

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 31

**44TH LEGISLATURE - STATE OF NEW MEXICO - 2ND SPECIAL SESSION, 2000**

INTRODUCED BY

Robert "Bobby" Gonzales

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.--~~[Sections 77-24-9 through 77-  
24-14 NMSA 1953]~~ 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

underscored material = new  
~~[bracketed material] = delete~~

1 that:

2 (1) a critical need exists requiring action;

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

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

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

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

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

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

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

and

(7) the school district has submitted a

.133059.3

underscored material = new  
~~[bracketed material] = delete~~

1 five-year facilities plan that includes enrollment  
2 projections.

3 B. The council shall consider all applications for  
4 assistance from the fund and, after a public hearing, shall  
5 either approve or deny the application. Applications for  
6 grant assistance shall only be accepted by the council after  
7 a school district has complied with the provisions of this  
8 section. The council shall list all applications in order of  
9 priority, and all allocations shall be made on a priority  
10 basis [~~provided, however~~], except:

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

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

25 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

underscored material = new  
~~[bracketed material] = delete~~

1 following certification by the council that the application  
2 has been approved.

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

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

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

17 (a) are necessary for health and  
18 safety;

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

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

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

(e) are renovation projects that will

underscored material = new  
[bracketed material] = delete

1 forestall substantial capital outlay costs in the future  
2 rather than new construction, unless health and safety  
3 concerns require new construction;

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

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

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

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

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

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

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

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

.133059.3

underscored material = new  
[bracketed material] = delete

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

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

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

11                                   (school district final prior year  
12 assessed valuation per MEM ÷ the state  
13 average final prior year assessed  
14 valuation per MEM) x 0.5. The product  
15 is subtracted from 1.0 and the  
16 difference is then multiplied by  
17 seventy-five percent. The product of  
18 that calculation added to (the percent  
19 of bonding capacity used x 0.25) equals  
20 the percentage of the cost of the  
21 approved project to be funded from the  
22 fund. "MEM" means the total enrollment  
23 of students attending public school in a  
24 school district in the final funded  
25 prior school year, with kindergarten  
being counted as 0.5. In those  
instances in which the formula provides

underscored material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.