

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL EXPENDITURES; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO PROVIDE CRITERIA AND STANDARDS FOR PROJECTS TO BE FUNDED; PROVIDING A FORMULA TO DETERMINE THE AMOUNT OF FUNDS THAT A PROJECT MAY RECEIVE; DECLARING AN EMERGENCY.

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

Section 1. Section 22-24-1 NMSA 1978 (being Laws 1975, Chapter 235, Section 1, as amended) is amended to read:

"22-24-1. SHORT TITLE.--Chapter 22, Article 24 NMSA 1978 may be cited as the "Public School Capital Outlay Act"."

Section 2. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. FUND--DISTRIBUTION.--

A. The council shall approve an application for grant assistance from the fund when the council determines that:

(1) a critical need exists requiring action;

(2) the residents of the school district have provided available resources to the school district to meet its capital outlay requirements;

(3) the school district has used its capital resources in a prudent manner;

(4) the school district is in a county or counties which have participated in a reappraisal program and the reappraised values are on the tax rolls or will be used for the tax year 1979 as certified by the property tax division of the taxation and revenue department;

(5) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(6) unless a determination and certification have been made pursuant to Subsection D of this section, the school district:

(a) is indebted at not less than seventy-five percent of the total debt authorized by law; or

(b) within the last three years, was indebted at the level required in Subparagraph (a) of this paragraph and received a grant pursuant to this section for the initial stages of a project and currently has a critical need for an additional grant to complete the same project; and

(7) the school district has submitted a five-year facilities plan that includes enrollment projections.

B. The council shall consider all applications

for assistance from the fund and, after a public hearing, shall either approve or deny the application. Applications for grant assistance shall only be accepted by the council after a school district has complied with the provisions of this section. The council shall list all applications in order of priority, and all allocations shall be made on a priority basis, except:

(1) twenty million dollars (\$20,000,000) of the proceeds from supplemental severance tax bonds issued annually in fiscal years 2001 through 2003 shall be set aside for allocation solely for projects in districts that are eligible for funding from the fund and that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid"; and

(2) in the case of an emergency, the order of priority shall first reflect those projects which have been previously funded but are not as yet completed, excluding expansion of those projects and contingent upon maintenance of the required local support.

C. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that

the application has been approved.

D. If the council makes a determination and certifies to the state board that, after January 1, 2001, either a constitutional amendment has been adopted that provides additional or supplemental revenue sources for public school capital outlay funding or another long-term revenue source exists that is expected to exceed sixty million dollars (\$60,000,000) per year, then, in all subsequent application and allocation cycles, the following provisions apply:

(1) all school districts are eligible to apply for funding from the fund, regardless of percentage of indebtedness;

(2) priorities for funding shall be given to those capital projects that:

(a) are necessary for health and safety;

(b) were previously funded by the council but are not yet completed;

(c) are for school districts with low assessed valuation compared to other districts;

(d) provide necessary classrooms due to student population increases or that improve existing school facilities, including portable classroom facilities that have been used for a long period of time; and

(e) are renovation projects that will forestall substantial capital outlay costs in the future rather than new construction, unless health and safety concerns require new construction;

(3) in establishing the priority for capital projects to be funded, the council shall consider:

(a) the school district's total assessed valuation per student;

(b) the school district's remaining bonding capacity;

(c) other sources of revenue available to the school district for capital outlay projects; and

(d) whether the project is shown as a priority project in the school district's most recent five-year facilities plan;

(4) after consulting with the staff architect of the property control division of the general services department, the council shall establish criteria and standards to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria and standards, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs; and

(c) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(5) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology infrastructure;

(6) a project approved and ranked by the council shall be funded within available resources in accordance with the following formula:

(school district final prior year assessed valuation per MEM ÷ the state average final prior year assessed valuation per MEM) x 0.5. The product is subtracted from 1.0 and the difference is then multiplied by seventy-five percent. The product of that calculation added to (the percent of bonding capacity used x 0.25) equals the percentage of the cost of the approved project to be funded from the fund. "MEM" means the total enrollment

of students attending public school in a school district in the final funded prior school year, with kindergarten being counted as 0.5. In those instances in which the formula provides less than 0.1, 0.1 shall be used as the state's share; and

(7) in those instances in which a school district has used all of its local resources, the council may fund the total amount of a project.

E. The council shall promulgate such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act."

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
