



# NEW MEXICO LEGISLATIVE COUNCIL SERVICE INFORMATION BULLETIN NUMBER 45

LEGISLATIVE RESEARCH, POLICY & COMMITTEE SERVICES

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## CAPITAL OUTLAY: A PRIMER FOR 2025

The purpose of this information bulletin is to summarize and clarify the capital outlay project request process. Please call the Legislative Council Service (LCS) capital outlay staff at (505) 986-4600 if you need additional information.

### Capital Outlay Projects: From Wish List to Approved Legislation

Anyone can access the "Capital Outlay Request Form" and the "Capital Outlay Reauthorization Request Form" from the legislative website ([www.nmlegis.gov/Legislation/BillFinder/Capital\\_Outlay\\_Request\\_Forms](http://www.nmlegis.gov/Legislation/BillFinder/Capital_Outlay_Request_Forms)).

The information required to submit a capital project request is now collected online. To complete a request, click on the link to submit a capital outlay project request and follow the directions. Once the form has been completed online, requesters have the option to print a project summary. The LCS transmits project requests to legislators electronically. By law, funding information for individual legislators remains confidential until 30 days after the end of the legislative session.

The form requests project details, including contact information, project cost, description, location and ownership. This information is necessary to draft the legislation. The remaining information requested may be used by state agencies to administer a project if an appropriation is made for that project.

The deadline to submit a capital outlay project request online for the 2025 regular legislative session is December 13, 2024. Legislators will receive a list of all the projects that have been submitted online shortly after the start of the legislative session.

At the bill introduction deadline, one House Capital Outlay Request (COR) and one Senate COR are read into the record. The CORs include all of the eligible capital outlay projects that have been requested by legislators.

During the second half of the legislative session, legislators select the projects that they wish to fund. At this stage, legislators from the same area of the state often work together to ensure that projects are fully funded. These funding choices must be provided to the LCS by a specific deadline to ensure that the legislation is processed before the end of the session.

### Reauthorizations

A similar process is followed for processing requests to

### WHAT QUALIFIES FOR CAPITAL OUTLAY FUNDING?

*The Property Control Act defines a "capital outlay project" as the acquisition, improvement, alteration or reconstruction of assets of a long-term character that are intended to continue to be held or used, including land, buildings, machinery, furniture and equipment. A capital outlay project includes all proposed expenditures related to the entire undertaking.*

*Typical capital outlay projects include:*

- *planning, designing, constructing, equipping and furnishing community centers, senior centers, fire stations, libraries, courthouses and other buildings;*
- *purchasing vehicles, such as for fire departments, senior centers or police departments;*
- *road construction and street improvements;*
- *park renovations and equipment purchases;*
- *water and wastewater system development and acequia improvements;*
- *construction or renovations to state institutions of higher education; and*
- *construction or improvements to buildings on tribal lands.*

### WHAT DOES NOT QUALIFY?

*Capital outlay funding cannot be used for operating expenses; salaries; materials and supplies; events, brochures, pamphlets and publications; and retroactive reimbursements of previous purchases.*

reauthorize funding approved during a previous session.

A "Capital Outlay Reauthorization Request Form" is also available on the legislative website. Reauthorization request information is not collected online at this time. Completed forms must be signed by a legislator and delivered to the LCS by the established deadline. Changes to previously approved appropriations typically include extending the expenditure period, expanding or altering the purpose of the appropriation or changing the agency that will administer the appropriation. The form leads users through the process of identifying the original appropriation and outlining the needed changes. If a request for reauthorization cannot be processed for any reason, the LCS will notify the legislator and detail the reasons.

### How Is Capital Outlay Funded?

Three main sources fund capital outlay projects: proceeds

from severance tax bonds, nonrecurring revenue in the General Fund and proceeds from general obligation bonds. The state of the economy drives the capacity of each.

#### **CAPITAL OUTLAY DEADLINES: 2025**

**December 13, 2024:** Deadline to submit capital outlay project requests online (3:00 p.m.)

**February 20:** COR introduction deadline (12:00 p.m.)

Because general obligation bonds are repaid through property taxes and have to be approved by the voters in a general election, money for these projects is only available in even-numbered years. Severance tax bonds are repaid with revenue from resources severed from the land, such as oil and gas.

#### **Documentation Requirements**

Capital assets must be owned by the state or a political subdivision of the state. If the asset will be leased to another organization, the owner will be asked to certify ownership and that the item will be leased at fair market value prior to the release of funding.

#### **The Local Economic Development Act (LEDA) and Capital Outlay**

Capital outlay projects that represent a public-private economic development partnership under a local or regional economic development plan may be eligible for funding. LEDA projects must be approved in accordance with local or regional ordinance, and a copy of the project participation agreement between the local government and the qualifying entity must accompany the capital outlay funding request.

#### **Confidentiality**

The CORs that have been read into the record in the House and the Senate on the day of the introduction deadline are posted online the day after the introduction deadline. In accordance with New Mexico law, capital outlay project funding is not disclosed until 30 days after the end of the legislative session. A search function is available on the capital outlay page of the legislature's website to view submitted projects by entity and by county at the start of the legislative session.

#### **Public School Capital Outlay**

It is important to be aware that appropriating capital outlay funding for school districts may result in the districts having to absorb an offset from this appropriation. Because of the court challenge in 1998 by the Zuni Public School District (referred to as the *Zuni* lawsuit), which sought to ensure equalized funding for capital needs in school

districts across the state, a standards-based capital outlay funding formula was established to correct inequities. Legislators can refer to Section 22-24-5 NMSA 1978 for statutory language that establishes this offset, which is different for each school district and charter school. An explanation of how offsets work can be found at <https://www.nmlegis.gov/Sessions/InterimCommittees/PSCO/2020/PSCO%20Resource%20Booklet%202020.pdf>.

#### **Historical Data on Capital Outlay**

The LCS maintains a historical database on capital outlay projects. The database serves as a research tool when legislators have questions about prior capital appropriations and assists the LCS capital outlay team in compiling data and ensuring accuracy when writing reauthorization language. All funded projects are in the database and can be searched by keyword, sponsor, project title, city, county, receiving agency, appropriation ID and law citation. Reports may be generated from this database. For example, if a legislator wants to know which projects he or she funded in a particular span of time that were related to water and wastewater, LCS staff can produce a report detailing those projects.

#### **2025 BONDING CAPACITY**

In December 2024, net senior severance tax bonding capacity for capital outlay projects in 2025 was estimated at \$1.114 billion. That estimate includes an estimated \$161.1 million in bonding capacity for water projects recommended by the Water Trust Board, as well as \$80.6 million each for tribal infrastructure and colonias infrastructure projects. It is anticipated that the forecasts will be updated prior to or during the upcoming legislative session.

This information bulletin does not represent a policy statement of the LCS or its staff. For more information, contact the LCS at (505) 986-4600.

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