is substantially completed; project completion awaiting landscaping and final walk-through.

Department of Information Technology

- \$10 million (general fund) appropriated in 2004 and 2005 for digital radio system conversion statewide is fully expended and construction of towers and conversion is more than 83 percent

complete; conversion will continue utilizing other funds; the department is seeking federal grants and expects award notices by September 2010; state funding for completion will be sought if federal funds do not materialize.

New Mexico Behavioral Health Institute

- \$21 million (STB, GOB, and cigarette tax revenue bonds) authorized between 2008 and 2010 is available for new construction and improvements; bids for construction were received and a contractor was selected; construction is projected to begin in September 2010.

Projects Experiencing Delays or Requiring Additional Funds.

Aging and Long-Term Services Department

- \$4 million (STB and GOB) appropriated in 2006 and 2007 for construction of the Albuquerque senior center central kitchen; project is currently under construction and completion is expected within next six to eight months; balances of \$3 million were to revert June 30, 2010, but BOF granted extension because project was under contract.

Las Cruces Aquatic and Family Recreation Center

- \$12.9 million (general fund and STB) appropriated in 2006 for construction of the Las Cruces Aquatic and Family Recreation Center; the New Mexico Environment Department took over a year to issue a pool permit causing the project to be over thirty days behind schedule; the project is currently 45 percent complete.

Grant County Health Facility

- \$1 million (general fund) appropriated in 2007 for construction of a county health facility; funds were swapped to STB in 2009; land acquisition and plan and design of the facility are underway; upon completion, city will lease the facility; DFA granted a conditional release of the funds expenses incurred to date; full release of the funds will occur when lease agreement is approved by DFA pending resolution of anti-donation issues.

Department of Cultural Affairs

- \$5.8 million (general fund and STB) appropriated between 2005 and 2008 for construction of the New Mexico Archaeology Center Repository; facility is 95 percent complete; project is delayed awaiting Public Service of New Mexico design and installation of feeder lines for utilities; burrowing owls in the utility easement are causing additional delays.

Department of Cultural Affairs

- \$2.2 million (STB) appropriated in 2008 and 2009 to construct the educational center at the Museum of Natural History and Science is experiencing delays due to asbestos abatement issues; completion of construction may be delayed until March 2011; additional funds will be sought for furniture, fixtures, equipment, and other possible facility expansion.

Tribal Infrastructure Project Fund

- \$17.5 million (general fund and STB) appropriated between 2007 and 2010 for tribal infrastructure projects statewide; \$14.6 million remains unexpended; grantees have 18 months to complete projects, but frequently require time extensions; due to delays caused by the freeze, an additional six month extension was granted for all on-going projects.

General Services Department

- \$5.7 million (STB) appropriated in 2007 and 2008 to construct and equip a gym for the John Paul Taylor juvenile facility; project is 45 days behind schedule due to delays from the architect and review process by staff of the Children, Youth and Family Department; project will bid on July 16th with closing on August 13, 2010.

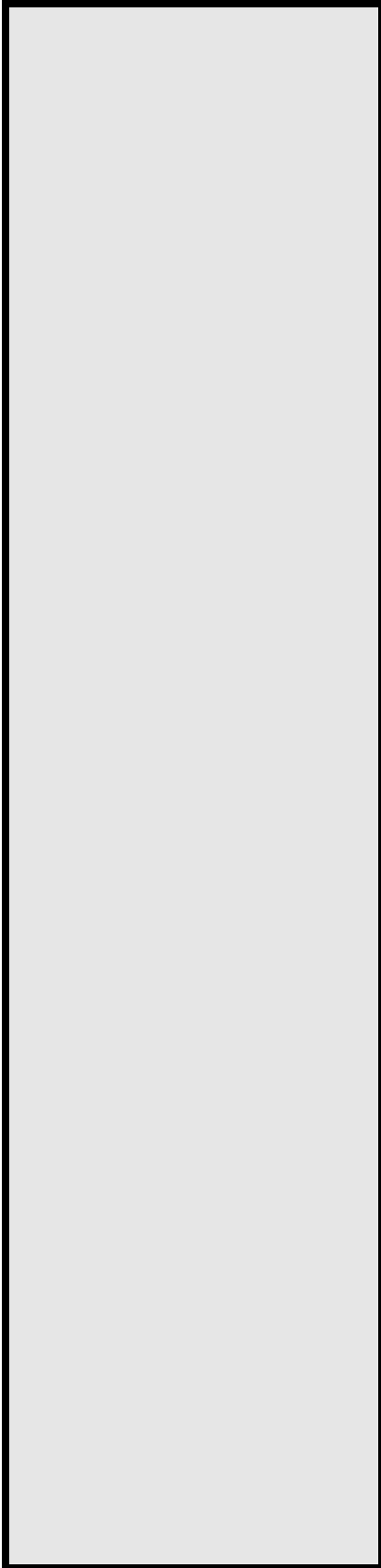
Office of the State Engineer

- \$3.2 million (STB) appropriated in 2008 for construction of the Cabresto Dam in Taos County; project is currently under design and environmental assessment by US Fish and Wildlife Service; funds are being reserved for construction, but total project cost will not be known until design is completed; the Office of State Engineer is currently working to secure water rights for the dam; additional fund needs and timelines for construction are unknown at this time.

Red Flag Projects “No Activity” Since Last Quarter.

Domestic Violence Shelters

- \$2 million (general fund) appropriated in 2008 for domestic violence shelters statewide; no expenditures have occurred; recommendations made to void funding twice, but Governor vetoed; funds were recently transferred to CYFD to administer the project awards; CYFD has agreements in place for six of seven projects; several purchase orders were approved on July 6, 2010, and expenditures are expected soon.



Film and Media Initiative

- \$10.7 million (general fund and STB) appropriated between 2007 and 2009 to support film and media initiatives; \$6.5 million is committed to Santa Fe County for Santa Fe Studios; DFA expects the county to return a signed grant agreement by the end of July; other proposals under review for balance of \$2.3 million.

Silver City Civic Center Construct

- \$1.5 million (general fund) appropriated in 2007 to construct a civic center; funding was reauthorized in 2009 to allow land purchase; funding was then swapped to STB the 2009 1st Special Session and purpose was changed to allow for the repayment of a New Mexico Finance Authority (NMFA) loan; BOF issued “taxable bonds” for repayment of loan to NMFA in June 2010, and a grant agreement approved by DFA is required before funds are disbursed.

McKinley County Dialysis Center

- \$1.6 million (general fund and STB) appropriated in 2007 for construction of center was due to be completed by February 19, 2010; as of March 1, 2010, construction was at 75 percent completion; lease agreement between the dialysis center and McKinley County has not been approved by DFA pending resolution of anti-donation issues; \$1.1 million remains unexpended.

Sierra County Hospital Construction

- \$3.1 million (general fund and STB) appropriated in 2007 and 2008 to construct a hospital has been in design phase since June 2009; grant agreement between the county and DFA pending resolution of anti-donation issues; estimated project cost is \$20 million; funding source for completion is unknown at this time.

Department of Information Technology

- \$14 million (general fund) appropriated in 2007 for the Center for Advanced Computing; installation of 20 visualization gateways completed; balances being used to purchase film production equipment to support a 3-dimensional film production contract.

Luna Community College

- \$6.5 million (GOB) appropriated in 2006 and 2008 for multi-purpose education center. There was no response from the college to update status of the project.

CRITERIA FOR PRIORITIZING CAPITAL OUTLAY NEEDS

- Project will eliminate potential or actual health and safety hazards and liability issues.
- Project will address backlog of “deferred” maintenance and prevent deterioration of state-owned assets, including projects of cultural or historical significance.
- Project required due to federal, state, or court mandate.
- Project is necessary to comply with state or federal licensing, certification, or regulatory requirements.
- Request is included in state Five-Year Capital Improvement Plan for projects ready to commence or require additional funding for completion.
- Investment provides future operating cost savings with a reasonable expected rate of return.
- Project provides direct services to students, staff, or the general public.

New Mexico Finance Authority

- \$2 million (general fund) appropriated in 2006 for manure to energy projects statewide; a memorandum of understanding between NMFA and Energy, Minerals, and Natural Resources Department allows department to review applicants and monitor projects; since the review of one project in 2008, no additional activity or expenditure has occurred; a study on dairy bio-mass projects is currently being performed by the department using federal funds.

Indian Water Rights Settlement

- \$10 million (general fund) appropriated in 2007 swapped to STB in 2009 for the Indian water rights settlement fund; bonds have not been sold and timelines have not been established to expend funds; funds are contingent on federal funding, but federal commitments have not materialized.

NEXT STEPS

2011 Capital Funding Outlook. Early projections indicate there will be no non-recurring general fund monies for capital outlay in 2011. STB net capacity and supplemental severance tax bond capacity estimates will be disclosed on the morning of July 21, 2010, or can be accessed on LFC website.

Beginning in January of fiscal year 2012, STB capacity will be further reduced with the passage of legislation authorizing five percent for deposit in the tribal infrastructure project fund and five percent for deposit in the colonias infrastructure project fund. The total affect of the new legislation and the previously authorized water project fund obligates 20 percent of each year’s severance tax bonding capacity.

During the interim, LFC staff will follow the same methodology used in the previous year to develop “preliminary” prioritized capital funding recommendations to the committee. Staff will perform site visits, meet with major agencies and higher education officials to discuss critical projects to assess need, review state and local Infrastructure Capital Improvement Plans, apply LFC guidelines for FY11, and apply the criteria previously approved by the committee listed in sidebar. Prioritized project recommendations will be reviewed with the committee in December 2010.

Authorized But Unissued Bonds. On June 29, 2010, the Board of Finance issued severance tax bonds totaling \$87 million for 27 projects. Approximately \$16.6 million for three projects have not been issued. According to the Board of Finance (BOF) bond counsel,

**State-Owned Projects
Benefitting from
Reauthorizations in 2010:**

- Santa Teresa Port of Entry (\$6.5 million)
- State Fair and Carrie Tingley Coliseum deficiencies (\$3 million)
- Court of Appeals equipment and furnishings (\$3.8 million)
- Magnetic Resonance Imaging machine for Office of Medical Investigator (\$700,000)
- State Police vehicles (\$300,000)

bonds were not issued because the projects were not ready to begin. The unissued bonds are for the following projects: Indian water rights settlement fund (\$10 million), Lake Robert's dam and spillway (\$4.1 million), and tribal infrastructure project fund (\$2.5 million).

Two economic development projects, \$2.5 million for a financial services project (Fidelity) in Bernalillo County and \$6 million for a technical support center (Hewlett Packard) in Rio Ranch, were included in the sale. However, as per conditions placed by the Attorney General and BOF bond counsel, funds will not be disbursed without prior written approval of DFA and the Economic Development Department stating the projects comply with all requirements of the Local Economic Development Act.

Of all unexpended funds, 69 percent of the funds were appropriated from severance tax bond capacity. The LFC staff will continue to closely monitor the funds to insure projects commence in a timely manner and funds are expended in accordance with statutory requirements and contingencies.

Reauthorizations. During the 2010 Legislative Session, 26 projects with no activity totaling approximately \$32 million were reauthorized. Of the 26 projects, 19 were reauthorized for state-operated facilities to either complete ongoing projects or to address deficiencies. The major projects benefiting from reauthorizations are listed in the sidebar.

Inasmuch as nonrecurring funds for capital will be limited in 2011, the potential for reauthorizing idle projects may once again be considered to fund critical public health and safety projects. Such projects include the Behavioral Health Institute in Las Vegas, the State Veterans Home, and completion of infrastructure deficiencies at both juvenile and adult correctional facilities.

Projects appropriated from the general fund, approximately 11 percent of all unexpended funds, will also be closely monitored in the event the funds are needed to address solvency.

LMK:JL:KB/SEC