

1 SENATE BILL 149

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO PUBLIC MONEY; REPLACING THE CURRENT CAPITAL PROGRAM
12 PLANNING FOR STATE AGENCIES; ENACTING THE CAPITAL PLANNING AND
13 MONITORING ACT; INCREASING FISCAL AND PROGRAMMATIC SCRUTINY OF
14 CAPITAL OUTLAY EXPENDITURES; CREATING THE CAPITAL PLANNING AND
15 MONITORING DIVISION IN THE DEPARTMENT OF FINANCE AND
16 ADMINISTRATION; PROVIDING DUTIES; MAKING TRANSFERS.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
20 through 6 of this act may be cited as the "Capital Planning and
21 Monitoring Act".

22 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
23 Capital Planning and Monitoring Act:

24 A. "capital project" means a project located in New
25 Mexico that includes the acquisition, repair, alteration,

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1 demolition, renovation, construction or reconstruction of a
2 public building or other public works owned by an eligible
3 entity, including planning and design and professional
4 engineering, surveying, architectural and landscape
5 architectural services directly related to the capital project;
6 purchase of rights of way or easements; purchase of land for a
7 public building or other public works; site improvements to
8 public property; purchase and installation of equipment of a
9 long-term nature for a public building or other public works;
10 purchase of furniture as part of a renovation or construction
11 of a public building; purchase of motor vehicles or heavy
12 equipment; and hardware and software for voice, radio, video
13 and data communications;

14 B. "division" means the capital planning and
15 monitoring division of the department of finance and
16 administration;

17 C. "eligible entity" means:

18 (1) a state agency, state institution or state
19 instrumentality;

20 (2) a local government of the state; or

21 (3) a tribe; and

22 D. "tribe" means a federally recognized Indian
23 nation, tribe or pueblo, or a subdivision or agency of a
24 federally recognized Indian nation, tribe or pueblo, located
25 wholly or partially within New Mexico.

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1 SECTION 3. [NEW MATERIAL] CAPITAL PLANNING AND MONITORING
2 DIVISION CREATED--DUTIES.--

3 A. The "capital planning and monitoring division"
4 is created in the department of finance and administration.
5 The division shall:

6 (1) either directly or through coordination
7 with other responsible state and local agencies, direct capital
8 project planning for the executive branch, for state
9 institutions and for local governments that seek state funding
10 for capital projects;

11 (2) coordinate with the appropriate state and
12 federal agencies that provide capital project funding for local
13 governments, other eligible entities and rural areas;

14 (3) work with state agencies, state
15 institutions, local governments and the legislature to develop
16 priorities for capital projects that the executive branch
17 proposes to the legislature to be funded through the capital
18 outlay process;

19 (4) oversee, either directly or through other
20 responsible state agencies, all state-funded capital projects
21 to ensure timely execution of approved capital projects, proper
22 expenditures of state funding and timely reversion of
23 unexpended balances;

24 (5) develop procedures to ensure current and
25 complete accounting and reporting on state-funded capital

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1 projects;

2 (6) maintain a central database on capital
3 projects that includes the fiscal and programmatic status of
4 each capital project;

5 (7) identify stagnant capital projects and
6 recommend deauthorization to the legislature;

7 (8) identify capital projects that have been
8 completed and fund balances that are available for reversion;

9 (9) provide training and assistance to
10 eligible entities on planning, budgeting and administration of
11 capital projects, including proper accounting and monitoring
12 and completion of capital projects within statutory deadlines
13 and the reversion of unexpended funds as required by law;

14 (10) adopt standards for measuring the need
15 for and utility of proposed capital projects;

16 (11) work with the board of finance division
17 of the department of finance and administration to ensure that
18 capital projects authorized by the legislature are properly
19 certified for the issuance of bonds and to ensure that capital
20 projects proceed in a timely manner as required in the
21 appropriating legislation and meet federal and state
22 requirements; and

23 (12) provide capital outlay project
24 information required by the legislative council service to
25 draft capital outlay legislation.

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1 B. The division may conduct compliance and
2 performance audits of capital projects and may coordinate those
3 audits with the financial audits conducted by the state auditor
4 or an independent auditor.

5 C. All eligible entities shall assist and cooperate
6 with the division and other responsible state agencies as
7 required for the division to carry out its duties.

8 D. The division shall promulgate rules necessary
9 for the administration of the Capital Planning and Monitoring
10 Act in accordance with that act.

11 SECTION 4. [NEW MATERIAL] STATE CAPITAL IMPROVEMENTS
12 PLAN.--The division shall prepare and annually update a
13 five-year "state capital improvements plan" that details the
14 capital projects recommended to be undertaken by eligible
15 entities with state aid or under state regulation. The plan
16 shall:

17 A. include an economic forecast and a discussion of
18 economic activities that bear on the need for state or local
19 infrastructure;

20 B. include a description of outstanding capital
21 projects being funded with state money, their estimated
22 completion date, their initial cost, their estimated completion
23 cost and their estimated operational costs for the first five
24 years;

25 C. classify capital projects with respect to

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1 urgency and need based on division-adopted standards;

2 D. recommend a time sequence for construction or
3 purchase of specific capital projects;

4 E. contain an estimated cost of each capital
5 project, as well as the probable operating and maintenance
6 costs of each project;

7 F. identify any revenue that will be generated by a
8 capital project;

9 G. identify existing or additional sources of funds
10 needed for construction and operation of each capital project;

11 H. identify the eligible entity that owns or will
12 own a capital project; and

13 I. provide other information for any capital
14 project or for the state capital improvements plan as
15 determined by the division.

16 SECTION 5. [NEW MATERIAL] CAPITAL PROJECT REQUESTS--
17 GUIDELINES--INFRASTRUCTURE CAPITAL IMPROVEMENTS PLANS--
18 SUBMISSION TO DIVISION--RECOMMENDATIONS TO LEGISLATURE.--

19 A. By January 15 of each year, the division shall
20 publish capital project guidelines to be followed by eligible
21 entities that plan to seek funding for any capital project in
22 the next year's legislative session. The guidelines shall also
23 identify those provisions that a tribe is required to follow in
24 seeking funding for a capital project.

25 B. The guidelines shall include provisions to guide

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1 state agencies that review capital project requests and local
2 government infrastructure capital improvements plans. The
3 state capital improvements plan and each local government's
4 infrastructure capital improvements plan shall be updated each
5 year.

6 C. The guidelines shall include:

7 (1) a requirement that a local government
8 requesting state capital outlay funds is eligible for funding
9 only if it has a completed current audit or has submitted
10 written status reports by the deadlines imposed by the state
11 auditor toward compliance with the Audit Act;

12 (2) a requirement that a local government be
13 current on its budget and quarterly report submissions to the
14 local government division of the department of finance and
15 administration;

16 (3) a requirement that local government
17 capital projects for which funding is being requested be
18 submitted to appropriate state agencies in addition to the
19 division, as provided in Subsection D of this section;

20 (4) requirements for analyzing immediate and
21 future needs of the state, regions of the state and localities;
22 and

23 (5) requirements for analyzing requests in
24 light of:

25 (a) critical needs of the state and

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1 local governments, including health and safety needs;

2 (b) the ability of the local government
3 to provide matching funds for the capital project;

4 (c) the availability of other funding
5 sources for the capital project;

6 (d) the capital project's priority on
7 either the state capital improvements plan or a local
8 government's infrastructure capital improvements plan;

9 (e) the ability to phase the capital
10 project, if necessary, and the availability of funding to
11 complete at least one fully functional phase;

12 (f) the ability of the eligible entity
13 to provide for the operation and maintenance of the capital
14 project;

15 (g) the expected useful life of the
16 capital project;

17 (h) the available alternatives to the
18 capital project as requested;

19 (i) consideration of whether a
20 renovation project will forestall substantial capital outlay
21 costs in the short and long terms;

22 (j) the most appropriate funding sources
23 for types of capital projects; and

24 (k) other considerations as determined
25 by the division.

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1 D. By May 1 of each year, all infrastructure
2 capital improvements plans shall be submitted to the division.
3 The division shall forward specific priority projects to
4 responsible state agencies as follows:

5 (1) local government or regional projects that
6 are not otherwise submitted to another state agency are due to
7 the local government division of the department of finance and
8 administration;

9 (2) water and wastewater projects are due to
10 the department of environment;

11 (3) street, road and highway projects are due
12 to the department of transportation;

13 (4) area agency on aging or local aging
14 program projects are due to the aging and long-term services
15 department;

16 (5) public post-secondary educational
17 institution and special school projects are due to the higher
18 education department;

19 (6) public school projects are due to the
20 public education department;

21 (7) state agency projects for state agencies
22 under the jurisdiction of the facilities management division of
23 the general services department are due to the facilities
24 management division;

25 (8) state museum, state monument and historic

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1 site projects are due to the division;

2 (9) state and local government plans that are
3 part of master plans approved by the capitol buildings planning
4 commission are due to the capitol buildings planning
5 commission; and

6 (10) capital projects for the New Mexico state
7 fair, state parks division of the energy, minerals and natural
8 resources department, state armory board, tribal infrastructure
9 board, colonias infrastructure board, water trust board,
10 judicial branch and any other capital improvements plans or
11 capital project requests that are not specifically assigned to
12 another state agency are due to the division.

13 E. All state agencies that are responsible for
14 reviewing capital project requests shall submit their
15 recommendations to the division by July 1 of the year prior to
16 the year in which funding is sought. For local government
17 projects, the recommendations shall include comprehensive
18 analyses of the local government's capacity and effort to fund
19 the requested capital project and its ability to operate the
20 capital project, if applicable.

21 F. The division shall publish the annual state
22 capital improvements plan by December 1. An abstract of the
23 plan shall be included in the executive budget recommendations
24 for the following fiscal year and shall include the executive's
25 recommendations to the legislature for capital improvements

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1 funding.

2 SECTION 6. [NEW MATERIAL] REPORTS.--Every state agency
3 responsible for capital projects shall file electronic
4 quarterly status reports with the division on appropriations
5 and expenditures. Every recipient of a state-funded capital
6 project shall file electronic monthly status reports with the
7 division on the status of appropriation and expenditures.

8 SECTION 7. Section 9-6-3 NMSA 1978 (being Laws 1977,
9 Chapter 247, Section 3, as amended) is amended to read:

10 "9-6-3. DEPARTMENT OF FINANCE AND ADMINISTRATION--
11 CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND
12 CREATION OF DIVISIONS.--

13 A. The "department of finance and administration"
14 is created. The department shall consist of those divisions
15 created by law or executive order, as modified by executive
16 order pursuant to Subsection C of this section, including [~~but~~
17 ~~not limited to~~]:

- 18 (1) the board of finance division;
- 19 (2) the financial control division;
- 20 (3) the local government division;
- 21 (4) the management and contracts review
22 division; [~~and~~]
- 23 (5) the state budget division; and
- 24 (6) the capital planning and monitoring
25 division.

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1 B. The secretary of finance and administration is
2 empowered to organize the department and ~~[the]~~ its divisions
3 ~~[thereof]~~ specified in Subsection A of this section and may
4 transfer or merge functions between divisions in the interest
5 of efficiency and economy.

6 C. The governor is empowered to merge divisions of
7 the department or to create additional divisions by executive
8 order in the interest of efficiency and economy."

9 SECTION 8. Section 9-6-5.1 NMSA 1978 (being Laws 1983,
10 Chapter 296, Section 7) is amended to read:

11 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF
12 FINANCE AND ADMINISTRATION.--The secretary of ~~[the department~~
13 ~~of]~~ finance and administration, in addition to the other powers
14 and duties conferred:

15 A. shall review federal grant applications and
16 provide management assistance;

17 B. shall coordinate, in accordance with directives
18 from the governor's office of policy and planning, state agency
19 plans for economic, natural resource, energy resource and human
20 resource development;

21 C. shall provide aid to planning and development
22 districts in developing grant proposals and cooperate with
23 other local entities in developing grant proposals;

24 ~~[D. shall acquire, study and review all plans for~~
25 ~~capital projects proposed by state agencies and render advice~~

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1 on the plans. The secretary shall maintain long-range
2 estimates and plans for capital projects and develop standards
3 for measuring the need for and utility of proposed projects;

4 ~~E.~~ D. may contract for, receive and ~~[utilize]~~ use
5 any grants or other financial assistance made available by the
6 United States government or by any other source, public or
7 private;

8 ~~[F.]~~ E. may provide planning and funding assistance
9 to units of local government, council of ~~[government]~~
10 governments organizations, Indian tribal governments with
11 tribal lands situated wholly or partially within New Mexico and
12 ~~[to]~~ nonprofit entities having for their purpose local,
13 regional or community betterment. The secretary, incident to
14 any such programs, may enter into contracts and agreements with
15 such units of local government, council of ~~[government]~~
16 governments organizations, Indian tribal governments, nonprofit
17 entities and the federal government and may participate in or
18 receive aid from any federal or private program in relation to
19 such a planning program or assistance;

20 ~~[G.]~~ F. shall confer with the state budget division
21 ~~[of the department of finance and administration]~~ and the
22 capital planning and monitoring division in developing
23 comprehensive plans to assure coordination of planning and
24 budgeting functions;

25 ~~[H. shall coordinate the state clearinghouse review~~

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1 process;

2 ~~I. shall develop a status of the state report;~~

3 ~~J. shall review and coordinate comment by state~~
4 ~~agencies on draft environmental impact statements;~~

5 ~~K.]~~ G. shall provide community development block
6 grant technical assistance to local governments;

7 ~~[L.]~~ H. shall administer, in consultation with and
8 upon advice and direction from the community development block
9 grant policy committee, the program for the state community
10 development block grant program;

11 ~~[M. shall serve as staff to the New Mexico~~
12 ~~association of regional councils;~~

13 ~~N. shall maintain a state planning library;]~~ and

14 ~~[O.]~~ I. shall provide planning assistance to county
15 and multi-county districts relative to application by such
16 districts for financial assistance and for regional plan
17 development."

18 SECTION 9. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
19 MONEY, APPROPRIATIONS AND PROPERTY.--On the effective date of
20 the provisions of this act, all functions, money,
21 appropriations, records, furniture, equipment and other
22 property of the capital outlay bureau of the state budget
23 division of the department of finance and administration are
24 transferred to the capital planning and monitoring division of
25 the department of finance and administration.

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SECTION 10. REPEAL.--Section 6-4-1 NMSA 1978 (being Laws 1975, Chapter 282, Section 3, as amended) is repealed.

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.