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## FISCAL IMPACT REPORT

SPONSOR Campos DATE TYPED 2/08/05 HB \_\_\_\_\_

SHORT TITLE Capital Projects Act SB 9

ANALYST Kehoe

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				(See Fiscal Impact Narrative)

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates and relates to House Bill 499.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)  
 Department of Indian Affairs (DIA)  
 New Mexico Public Education Department (PED)  
 New Mexico Environment Department (NMED)  
 Department of Finance & Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 9 creates the Capital Projects Act; establishes the Capital Projects Council; and provides procedures for evaluating and prioritizing proposed capital projects.

#### Significant Issues

Senate Bill 9 creates the Capital Projects Act for the purpose of creating a council of experts to evaluate and prioritize proposed statewide and local capital outlay projects and to monitor and oversee projects authorized by the Legislature to ensure appropriations are expended in the most cost-effective manner.

The Capital Projects Council would consist of twelve members, seven of whom would be appointed by the governor. The members appointed by the governor may be cabinet secretaries or public members and one member must represent Indian nations, tribes and pueblos. Public members appointed by the governor are required to have expertise in capital financing, planning or construction. Other members of the council would consist of the state engineer, executive directors of the Commission of Higher Education, New Mexico Municipal League, New Mexico Association of Counties, and the New Mexico Finance Authority, or their designees. The Council may also appoint such committees and subcommittees as necessary to carry out its duties.

The purpose of the Council is to coordinate all planning, oversight, monitoring and reporting functions of state government regarding capital projects authorized by law. Capital projects and capital improvements funded pursuant to the Public School Capital Outlay Act and the Public School Capital Improvements Act are exempted from the council's authority and those capital projects authorized by legislation enacted after July 1, 2006 that specifically exclude capital projects from the provisions of the Act. The Council would begin to organize, perform its duties and accept proposals for capital projects and prioritize the proposals after July 1, 2006--the effective date of the Act; and by December 1, 2006 and each year thereafter, make recommendations to the Legislature for funding the prioritized projects.

After July 1, 2006, any agency, political subdivision, instrumentality or institution of the state may submit a proposal for a capital project to the Council. Each proposal would be required to contain the following: 1) a detailed description; 2) an explanation of need; 3) a description of the prime beneficiaries; 4) the estimated total cost and an explanation of how the cost was derived; 5) the amount and source of any matching funds; 6) an explanation of how the project will be implemented and maintained, and the amount and source of estimated maintenance costs; and 7) any other information required by the rule of the Council. Upon receipt of the proposal, the Council will conduct site visits and public hearings, as necessary, and then list all proposals in order of priority. The prioritized projects, methodology, and the Council's recommendations will be submitted to the 2004 Legislature for proposed legislation and consideration.

The bill requires all agencies, institutions, instrumentalities, and political subdivision of the state to assist the council with its duties. In addition, all entities receiving government-funded capital projects would be required to assist the Council in carrying out the provisions of the Capital Projects Act. Specific duties of the Council include improving the process used to plan and prioritize capital projects and the use of available capital funding; establish criteria for evaluating, monitoring and overseeing capital project requests and developing reporting requirements to ensure cost-effective implementation consistent with funding authorizations.

## **FISCAL IMPLICATIONS**

Senate Bill 9 does not contain an appropriation. However, the bill allows the Council, subject to appropriation, to appoint and employ the necessary professional, technical and clerical assistance to support the Council in its duties and further requires the Council to prepare an annual operating budget for submission to the Legislature. In addition, a provision of the bill allows the public members of the proposed Council to receive per diem and mileage pursuant to the Per Diem and Mileage Act. The bill allows the Council to apply for and receive grants, gifts, donations, and bequests.

## **ADMINISTRATIVE IMPLICATIONS**

To some extent, the proposed duties of the Council duplicate the activities of the newly created Capital Outlay Unit and Local Government Division of the Department of Finance & Administration, Property Control Division, New Mexico Finance Authority, Commission on Higher Education, Aging & Long-Term Care Department, and other agencies with a planning process for prioritizing capital projects.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 9 relates to and conflicts with House Bill 499. House Bill 499 creates a Capital Outlay Division in the Department of Finance and Administration (DFA). The powers and duties of the proposed division include: 1) preparing, amending and maintaining a four-year program of major state capital improvement projects to be undertaken by the state with state aid or under state regulation; 2) maintaining a central database on capital outlay projects that includes fiscal information on and progress status of the projects; 3) identifying fund balances that should be reverted and notify the secretary; 4) working with other state agencies to coordinate capital projects to achieve better accountability and reporting; 5) providing technical assistance to the legislature as they develop joint priorities to be funded through the capital outlay process; 6) working with state agencies and local and tribal governments in developing capital outlay funding priorities for local and tribal governments; and 7) approving budget adjustment requests related to capital projects.

The 2004 Legislature appropriated, and the governor approved, a \$700.0 thousand special appropriation for improving administration of the capital outlay program. A Capital Projects Unit (CPU), consisting of a director and seven FTE, was established by DFA commencing in May 2004. The LFC funding recommendation for fiscal year 2006 totals \$636.6 thousand for continuation of the Capital Outlay Unit.

## **OTHER SUBSTANTIVE ISSUES**

The State of New Mexico has allocated over \$2 billion in the last ten years for special, state and local capital improvements statewide. Traditionally, funding for capital outlay is derived from various sources: severance tax bonds, general obligation bonds, general fund, state road fund and other state funds (Miner's Trust Fund, Irrigation Water Construction Fund, Penalty & Interest Fund, et. al). Capital appropriations have varied from less than \$50 million in 1991 to in excess of \$300 million in 2004. Given the disparity between capacity and needs from year to year, projects should be carefully prioritized and selected based on emergency situations, public health and safety issues, federal mandates, preservation of the state's assets, continuation projects requiring additional funding for completion, and projects with other funding sources to maximize state dollars.

The proposed Council would consolidate capital planning into a comprehensive statewide function. With so many critical capital needs and limited resources, the proposed Council could provide valuable insight into priorities, especially on a local level. With a standardized request, review and reporting process, there could be better utilization of scarce capital funds and more accountability for appropriate and timely expenditures. It is a responsible approach to capital planning, which would be enhanced by encouraging coordination on a local and regional level to surface community priorities and ensure all capital needs are adequately considered.

The Property Control Division of the General Services Department (GSD) is the major recipient of capital project appropriations which support new construction and renovation, and repair and equipment replacement at the state's almost 850 buildings throughout New Mexico. Projects for state-owned public facilities compete with other local projects for capital dollars, but coordination at a local level to surface community priorities is not part of the process. In order to protect the public's real estate assets, a more comprehensive approach to recognizing problems and evaluating priorities is needed.

GSD and DFA currently and jointly administer the four-year plan which requires agencies to submit by July 1<sup>st</sup> each year their projected capital program for the next four years, and by mid-September the specifics of requests for the upcoming legislative session. The review and recommendation process each autumn includes DFA/GSD hearings with agencies and results in the Governor's capital budget. It is unclear whether this process would continue or be replaced by the Capital Projects Council.

The State Board of Finance (BOF) maintains a report by agency reflecting sold, expended and balances for each project authorized for funding from general obligation and severance tax bonds. A separate report provides the amount, in aggregate, of unexpended bond proceeds for each series of bonds. A direct correlation between DFA's and BOF's reports is impractical due to a number of factors. Bond sales are issued in multiple series and may contain partial amounts sold in separate issues. The DFA monitoring system relies on agency reported data that is not audited. Also, bond expenditures are made on a reimbursement basis of actual expenditures, but expenditures reported in the monitoring system may include payments from other funds that have not been submitted for reimbursement.

The Local Government Division (LGD) serves as a clearinghouse for all state and federal grant or loan programs for local community infrastructure development. The LGD administers a Local Infrastructure Capital Improvements Plan (ICIP) to assist local governments in submitting data to support their requests for appropriations. The plan is not statutorily created and requires "volunteer" participation by municipalities, counties, and special districts (Native Americans, water associations, fire districts and soil and water districts). Only a small percent of all planned priorities listed on the ICIP are funded by direct legislative appropriations.

At the governor's direction at the end of 2004, CPU developed a list of the top three planned and supported project priorities of all municipalities, counties, tribal entities, and several water associations and special districts totaling \$1.8 billion. Of the \$1.8 billion, \$968 million is needed to match "other funds" totaling \$191 million available at the local level for Phase I of the projects. The list is available through the CPU or LFC offices.

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