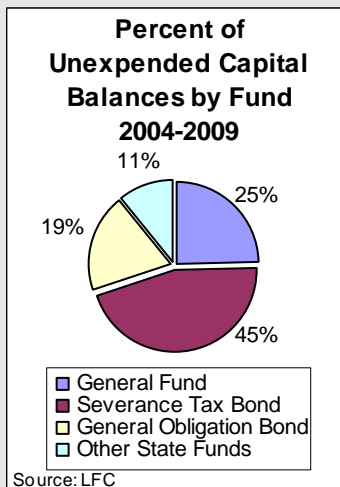
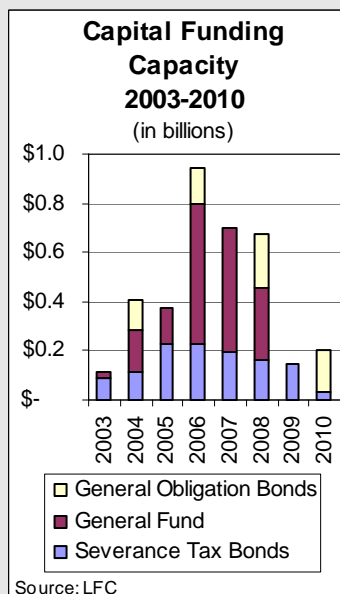


LFC CAPITAL OUTLAY BRIEF



Capital Appropriations with No Expenditures
(in millions)

Year	# of projects	Dollar amount
2008	1,180	250.9
2007	739	129.5
2006	332	59.6
2005	177	15.3
Total	2,428	\$ 455.3

Source: LFC Files

Note: Excludes 2009 authorized and reauthorized projects.

Dramatic declines in revenues have significantly impacted capacity for funding state and local infrastructure projects. The economic conditions will particularly affect higher education and public school facilities and state entities whose responsibilities include housing for the elderly, mentally ill, disabled veterans, and adjudicated juveniles and adults. Local entities dependent on state grants for roads, water and wastewater systems, public health and safety facilities will also feel the economic slow down.

While capital capacity is at its lowest in eight years, a substantial amount of appropriations of approximately \$1.4 billion remains unexpended. The phrase “budget shortfall” has become synonymous with the words “unexpended capital funding.” The missed opportunity to apply the funds toward physical improvements critical to the economy at both the state local level allowed legislators to target and reallocate the funds for certain projects to support solvency in both FY 2009 and FY2010.

As uncertain market conditions continue and aging infrastructure and deficiencies mount, it is crucial to carefully scrutinize capital outlay requests in 2010. Projects based on merit, public need, and phases for completion are addressed within this document. The staff will request Legislative Finance Committee (LFC) approval of preliminary funding recommendations for severance tax bond and general obligation bond capacity to move forward to the full Legislature.

Unexpended Funds. The Legislature appropriated or authorized over \$3.5 billion between 2004 and 2009 for 14,390 capital projects. As of December 1, 2009, approximately \$1.4 billion for 4,883 projects remains outstanding (including nearly \$140 million authorized in 2009). According to reports derived from the Capital Project Monitoring System (CPMS), operated and maintained by the Department of Finance and Administration, approximately \$455.3 million for 2,428 projects appropriated between 2005 and 2008 reveal no progress.

Capital Projects Greater than \$1 million. As of November 23, 2009, balances for projects \$1 million or greater tracked by staff of the Legislative Finance Committee (LFC) total over \$698 million for 322 projects. The funds account for nearly 50 percent of all unexpended balances. Many of the 52 projects are ranked red based on a lack of response for updates from agencies. Agencies were under significant pressure to meet multiple deadlines in response to the freeze of capital projects. The current status of the projects and fund balances are reported on the LFC website.

**Progress of Projects
\$1 million or Greater**

LEGEND		
	Project on schedule	187
	Behind schedule or little activity	83
	No activity or bonds not sold	52
Total Active Projects > \$1		322
Other report information:		
	Appropriation expended or project complete	22
X	Additional funds needed	6

Vetoed Projects Initiated by Governor or Co-Sponsor (Chapter 7)

- Economic Development Initiative - Executive (\$5 million for Smart Money)
- Otero County Emergency Response Center - Executive (\$247,000)
- Silver City Civic Center, NMFA Loan Repayment - Executive (\$187,000)
- State Buildings Emergency Repair – Legislature/Executive (\$500,000)
- Bernalillo El Zocalo – Executive (\$100,000), Youngberg (\$45,000), Beffort (\$50,000), Carraro (\$25,000), Cravens (\$43,000)

**2004-2009 Capital Outlay Funding
"Outstanding" Projects Only**
(in millions)

Year	Number of Projects	Amount Appropriated	Amount Expended	Amount Unexpended	Percent Expended by Year
2004	45	\$ 30.2	\$ 23.9	\$ 5.9	79%
2005	489	\$ 183.7	\$ 123.6	\$ 60.0	67%
2006	777	\$ 376.0	\$ 172.1	\$ 191.8	46%
2007	1,443	\$ 484.8	\$ 173.6	\$ 299.7	36%
2008	1,628	\$ 626.3	\$ 72.6	\$ 546.9	12%
2009	501	\$ 255.0	\$ 7.9	\$ 247.0	3%
Total	4,883	\$ 1,956.0	\$ 573.7	\$ 1,351.3	

Authorized but Unissued Bonds. Approximately \$262 million in authorized severance tax bonds remain unissued. The Board of Finance (BOF) distributed over 200 questionnaires to state and local grantees for certification of project-readiness totaling approximately \$200 million. BOF indicates severance tax bond capacity will only allow between \$40 million and \$60 million for issuance in December 2009. A list of the projects “by sponsor” will be distributed in January 2010.

Capital Legislation to Support Solvency. Chapter 7, Laws of 2009, Chapter 7, 1st SS (Senate Bill 29) voids 243 general fund projects totaling \$136.1 million. Of the projects, 196 projects totaling approximately \$124.5 million are reauthorized to continue with proceeds from long-term or short-term (sponge) senior severance tax bonds. The governor line-itemed 47 projects totaling \$11.6 million, stating “it would be imprudent to provide continued severance tax bond funding to capital projects that have made little to no progress using their original general fund appropriations, which in some cases are several years old.” Of the vetoed projects, \$5.4 million was for four projects listed in the sidebar were initiated or supported by the governor. The spreadsheet of the reauthorized and vetoed projects is posted on the LFC website.

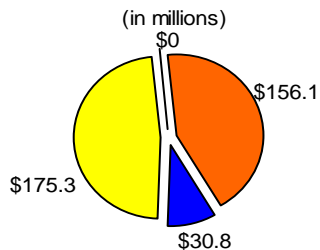
Laws 2009, Chapter 5, 1st SS (House Bills 17 and 33) directs the Legislative Council, Legislative Finance Committee, and the Department of Finance and Administration to review all unexpended capital outlay projects funded by the general fund and identify “a minimum” of \$150 million of voidable capital outlay projects by November 12, 2009.

Stating “the Legislature chose not to cut even one dime of its pork projects” and “these pork projects should be the first to be cut before we take any action that affects people,” on October 26, 2009, the governor directed all state agencies to cancel all grant agreements. On October 30, 2009, DFA distributed a memorandum

Prior-Year Severance Tax Bond Authorizations:

- Water project fund – 10% of STB capacity - \$29.3 million
- Spaceport - \$34 million
- GRIP I - \$50 million
- Other authorized unissued - \$24.3 million
- Senate Bill 29 (2009 SS) swap - \$124.5 million

Capital Outlay Capacity for 2009
Total \$362.2



- Severance Tax Bonds
- General Obligation Bonds
- General Fund
- *Supplemental Severance Tax

* For public school construction
Source: LFC

and instructions to all state and local recipients of capital appropriations explaining the purpose of the freeze of capital funds. The instructions included a method to allow projects to move forward if entities could submit documented evidence of a third party obligation entered into on or before October 30, 2009 and were given until November 15, 2009, to submit the documentation. While the governor’s action created temporary havoc among municipalities, counties, schools, state agencies, and other political subdivisions, the exercise will assist staff of DFA, LFC, and LCS in identifying voidable projects for submittal to the 2010 Legislature for consideration and in the form of a bill as required by Chapter 5.

The Secretary of DFA and directors of LFC and LCS and their staff met on November 20, 2009, to develop the process, criteria, and timelines for identifying unexpended capital funds to present to the Legislature in 2010. The criteria, proposed projects, and dollar values for potential voids will be included in a bill developed for introduction during the 2010 Legislature.

2010 Capital Funding Outlook. The state will have no general fund monies available for capital in 2010. Severance tax bond (STB) net capacity is \$30.8 million (\$292.9 million gross less prior-year authorizations listed in sidebar). General obligation bond capacity, generally authorized for higher education, public and special schools, senior citizen centers, libraries, and health issues is \$175.3 million. Supplemental severance tax bond capacity dedicated for public school construction is approximately \$156.1 million.

Funding Requests for Consideration. State agencies, public and higher education institutions, and special schools requested \$739 million for their top three priority capital projects. Testimony at legislative and executive hearings in the interim provided legislators, the executive, and their staff an opportunity to learn of the most important capital funding requests for 2010. Given the limited funding, the following summaries reflect the most critical projects impacting public health and safety and ongoing projects requiring additional funds to complete.

Higher Education and Special Schools. Institutions of higher education and special schools requested over \$302 million for capital outlay needs from general obligation bond (GOB) capacity. HED recommended \$171 million for 34 prioritized projects. HED recommendations were developed based on public hearings, and data pertaining to enrollment growth, facility condition levels, project readiness, and square-footage per full-

State Projects in Progress
(Require Additional Funds)

- Las Vegas State Police District Office (\$550 thousand)
- Las Cruces State Police District Office (\$285 thousand)
- Santa Teresa Port of Entry (\$4.7 million)
- Central New Mexico Correctional Facility (\$3.1 million)
- New Meadows and Ponderosa (\$8.9 million)

Local Projects in Progress
(Require Additional funds)

- Eunice Water & Wastewater System
- Santa Fe Indian School Wellness Center
- Valencia County Water & Wastewater System
- San Mateo Dam Construction

time student, energy efficiency standards, and other funds available for the projects. Issuance of general GOB requires approval by the electorate in the November 2010 General Election. The listing of institutional requests, HED recommendations, and “preliminary” LFC staff recommendations will be reviewed during the hearing.

Aging & Long-Term Care Services Department. ALTSD received capital outlay requests totaling \$46.9 million from senior programs statewide. Based on formal presentations and review of the applications, ALTSD assigned a rating of critical, high, or moderate need to the projects. The department and area agencies on aging recommended \$3.7 million for senior renovations, vehicles, and equipment needs statewide. ALTSD also provided a list of 18 partially-funded projects requiring \$4 million to complete; nine renovation projects totaling \$573 thousand and nine new construction projects totaling \$3.5 million.

Department of Health. DOH requested \$43.8 million to address patient health and safety issues and completion of ongoing projects. Of the request, \$3.3 million would address deficiencies at the Behavioral Health Institute in Las Vegas and State Veterans’ Home in Truth or Consequences, and furniture and equipment for the New Mexico Rehabilitation Center in Roswell. Approximately \$26.4 million of the request is to *complete* phase II of the Meadows and Ponderosa facility and \$14.1 million to *complete* phase II of the Alzheimer’s skilled nursing unit at the Veteran’s Home.

The United States Department of Veteran Affairs cited the New Mexico Veterans’ Home for fire and safety code issues. The federal agency is requiring the interior wall partitions be extended from the floor to the ceiling. DOH and PCD staff are working with the certification inspector to address work that can be immediately addressed. A citation could threaten the certification of the Veterans’ Home. The total cost to restructure the wall partitions is unknown at this time.

Phase I of the Alzheimer’s skilled nursing unit is behind schedule due to a disagreement in the scope of work between Property Control Division (PCD) and the architectural and engineering firm. The programming phase was to be completed in June 2009. PCD is currently negotiating the scope of work required or possible termination of existing contract. Phase I to plan, design and construct the Meadows facility in Las Vegas was originally funded with cigarette tax revenue bonds authorized in 2005 and \$10 million in GOB authorized in 2008. To date, \$2 million in cigarette tax revenue bonds to plan and design the project and the

\$10 million in GOB for construction have been issued. According to New Mexico Finance Authority (NMFA), there is insufficient capacity to issue \$8.9 million of authorized cigarette tax bonds and capacity may not be available until after 2016. Delay of the project will cause considerable hardship to the patients and staff of DOH and construction costs could conceivably increase by 2016. Policymakers may want to consider funding the project with new severance tax bond (STB) capacity or reauthorizing non-viable STB project to replace the cigarette tax revenue bonds.

Corrections Department. CD requested \$3.1 million to continue upgrades to the heating, ventilation, and cooling system at Southern New Mexico Correctional Facility (SNMCF) and Central New Mexico Correctional Facility (CNMCF). To date \$5.8 million has been appropriated for upgrades currently for two units at SNMCF and the design of five units at CNMCF. The request will complete the first two units at CNMCF. Approximately \$12 million will be needed in future years to complete all 10 units at both facilities. The New Mexico Environment Department cited the Roswell Correctional Facility for poor conditions of the wastewater treatment facility. The preliminary cost estimate by Property Control Division is nearly \$3 million.

Department of Public Safety. DPS requested an additional \$550 thousand for the Las Vegas District Office. The funds would provide water and sewer utilities to the building site and the installation of a new 40-foot radio tower. The Las Cruces State Police District Office requires \$285 thousand to install a new site-specific radio tower, radio equipment package, and a backup generator. The additional funding is needed to allow construction to proceed.

Other requests and project descriptions, including authorization to expend money for capital from “other state funds” will be summarized during the hearing.

Capital Building Planning Commission. The Capital Building Planning Commission (CBPC) continued to review the *Capital Master Plan* to determine the best use of state properties owned and leased in Santa Fe, Albuquerque, Los Lunas, and Las Cruces. The commission heard updates of key property issues as follows:

- *Department of Transportation Headquarters Development.* The department is awaiting Transportation Commission approval for awarding a contract for program and design for this property. The selectee will not be eligible to bid the construction phase of the project.

Exceptions to Capitol Building Planning Commission Lease-Purchase Review

- State Armory Board
- Commission of Public Lands
- Institutions of Higher Education
- Economic Development Department (when acquiring property pursuant to the Statewide Economic Development Finance Act)
- Public School Facilities Authority (when acquiring property pursuant to the Public School Capital Outlay Act)
- State-chartered schools

- *Health and Human Services Complex.* The project concept was first presented to CBPC in 2004. The concept is to consolidate agencies relating to human services, to realize economic efficiencies, and to accomplish substantial savings by owning rather than leasing. PCD contracted with a firm to perform site analysis on several sites for the complex. The analysis concluded that the Las Soleras site had the greatest potential for the complex. GSD is currently negotiating land values, state-owned property exchanges, and other details for acquisition of the Las Soleras property. The CBPC has not reviewed the contract as required by Laws 2009, Chapter 145.
- *College of Santa Fe.* During the 2009 interim the executive committed \$5 million in state funds to assist the City of Santa Fe with its acquisition of the College of Santa Fe property. The funding would come by way of two reauthorizations of appropriations for purchase of federal property. The funds would be used to purchase approximately 15 acres of CSF land from the City of Santa Fe with the intention of building a Higher Education Department complex and partnering with the Santa Fe Community College to construct a higher education learning center. Other uses will also be considered if the land is acquired. GSD is currently working with the City of Santa Fe regarding appraised values for the identified sites. If the state funds are reauthorized, CBPC and the Legislature should closely examine the parcels of land the state is acquiring with the funds, and CBPC should require that the purchase agreements be reviewed prior to closing.
- *Lease purchase reviews.* Laws 2009, Chapter 19 require CBPC review of proposed lease-purchase agreements. For the initial year of the process, state agencies seeking legislative approval of a lease-purchase agreement (for the purchase of facilities, including undeveloped or developed real estate) were required to submit their proposals to CBPC by November 15, 2009. The commission and staff will review the proposals and make recommendations to the Legislature in January 2010. Agencies must demonstrate the need for the leasehold property, the suitability of additional property, a sound life-cycle costing justification and estimates of the operational budget impact. To date, no agency has submitted a request for consideration of a lease-purchase agreement for approval by the commission.