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SENATE BILL 862

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE HIGHER EDUCATION
CAPITAL OUTLAY ACT; CREATING THE HIGHER EDUCATION CAPITAL
OUTLAY COUNCIL AND THE HIGHER EDUCATION CAPITAL OUTLAY FUND;
PROVIDING PROCEDURES FOR CORRECTING OUTSTANDING DEFICIENCIES
AT STATE INSTITUTIONS; PROVIDING FOR THE ASSESSMENT,
PRIORITIZATION AND FUNDING OF FUTURE CRITICAL CAPITAL OUTLAY
PROJECTS; PROVIDING FOR A DISTRIBUTION OF INDIAN GAMING
REVENUES; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 6 of this act may be cited as the "Higher Education
Capital Outlay Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the
Higher Education Capital Outlay Act:

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1 A. "council" means the higher education capital
2 outlay council;

3 B. "fund" means the higher education capital
4 outlay fund; and

5 C. "institution" means a state educational
6 institution confirmed by Article 12, Section 11 of the
7 constitution of New Mexico or a two-year public post-secondary
8 educational institution created pursuant to statute.

9 Section 3. [NEW MATERIAL] HIGHER EDUCATION CAPITAL
10 OUTLAY COUNCIL. --

11 A. The "higher education capital outlay council"
12 is created, consisting of the following eleven members:

13 (1) the secretary of finance and
14 administration or the secretary's designee;

15 (2) the governor or the governor's designee;

16 (3) the director of the legislative finance
17 committee or the director's designee;

18 (4) the director of the legislative council
19 service or the director's designee;

20 (5) the secretary of higher education or the
21 secretary's designee;

22 (6) a representative of a four-year
23 institution, appointed by the council of university
24 presidents;

25 (7) a representative of a two-year

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1 institution, appointed by the New Mexico association of
2 community colleges;

3 (8) two members appointed by the president
4 pro tempore of the senate; and

5 (9) two members appointed by the speaker of
6 the house of representatives.

7 B. The council shall review all applications for
8 assistance from the fund and shall certify the approved
9 applications for distribution of funds.

10 C. The council shall elect a chair from among its
11 members and shall meet at the call of the chair.

12 Section 4. [NEW MATERIAL] FUND CREATED. --The "higher
13 education capital outlay fund" is created in the state
14 treasury. The fund consists of appropriations, distributions,
15 gifts, grants, donations and bequests made to the fund. The
16 fund shall be administered by the department of finance and
17 administration. Income from the fund shall be credited to the
18 fund, and money in the fund shall not be transferred or revert
19 to any other fund at the end of a fiscal year. Money in the
20 fund is appropriated to the council for the purposes of making
21 grants to institutions for capital outlay projects approved by
22 the council. Expenditures shall be made on warrant of the
23 secretary of finance and administration on vouchers signed by
24 the chair of the council.

25 Section 5. [NEW MATERIAL] OUTSTANDING DEFICIENCIES AT

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1 STATE INSTITUTIONS-- CORRECTION. --

2 A. After reviewing existing five-year facilities
3 plans and the facilities condition assessment for all
4 institutions, the council, in conjunction with the higher
5 education department, shall verify the assessed outstanding
6 health, safety or infrastructure deficiencies and shall
7 develop a plan to correct the deficiencies.

8 B. To the extent that money has been distributed
9 to the fund or is otherwise available in the fund for such
10 purposes, the council may approve allocations from the fund to
11 the applicable board of regents for the purpose of correcting
12 the deficiencies.

13 C. The council shall monitor the construction and
14 establish such other guidelines and conditions as it deems
15 necessary to ensure that the allocations from the fund
16 pursuant to this section are expended in the most prudent
17 manner possible and consistent with the original purpose.

18 Section 6. [NEW MATERIAL] PROJECTS-- APPLICATION--
19 APPROVAL. --

20 A. After outstanding health, safety or
21 infrastructure deficiencies, as identified in the facilities
22 condition assessment and the five-year facilities plan, have
23 been corrected pursuant to Section 5 of the Higher Education
24 Capital Outlay Act, the council shall develop criteria for
25 assessing the other critical capital outlay needs of each

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1 institution and for evaluating and prioritizing applications
2 for grant assistance from the fund.

3 B. Applications for grant assistance from the fund
4 shall be made by institutions to the council in accordance
5 with the requirements of the council. The council shall
6 require as a condition of application that an institution have
7 a current five-year facilities plan.

8 C. Using the criteria developed pursuant to
9 Subsection A of this section, the council shall evaluate
10 applications and prioritize those projects most in need of
11 grant assistance from the fund. To the extent that money in
12 the fund is available, the council shall award grant
13 assistance for those prioritized projects.

14 D. Notwithstanding provisions in the Higher
15 Education Capital Outlay Act requiring application, evaluation
16 or prioritization, nothing in that act shall be deemed to
17 prevent the council from approving an allocation from the fund
18 for a capital outlay project if needed to address an emergency
19 situation at an institution in which the safety or health of
20 students or employees is threatened. The council may
21 establish a reserve in the fund for the purpose of making
22 allocations pursuant to this subsection.

23 E. In awarding grant assistance, the council may
24 require conditions and procedures necessary to ensure that the
25 money is expended in the most prudent manner.

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1 F. No later than December 15 of each year, the
2 council shall prepare a report summarizing its activities
3 during the previous fiscal year. The report shall describe in
4 detail all projects funded, the progress of projects
5 previously funded but not completed, the criteria used to
6 evaluate, prioritize and fund projects and all other council
7 actions. The report shall be submitted to the governor, the
8 legislative finance committee and the legislature.

9 Section 7. A new section of the Tax Administration Act
10 is enacted to read:

11 "[NEW MATERIAL] DISTRIBUTION TO HIGHER EDUCATION CAPITAL
12 OUTLAY FUND.--A distribution pursuant to Section 7-1-6.1 NMSA
13 1978 shall be made to the higher education capital outlay fund
14 in an amount equal to the tribal gaming revenue received by
15 the state pursuant to revenue sharing agreements."

16 Section 8. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2007.