



2023 Capital Outlay Initiatives

In June, Chairwoman Lundstrom directed LFC staff to meet individually with each member of LFC's capital outlay subcommittee to collect feedback on policy options presented at the June meeting. Staff held those meetings in July and a summary report of members' comments is provided in Attachment A. LFC staff used the feedback members provided to develop a staff recommendation on capital outlay initiatives for the 2023 Legislature. Staff have also outlined the next steps required to act on or further develop the recommendations below.

Staff Recommendation

Prioritize 2023 capital outlay dollars to complete partially-funded, existing projects

Recommendation

1. Direct staff to create a list of projects meeting certain criteria for prioritization with amounts needed to complete these projects and roll a group of those projects into the capital outlay bill.

Recommended criteria for developing an initial list are below:

- Projects supporting critical infrastructure to protect public health and safety and provide a foundation for future economic development – for example, water, wastewater, roads, and bridges;
- Regional projects;
- Projects in the above priority areas that have already secured at least \$250 thousand in funding; and
- Projects in the above priority areas that are in construction, have completed design, or have nearly completed design.

Alternative

1. Create a set-aside to be used for cost-overruns for local projects and develop criteria for distributing those funds.

Improve vetting of local capital outlay requests

Recommendation

1. Approve recommended vetting criteria, include criteria in capital outlay training for members, and chairs of appropriations committees work with staff to develop a process for utilizing criteria in developing the capital outlay bill.
2. Create positions within the Legislature to assist members with monitoring funded projects and identifying and helping resolve barriers to completion.

Next Steps

- Discuss, amend if needed, and approve staff recommended vetting criteria. See Attachment B.
- Appropriations chairs should send a letter to Legislative Council Service outlining their intent to include project vetting in the bill process.
- Appropriations chairs should begin working with staff to develop a process for utilizing the criteria in bill development, if desired.

Future Work for 2024

1. Establish an earlier deadline for local capital outlay requests and create new staff positions within the Legislature to assist members with vetting projects.

Improve administrative and technical support for local projects

Recommendation

1. Include in FY24 budget guidelines direction to right-size staffing and compensation within key agencies that manage the majority of local projects: the Indian Affairs Department, Environment Department, and Department of Finance and Administration (DFA).
2. Consider funding a navigation unit / coordinating office within DFA responsible for assisting local entities with capital project development and with identifying and navigating state and federal funding options to fully fund projects or project phases.
3. Create a new pot of money to provide grants to small entities for grant writing, grant administration, and project management **OR** appropriate funding to create such capacity within the Councils of Governments or organization like the New Mexico Municipal League and New Mexico Counties. Grants could be used to support internal capacity or to hire contractors to provide the services. Initial target of \$3 million to \$5 million.

Next Steps

- Provide direction to staff on which options to develop.

Create a centralized infrastructure office

Recommendation

1. Develop an LFC-sponsored bill to create a standalone infrastructure office or department with up to 10 FTEs or an infrastructure division within DFA that would include realignment of DFA's existing capital functions. The entity would be responsible for statewide needs assessment; project development assistance for local governments; coordination and navigation of state and federal funding; coordinating or providing grant writing, grant administration, and project management support; and otherwise supporting timely project completion. The bill could direct the entity to make recommendations to the 2025 Legislature on the scope of its duties, creation of a new department, and improved alignment of capital functions within other agencies.

Next Steps

- Provide direction to staff on legislative interest in pursuing such an initiative in the 2023 or 2024 session.

Encourage local governing bodies to take a more active role in capital projects

Recommendation

1. Local governing bodies should take an active role in monitoring the progress of capital projects that receive legislative appropriations, including directing their staff to provide regular reporting on project status and challenges. Legislators can encourage local governing bodies in their districts to adopt such practices.

Unfinished Business

- The LFC staff director and chief economist will conduct additional research and analysis on the potential for public-private partnerships to accelerate project completion.
- LFC staff will conduct additional analysis on options for addressing non-profit capital outlay requests. Staff are also participating in an anti-donation workgroup that is exploring solutions.
- LFC staff will work with DFA's federal grants bureau to evaluate the immediate need for assistance with nonfederal match for both local and state agency projects. Because the federal infrastructure dollars will be available for several years and the state needs to develop a pipeline of projects, this may be an issue to address in 2024 and beyond.

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- LFC staff and a small group of legislators are participating in the water task force convened by the State Engineer, which is expected to make recommendations for addressing water infrastructure needs across the state for the 2023 Legislature. The task force is focused on many of the same needs addressed in these policy recommendations. Its recommendations are expected to be presented to interim committees in October and November.

Attachment A. Capital Outlay Subcommittee Member Feedback on Policy Options

At the direction of Chairwoman Lundstrom, LFC staff held one-on-one meetings with members of the capital outlay subcommittee to collect feedback on policy options presented at the June meeting. Member comments are summarized below and organized by ideas that received broad support and little support.

Broad Support For:

- Using some portion of 2023 capital outlay dollars to complete partially-funded existing projects.
 - Members generally favored developing criteria for prioritizing projects for gap funding, having staff develop a list of projects fitting those criteria with amounts needed to complete, and rolling some number of those projects into the capital outlay bill before member and governor shares are calculated.
 - Most members expressed a preference for appropriating gap funding to specific projects rather than creating a single pot of money for this purpose to be administered by the executive.
 - Some members expressed concerns about fairness in prioritizing existing projects for gap funding.
- Improved vetting of local capital outlay requests.
 - Members generally favored applying consistent vetting criteria to local project requests so long as members maintained discretion to fund projects that did not meet all criteria.
 - The Chairs of the appropriations committees generally supported incorporating the vetting criteria into a committee process for the capital outlay bill, with staff support for flagging potential issues with projects for members before the bill is finalized.
 - Several members favored moving the deadline for submission of requests to an earlier date and funding additional staff within the Legislature to vet projects for members prior to session.
- Appropriating funding to improve the administrative and technical support available to local projects.
 - Members broadly agreed local entities need more support to develop and prioritize projects, navigate funding options, and manage projects to completion.
 - Members expressed different preferences on where to direct funding for improved navigation assistance, grant writing, and project management support, with state agencies, Councils of Governments, and organizations like the New Mexico Municipal League and New Mexico Counties raised as options.
 - Several members wanted to focus on improving capacity within certain key agencies, including the Indian Affairs Department, the Environment Department, and the Department of Finance and Administration.

- Some members expressed support for allowing a percentage of capital outlay appropriations to be spent on project management for small entities or creating a fund that would provide grants for project management to small entities.
- Creating a centralized infrastructure office responsible for standardizing project management across agencies and coordinating and navigating state and federal funding streams.
 - Members generally supported increased centralization insofar as it would simplify the process of funding projects for local entities, provide higher quality support to local entities in managing projects to completion, and better coordinate funding streams to fully fund projects.
 - Members would not support a centralization model that made it more difficult for communities to access funding.
 - Some members highlighted the need to consider the function of such an entity during times of lean revenue.
 - Members had varying ideas about where such an office should be located.
 - Creating a coordinating office or navigation unit could be done as a first step toward increased centralization.
- State assistance with nonfederal match for competitive federal grants
 - Members broadly supported using state dollars to help communities access competitive federal grants as long as those dollars are distributed based on objective analysis of actual financial need.

Little Support For:

- Creating new pots of money for certain infrastructure priorities.
 - Several members expressed firm opposition to this idea, while most others expressed skepticism it was needed. Members who were firmly opposed believed it would exacerbate the system's existing challenges and instead supported increased funding to existing sources, when merited.

Attachment B. Draft Local Capital Project Vetting Checklist

- Project reduces health and safety hazards or provides key infrastructure for economic development.
- Project is a top-three priority on governmental entity's ICIP.
- Total project cost is based on cost estimates provided by a contractor, engineer, architect, or other qualified professional.
- Land, property, rights of way, or easements required to begin construction have been acquired
- Request fully funds the project or a functional phase of the project.
- Funding requested could not be secured through other sources.
- Entity has committed some local revenues to the project.