

CHECKLISTS AND STEP-BY-STEP INSTRUCTIONS FOR SUCCESSFUL SCHOOL BOND ELECTIONS IN NEW MEXICO

In Plain English!



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a plain english guide

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How (and Why) to Use this Manual.....

Managing successful school bond elections in this era is complex. School district leaders cannot dedicate all their time to the election, while economic downturns like the current one cause voters to look closely at the underlying value of related facilities strategies and costs.

This manual is designed to remind busy district leaders of all the necessary steps, complexities and details that lead to a successful election, with a primary focus on *maximizing community support, and hence maximizing the probability of success not only for one election, but for ongoing elections over the long term*. The authors have minimized technical jargon, while using checklists and short summaries to eliminate all but the most essential material in order to keep this manual as short and as easy to use as possible.

A critical goal is to provide the information needed to keep your district in full compliance with the rules, laws and statutes that govern bond elections in New Mexico, while minimizing the need to wade through lengthy source documents. When additional information IS needed we cite statutes & suggested sources.

While we have specifically focused on bond elections, most of the information we have included would also apply to HB33 and SB9 elections.

When possible, we provide information on how to leverage local revenues with state capital outlay funds.

Finally, we have attempted to provide case studies and examples taken from New Mexico school districts to illustrate the subject matter and to bring it fully down to earth—*always in plain English*.

Here's What We've Included.....

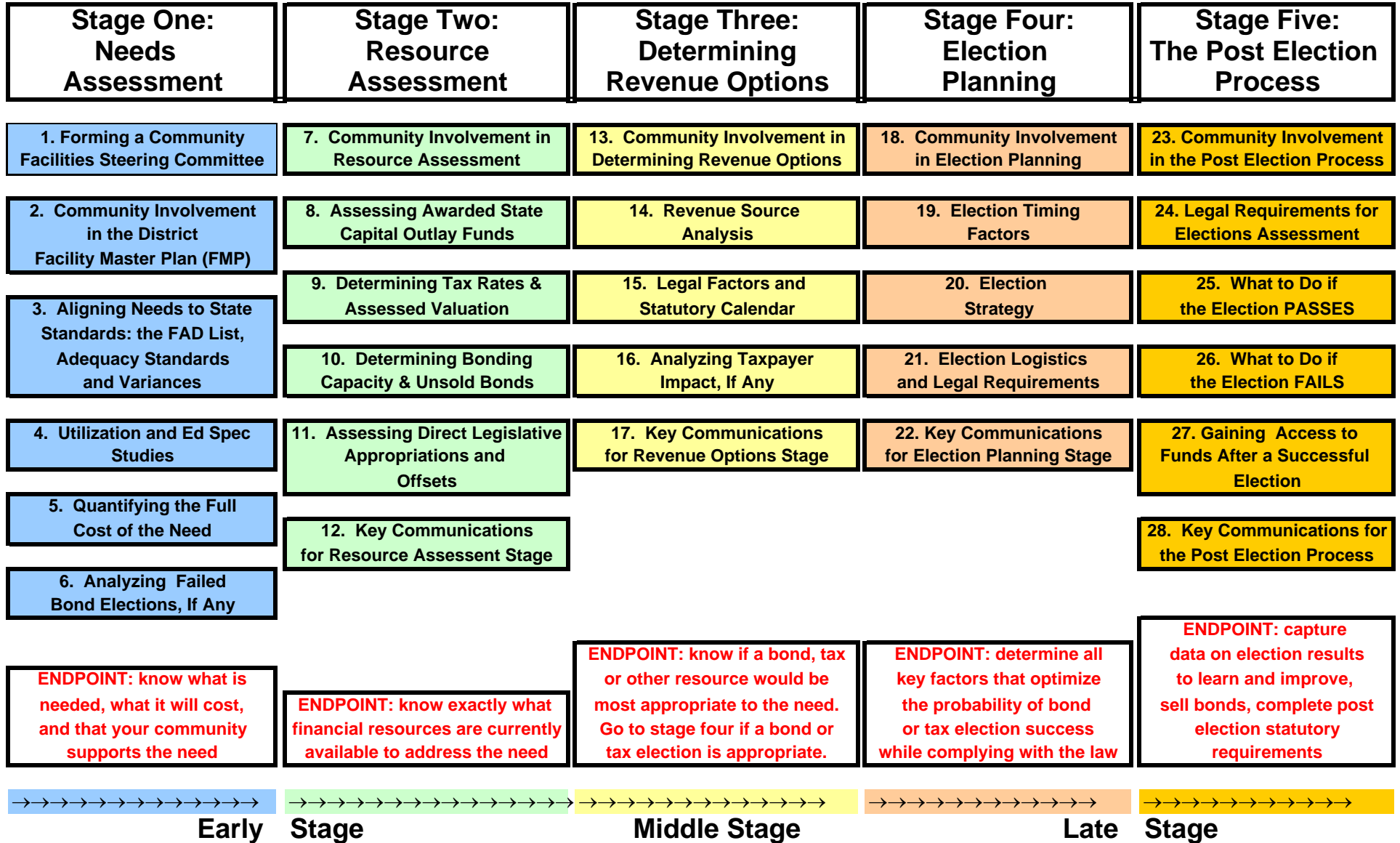
- Page ii presents a high-level flowchart and timeline that outlines the FIVE KEY STAGES in the bond election process. Each stage on the flowchart is color-coded and has a set of numbered boxes stacked below. Each box is a critical process within the stage with its own brief summary of what needs to be accomplished at that point in the bond election timeline.
- Page iii lists key acronyms and definitions.
- The high-level flowchart provides an overall picture on bond election management, the order of the key stages, and what underlying processes need to happen at each of the five stages.
- The individual boxes provide checklists and instructions for each of those underlying processes.
- Finally, Appendix 1 on page 60 provides a primer on public school capital outlay funding in New Mexico, and Appendix 2 on page 66 is a bibliography of sources for additional information.

We hope that you find this manual useful, and on behalf of New Mexico's students, we wish you great success in the bond elections that *you and your* district manage.

The Authors

School Bond Elections In New Mexico: Steps in the Process

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Acronyms & Definitions

- **AS** - Adequacy Standards
- **BANs** - Bond Anticipation Notes
- **CABC** - Current Available Bonding Capacity
- **COPs** - Certificates of Participation
- **DP** - Design Professional
- **Ed Specs** - Educational Specifications
- **FAD** - Facilities Assessment Database
- **FMP** - Facility Master Plan
- **GO** - General Obligation Bond
- **HB33** - Public School Buildings Act
- **NMCI** - New Mexico Condition Index for ranked list of school facility needs
- **PED** - New Mexico Public Education Department
- **PSCOC** - Public School Capital Outlay Council
- **PSFA** - New Mexico Public School Facilities Authority
- **QSCBs** - Qualified School Construction Bonds
- **QZABs** - Qualified Zone Academy Bonds
- **RM** - PSFA Regional Manager
- **SB9** - Public School Capital Improvement Act
- **SC** - Steering Committee
- To “*mature*” a bond means to pay off the bond.
- “*Adequacy Planning Guide*” is a reference guide to the New Mexico Public School Facilities Adequacy Standards that is used to meet adequacy requirements when programming and designing school projects.
- “*Adequacy Standards*” establish the acceptable level of facilities standards needed to provide and sustain the learning and operating environments for public schools.
- “*Adequacy variances*” are exemptions from specific standards of adequacy when those specific standards do not apply to a particular facility, based on the educational program. For example, a charter school that offers physical education in a local community facility might be given a variance on space for a gymnasium/multi-use room.
- “*Total assessed value*” is the total value of the taxable property within the district. It is determined by the county assessor and includes “*centrally assessed property*” like electrical transmission lines.
- “*Utilization study*” is an efficiency study that is performed by districts to optimize the size and design of a school building, in order to maximize facility utilization and thereby to minimize overhead cost.

**Stage One:
Needs
Assessment**

**Box 1: (Pages 2 - 4)
Forming a Community
Facilities Steering Committee**

**Box 2: (Pages 5 – 7)
Community Involvement
in the District
Facility Master Plan (FMP)**

**Box 3: (Pages 8 – 9)
Aligning Needs to State
Standards: the FAD List,
Adequacy Standards
and Variances**

**Box 4: (Pages 10 – 12)
Utilization and Ed Spec
Studies**

**Box 5: (Pages 13 – 15)
Quantifying the Full
Cost of the Need**

**Box 6: (Pages 16 – 17)
Analyzing Failed
Bond Elections, If Any**

**ENDPOINT: know what is
needed, what it will cost,
and that your community
supports the need**

Overview:

In the current era, school district facility and funding strategies tend to be more successful when the district cultivates an active, on-going relationship with its local community that is characterized by:

- an honest and transparent presentation of how the district sees its facility needs;
- how the district intends to address those needs;
- what those needs are estimated to cost; and
- how the district proposes to pay for them.

It is never too early to cultivate an active, ongoing facility *partnership* with your community, working with community members to determine district needs, and ultimately, engaging your community to take the lead in bond elections. For maximum effectiveness, beginning to do so when facilities plans are being formed¹ is ideal. The *community facilities steering committee*² is the mechanism.

When Should the Community Facilities Steering Committee be Formed?

Well in advance of a bond election. The ideal time to organize the community facilities steering committee is when the district is ready to create a five year facilities master plan (FMP)³. The steering committee will assist the district in creating the FMP. Community involvement better assures community support for the district facility plan and, ultimately, for the bond election or elections that will be organized to fund the FMP.

A Community Facilities Steering Committee Timeline:

Key district milestones for which the steering committee would be of greatest value to the district would be during the FMP process, during the Ed Spec⁴ development process, and when the district is organizing bond elections. In smaller districts in particular, there may be significant time gaps between these processes, and steering committee membership may work best if members serve during a period of high activity, rotate off the committee, and new members rotate on as activity picks up. Depending on the level of facilities activity in the district, the committee may be standing or ad hoc.

Forming a Community Steering Committee—Who to Include:

- Rather than the district choosing steering committee members from key community constituencies, consider allowing your constituencies to choose their own representatives.
- Constituencies from across your community's demographic sectors should be included.

¹ That is, when the district Facilities Master Plan is being drafted.

² We use the term "Community Facilities Steering Committee" as a catch-all name. Depending on the district, a community district facilities steering committee could be called a Blue Ribbon Committee, a VIP Committee, a Citizens Advisory Committee etc. For brevity, we may occasionally use "Steering Committee" or "Community Steering Committee" or "Facilities Committee" to mean "Community Facilities Steering Committee."

³ Please see Box 2 in this manual for additional information related to FMPs and community involvement.

⁴ Please see Box 4 in this manual for additional information about the Ed Spec process.

- In forming the steering committee, your district may need to consider community representation sufficient for a winning combination of voting blocks in bond elections. For example, in a retirement community, it may be difficult to win a bond election without the support of retirees, so this sector should be represented on the facilities steering committee.
- Consider including possible opposition. Including community members who may tend to be adversarial to the district may be an effective means to build bridges to these community sectors. Steering committee meetings may become lively, but *it may be better to work out differences in the committee rather than on election day.*
- Include local leaders who influence community views.
- Begin cultivating the press. Reporters who are privy to the lengthy planning period that precedes a bond election will gain a deeper understanding of the process and of the rationale behind facilities planning decisions.
- District staff, including teachers, should be represented.
- Parents of current students should be represented.
- Students should also be represented—they're invaluable in communicating district facilities and funding plans through the community, to their parents and to their classmates.

Targeting the Type of Steering Committee to the Type of Community:

- A steering committee can be large or small—or conducted in whatever creative manner that gives your community a seat at the table to learn about and express its views on district facility and funding plans.
- Large communities like Albuquerque, Santa Fe and Las Cruces may need large steering committees with multiple subcommittees and formal meetings at regular intervals throughout the year.
- Smaller communities may need a smaller committee and/or an informal approach that solicits feedback from the entire town or county.

Why The Steering Committee Should be Tasked With Large Issues:

- The steering committee is the ideal venue for the district and the community to determine the district FMP, facilities Ed Specs, and bond election strategies that everyone can accept.
- With a completed FMP and community consensus, the district will be better able to articulate to a design professional *exactly* what is needed in new or renovated facilities designs, which will better assure that the district and community will get the schools that they want and need.
- With district and community alignment on facilities plans, bond elections are more likely to win the support of a majority of voters.
- Districts are prohibited from using public funds to advocate for passage of a bond election. The steering committee has no such prohibition, and is well equipped to handle this role on behalf of the district.
- Community members will be more likely to support a bond election if they have played an active role in determining the underlying needs that the election is meant to address. The steering committee is the venue for this to occur, but only if the steering committee has been given a substantial, rather than ceremonial role in determining district facility and funding plans.

Local Examples:

- A mid-sized New Mexico school district recently concluded that it needed to consolidate its stand-alone ninth grade facility onto the high school campus, as well as to construct an alternative school. District leaders felt that the community might be willing to support a bond election for up to \$20 million. The school board established a community facilities steering committee made up of 30 community members, and gave the committee responsibility for determining the best approach for meeting the facility needs. The steering committee *came up with \$47 million in needs*, including the building for the ninth grade, worked to pass this much larger bond issue, and when the election passed, remained together to oversee project construction. Because district leaders allowed the community steering committee to determine how best to meet the district's facility needs, the community became actively engaged, and developed sufficient support not only to pass a bond election for what district leaders felt was essential, but supported a facilities funding level that was more than twice as large as district leaders felt that the community would be willing to support.

- Another mid-size district has only 15 members on its facilities steering committee, but the committee still takes the lead in gaining support for district bond elections with local voters.

- Two rural districts in New Mexico see themselves as too small to maintain permanent steering committees. When they want to call a bond election, both invite their entire communities to a pot luck supper before a local sports event and solicit everyone's feedback at that time.

- Other small school districts in New Mexico hand out simple brochures at local sports events that explain the district's facility master plan and corresponding bond election plans.

End of Box 1

The District Five-Year Facilities Master Plan (FMP) and Bond Elections:

The five-year facilities master plan (FMP) is a district-wide strategic plan for school district facilities development, *as well as the starting point and foundation for building community support for bond elections.* The FMP becomes the road map by which the district anticipates the evolving demands and requirements for its educational facilities. School districts must have current FMPs as a statutory requirement in order to be eligible for state public school capital outlay funding—which is usually conditioned on a local funding match, and can be used as an incentive for the local community to pass a bond election.

The FMP identifies necessary funding and schedule constraints, and articulates appropriate facilities solutions over the planning period. The FMP also provides direction for each facility, with estimated budget allocations, to address adequacy standards deficiencies¹, while including estimated life cycle costs, along with forecasts of enrollment trends, utilization and program needs. Because the FMP outlines facilities needs and timelines, *it provides a timeline for future district bond elections.*

For an FMP to be successful, it must be developed on a foundation of sound data (the needs assessments of current conditions) *and with community input.* FMP development requires collaboration between educators, administrators, policy makers, students, facility professionals and the community. Community involvement in the FMP is essential to assure that the district and its community have developed consensus on district facilities needs and costs.

The FMP is an essential first step in developing a big picture overview of facilities project needs, and a prerequisite both for state capital outlay funding and to gain community support for bond elections.

What the FMP Addresses:

The FMP follows a systematic process that identifies needs and specific priorities, and prudently allocates capital resources, with the goal of assuring that district facilities meet statewide adequacy standards and district requirements with respect to:

- Life/health/safety;
- Educational/programmatic needs (additions, remodeling to meet various educational standards) and curriculum needs;
- Renewal needs (replacement schools, remodeling, refurbishing, planning studies, deferred maintenance, major system replacement);

¹ Please see Box 3 for additional information on state facilities adequacy standards.

- Providing for necessary growth (new schools, additions, remodeling, site acquisition, design planning studies);
- Utilization and capacity of facilities; and
- Educational technology.

Developing a facilities master plan requires the district to address four major questions:

1. Where do we as a district want to be? – *identifies district facility goals;*
2. Where are we now? – *identifies the adequacy of district facilities and capacity to meet future needs;*
3. Where are we going? – *analyzes information about future enrollment, program changes, classroom needs, and financial resources;*
4. How do we get there? – *identifies the gaps between existing conditions and the ideal future state, develops a strategy to meet needs, and to prioritize capital projects.*

District FMP's need to be reevaluated every five years and updated yearly.

What the FMP Delivers:

The FMP provides the following long-term benefits to school districts:

- Creates a long-range vision:
 - Provides a common perception of what facilities are needed to meet district educational goals and to meet New Mexico's Statewide Adequacy Standards;
 - Develops a road map for long-term facility management and leads to community support;
- Anticipates and plans for district changes in facilities;
- Equitably allocates capital resources:
 - Promotes "needs-based" planning (as opposed to "wants" or "demands");
 - Reduces politically-based decisions;
- Promotes accountability and communication between the school district and the public;
- Implements facility improvement as a rational, manageable, and continual process;
- Provides for continuity when district leadership changes.

A successful FMP process requires the commitment and involvement of the district administration and board to ensure community buy-in and support for district priorities for future projects, and for the passage of future bonds.

The FMP and the Steering Committee:

Once the FMP has been prepared and consensus has been achieved, the district's community facilities steering committee² recommends the FMP to the school board.

The steering committee should be comprised of a cross-section of school personnel, parents, students, and community members. Because facilities often fall under the direction of the district's business office, and the facility will need to be maintained by the maintenance department, the involvement of these two entities is essential. Planning should take a *horizontal approach* which simultaneously involves all aspects of the school community and the community at large. Specialized consultants (educational facility planners, architects and engineers) are also often involved, particularly in larger districts, to help gather capital improvement information, to facilitate decision making, to analyze growth and demographics, and to document the results.

For Further Information:

Please see PSFA's website, www.nmpsfa.org under the Planning and Review Portal for additional information on how to create a district Facility Master Plan.

Also see PSFA's *Checklists and Step by Step Instructions for Funding, Building and Maintaining Schools* on PSFA's website.

End of Box 2

² Please see Box 1 for a more complete overview of how and why to form a community facility steering committee.

Aligning District Needs to State Standards: The FMP, FAD List, Adequacy Standards (AS), and PSCOC Variances—What Are These? How Do They Operate?

Overview:

School districts gain funding for their buildings both from local bond elections and from state capital outlay awards. Here is a brief summary of the primary state facilities assessment tools.

The Facility Assessment Database (FAD) and Statewide Adequacy Standards (AS):

Under New Mexico’s standards-based public school facilities funding process, all school buildings in the state are ranked according to a set of weighted categories measured against a set of standards called Adequacy Standards (AS). The AS establish acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities, and the need for technological infrastructure at those facilities.

In order to prioritize funding to greatest school facility needs statewide, PSFA collects data in nine weighted categories for each school and enters that data into a database called the Facilities Assessment Database (FAD). FAD ranks all school facility needs in New Mexico from greatest to least, and is the standard tool used for public school facilities funding from the New Mexico Public School Capital Outlay Council (PSCOC). The PSCOC is New Mexico’s main state entity for awarding capital funding to school districts and charter schools.

Implications for Bond Elections:

The District FMP identifies: 1) when a district needs to go out for a bond election, 2) if a district’s bond package is consistent with its FMP priority list and 3) with facilities rankings in FAD¹. (*For additional information on FMPs please see Box 2 in this manual.*)

Adequacy Standards and Charter Schools:²

All district-chartered and state-chartered charter schools are included in FAD rankings; however since charters offer unique educational programs and methods of program delivery, charters generally receive a PSCOC variance from adequacy standards—except general classroom square footage and life health and safety requirements for the first six years after approval. After their first six years, charters are assessed only to the adequacy standards that are required to meet their specific educational program. For example, if a charter school has chosen to deliver physical education by utilizing a local community center instead of supplying the space at the school, the charter would not be listed as deficient in meeting the AS in FAD for physical education.

¹ District facilities FAD data must be kept up to date. This is the responsibility of each district, but PSFA can provide training and assistance.

² District-chartered charter schools *must* be included in the district’s FMP. A state-chartered charter school *can* be included in the district’s FMP. If a state-chartered charter school is *not* included in the district’s FMP, the state-chartered charter school will need to create its own FMP in order to receive state capital outlay funding.

Key Steps in Aligning District Needs to State Standards:

Step 1: Verify that your district's FMP is up to date and has been approved by PSFA.

Step 2: Ensure that the facility data in FAD is current and accurate for each of your district's facilities.

- Submit all FAD updates through your PSFA Regional Manager (RM). Your PSFA RM will review and forward this data to PSFA's FAD manager.
- If your district is unsure if its FAD data is up to date, you can request a building assessment from PSFA staff, who will go to the school, assess the building, and report the data back to the PSFA FAD manager.

Step 3: Ensure that projects listed in the bond package align with your district's 5-year FMP priorities, and align with rankings in the FAD database.

- Log onto FAD to review school assessment data. If you aren't familiar with how to use FAD, please see the training section on PSFA's website: www.nmpsfa.org for assistance.
- Ensure that the data in FAD accurately reflects the existing conditions at the facility, and that the FAD manager has made the revisions discussed in Step 2.

For Additional Information:

Information on FAD, Adequacy Standards and variances can be found on PSFA's website: www.nmpsfa.org under the Planning and Review Portal.

Also see PSFA's *Checklists and Step by Step Instructions for Funding, Building and Maintaining Schools* on PSFA's website.

Charter School Adequacy Standards Variance List:

Please see: http://www.psfa.k12.nm.us/pdf/MasterPlan/Charters/Charter-alternative_Sch_Variance_09-05-08.pdf

End of Box 3

Education Specifications and Utilization Studies:

Two important school planning tools are educational specifications (Ed Specs) and utilization studies, which both are essential resources in determining needs for a possible bond election. A district can prepare Ed Specs or a utilization study for a specific facility at any stage during the process outlined in the school bond election flow chart on page ii.

Ed Specs and utilization studies are relatively recent, but important concepts in the PSCOC capital funding process, and are tools that involve your community—hence a means to build support for future bond elections via collective determination of district facility needs based on educational programs and community preferences. Both Ed Specs and utilization studies are facility specific, meaning that they apply to a particular project or facility, rather than to the entire district.

Educational Specifications:

Ed Specs are documents that describe a school's facility needs based on the school's educational program. The Ed Specs document precisely defines individual school project needs, amount of space, equipment and project costs and thereby assists the district's design professional (DP) to better plan a project's budget and timeline—but most of all, *to design a fully functional building that best meets district needs.*

The Ed Specs development process should incorporate extensive input from the local community, which better assures that the community will agree with the design, and hence would be more likely to support a bond campaign to pay for the project. The overriding goals of the Ed Specs are to:

- ensure school buildings that meet the educational programmatic and curricular needs of the school district and staff; and
- promote design and construction of school facilities that are efficient, highly-utilized, and cost-effective.

Ed Specs are an integral part of school planning and can play a key role in successful bond elections. While **not** required for holding a bond election, Ed Specs give the district an advantage in winning the election because they increase the likelihood that the district and the local community are in alignment on what the facility should be, and better assure that the facility will meet the required educational program.

Ed Specs are also **not** required for every project. Ed Specs, however, **are always required** for new schools and charter school projects that plan to utilize PSCOC funds.¹ PSCOC funded projects involving major renovations and/or significant change of educational program do not

¹ If a school construction project will not use PSCOC funds, but *may use PSCOC funds in the future*, Ed Specs should be developed because it will be a prerequisite for such funding.

need full Ed Specs, but require some Ed Specs components such as a utilization study (a full Ed Specs document will always include a utilization study).

PSFA has developed a matrix that clearly defines when Ed Specs are required. Please see the PSFA website: www.nmpsfa.org under the Planning & Review Portal for a copy of this matrix.

Whether or not required, PSFA encourages districts to develop Ed Specs for projects because the Ed Specs process is invaluable as a planning tool that helps precisely define the project, and as a resource that assists in developing consensus between your school district and your community.

Utilization Studies:

Utilization studies define how a school is using *existing* space and identify underutilized areas that could possibly accommodate another function. For some projects, the district may need only a utilization study rather than Ed Specs, particularly if the project would not add more space or is not for a new school facility.

For a detailed synopsis on Ed Specs and Utilization Studies, including a synopsis on the type of projects for which each is needed, please see www.nmpsfa.org.

When Should Your District Do Ed Specs?

The PSCOC can provide funding for a district to develop Ed Specs. *However, your district's best strategy for obtaining future PSCOC project funding is to predict the projects that will need Ed Specs a year prior to that project entering the top 100 of the ranked list of greatest public school facilities needs.*

The district can then prepare the Ed Specs and have it complete by the time the next PSCOC annual funding cycle starts. This will help the PSFA and PSCOC understand the project and its underlying needs, and thereby predict the funding needed for the project. (PSCOC project award funding tends to be prioritized to those projects which have accurate, fully developed budgets.)

The other critical factor is to use the Ed Specs process to build community support for bond elections. It is simply more effective to develop community support for the district's facility strategy by beginning as early as possible rather than waiting until just before the election. Ed Specs, along with Facility Master Plans, are ideal venues for the district to interact with community members and to garner community feedback.

Local Examples:

A New Mexico school district approached the development of its Ed Specs with two options – consolidating its three existing elementary schools into one school, or working on renovations and improvements at all three of its existing schools. Through the Ed Specs development process, the district determined that the best option was consolidation into a new building. The process was a collaborative effort from a team of approximately 50 teachers, administrators, and community representatives. Together this team defined the program requirements for the future

school. The district approached the Ed Specs process in an effective manner by involving a diverse range of community members.

A small New Mexico school district did not require Ed Specs for their existing middle and high schools, but developed a utilization study. Upon completion of the utilization study, the district found that if it switched its middle school and high school buildings, it could achieve a greater rate of utilization and solve several issues at the same time very cost-effectively. The district carried out that change with little to no disruption to staff or students.

End of Box 4

Quantify the Full Cost of the Need

The goal is to fully and accurately determine the exact cost of the facility project that the district is seeking to develop¹. *Determining what sort of facility or facility renovation will meet the district's need is primarily the responsibility of the district administration and board, with advisory support from the district's community facility steering committee. All the technical analysis behind that decision is the primary responsibility of the design professional (DP) and the other technical specialists who are on contract to the DP or to the district.* Districts need to make sure that educational specifications (Ed Specs) are determined *in advance* of facility design, such that Ed Specs drive the design of the facility. *(Please see Box 4 in this manual for further details on the Ed Specs process.)* Overall, it is critical to have a very accurate idea of what the facility will cost in advance of seeking to raise the funds from your community to pay for it.

Step One:

District leaders work with their communities to determine the need.

- **The school board instructs district administrators to get the community involved.**
 - In New Mexico, district administrators and school boards are prohibited from using public money to advocate in favor of a yes vote in bond elections for school districts.² 1985 N.M. Op. Atty. Gen. 344 (1985).
 - District leaders should instead communicate *why* they have outlined the approach and plan for the facility that they have, and *what* they intend to do if the bond election is successful, *but NOT explain to the public that a YES vote is essential, or that anyone should vote YES.*
 - The district's community facility steering committee is essential to take on an advocacy role for any public school bond or tax election.
- **District administrators create one or more community advisory boards.³**
 - School board members and administrators should CHOOSE and INVITE a broad cross section of community members to sit on the advisory board. If the advisory board isn't created by inviting potential members to join, but is set up as a forum open to the public, it may be difficult to get a good cross section of the community to participate.
 - Making the advisory board prestigious, i.e., a "VIP" or "blue ribbon" committee can increase community participation.
 - Community advisory boards garner community support for the election—it is never too early to get your community involved. Garnering community support takes time.
 - Community advisory boards should represent ALL perspectives within the community, in order to hash out compromises and develop community consensus *before* any bond election. So, hand picking only community members who favor the board's perspective may be counterproductive. You should include opponents.

¹ Please see Box 2 in this manual for information on five year district facility master plans—the tool used to determine what facilities the district needs, along with a timeline for facilities development.

² In the event of a lawsuit which contends that a school district used state funds to advocate for a YES vote in a bond election, a possible remedy could be that the results of the bond election are thrown out. To the authors' knowledge, this remedy has never yet been applied to a school bond election result in New Mexico.

³ Please see Box 1 for additional information on forming a community facilities steering committee.

- **The district’s current facility master plan (FMP) must include the facility need being considered. If the FMP does not include the need being considered, the need should be integrated into the FMP. (All New Mexico school districts must have FMPs to qualify for state capital outlay assistance funding.)** NMSA 1978 Section 22-25-5
 - See the “*Planning & Review Portal*” on the New Mexico Public School Facilities Authority (PSFA) website www.nmpsfa.org for information on FMPs.

- **Facility Ed Specs further quantify the need and related costs.** ⁴
 - See the “*Planning & Review Portal*” on the New Mexico Public School Facilities Authority (PSFA) website www.nmpsfa.org for further information on Ed Specs.
 - Ed Specs should generally be developed before applying for state capital outlay funding from the PSCOC—please *see Box 4 in this manual*.
 - Developing Ed Specs tends to work best when your community is very actively involved. The Ed Spec process is specialized, and should be facilitated by an Ed Spec specialist. In New Mexico, Ed Spec development is considered a separate process from facility design, so the design professional for the facility cannot also facilitate and develop Ed Specs.

Timetable for this step:

- Creating a district FMP should take about one year.
- The Ed Spec process should take a district between three and six months.
- If the district already has an FMP, determining the need in a fully inclusive manner with the community can be done in a couple of months.

Step Two:

Quantify the need—a specialized process

- **Get the correct specialist or specialists for the need.**
 - Use a roofing specialist if the need relates to roofs.
 - The DP or architect generally has overall responsibility for *determining project cost* from the board and community needs assessment. The DP is usually the point person for all the other facilities specialists—engineers, contractors etc—but on small projects, district staff may take the lead.
- **Larger projects will usually need to be broken down into specific subsections to fully quantify project costs.**
 - On larger projects, project subsections may require separate sets of specialists for cost analysis.
- **Add up all project component costs**

Timetable for this step:

- 3-4 months would be the norm, depending on the scope of the project.

⁴ Please see Box 4 for additional information on the Ed Spec process.

The overall needs assessment and needs quantification processes should take about six months if the district already has a current facilities master plan.

Local Example:

A mid-sized New Mexico school district recently concluded that it needed to consolidate its stand-alone ninth grade facility onto the high school campus, as well as to construct an alternative school. District leaders felt that the community might be willing to support a bond election for up to \$20 million. The school board established a community facilities steering committee made up of 30 community members, and gave the committee responsibility for determining the best approach for meeting the facility needs. The steering committee *came up with \$47 million in needs*, including the building for the ninth grade, worked to pass this much larger bond issue, and when the election passed, remained together to oversee project construction. Because district leaders allowed the community steering committee to determine how best to meet the district's facility needs, the community became actively engaged, and developed sufficient support not only to pass a bond election for what district leaders felt was essential, but supported a facilities funding level that was more than twice as large as district leaders felt that the community would be willing to support.

For Further Info:

For master planning information: “*Checklists & Step by Step Instructions to Funding, Building and Maintaining Schools in New Mexico.*” www.nmpsfa.org

For organizing community advisory boards, and for comprehensive information on public bond campaigns: “*Election Success: Proven Strategies for Public Finance Campaigns.*” www.nspr.org

End of Box 5

Analysis of Failed Bond Elections, If Any

A failed bond election impacts dramatically on district planning and operations. Bond elections can fail for any number of reasons, and district leaders must determine why the election failed and adjust district strategy accordingly. Failing to critically analyze the reasons behind a failed bond election risks failing to understand local community resources and expectations. Without an effective means to listen and learn from the local community,¹ district-community relationships can become unnecessarily adversarial, and community support for district needs may be likely to decline. *This step should be completed as early as possible in district planning in order to allow sufficient time to adjust district facilities strategy as needed.*

Step One: District leaders determine why the bond election failed.

- Evaluate the level of school board participation in the election, along with the level of opposition within the board. Successful bond elections generally require consensus among board members. How actively did the board work to pass the election?
- How well did the community facilities steering committee function? Did it take the lead in the election? Given the limits on advocacy by the district,² the community facilities steering committee generally needs to take the lead in advocating for passage of the bond election in the community.
- What was the level of school district staff and participation in the election? Given that school bond elections tend to have low voter turnout, voting by district staff can carry the election if staff turnout is sufficient.
- What was the level of parent participation in the election? Again, given that voter turnout can be low in district bond elections, sufficient parent turnout can carry the election.
- Analyze voting results for specific data on which community segments opposed the bond.
- District leaders in larger communities may want to conduct a poll of voters, usually with a specialized polling firm, to capture and analyze data on why the bond election question failed.
- District leaders in smaller communities probably won't need to do a scientific poll, but WILL need to talk with as many community members as possible, request frank and honest answers on why the bond election failed, and take notes on the community feedback.
- District leaders should ask their community advisory boards to visit with voters and request frank and honest answers on why the bond election failed, and to take notes on the feedback they receive.
- District leaders should analyze all sources of community feedback and list the key reasons for the failed bond election. This analysis should be systematic, community consensus driven, rigorously factual and transparent to the community.
- Although district leaders may feel that they know why the election failed, systematically capturing and analyzing key facts *will make it easier to build community consensus* for why resulting changes in district strategy related to the failed bond election are appropriate and necessary.
- Historically, a percentage of voters, usually around 30 percent, tend NOT to support school bond elections, regardless of the district's attempt to gain its support. In planning, it may be sensible and cost-effective not to waste limited resources on this group. Better to work to convert potential

¹ Please see Box 1 in this manual for how to develop a community facilities steering committee, which can be an effective listening and learning tool for the district to connect with its community.

² The district's role in a bond election is to *educate NOT advocate*. Districts and their boards are prohibited from using public money to advocate for a YES or NO vote in bond elections. Advocating for a YES vote in the election is the role of the community facilities steering committee.

maybe votes to YES, rather than seek to convert entrenched NO votes to YES. However, it may be counterproductive to exclude potential NO voters from district election communications. Ignoring this constituency may lead to anger, and anger may lead to NO voters making a greater effort to turn out for the election.

Board members and senior district staff are responsible for this step. Advisors, including the district's financial advisor, may be able to provide assistance, given their experience with other failed bond elections from other districts. The bottom line: whatever tools used, district leaders simply need to plug into the community to find out what happened. One or two weeks should be sufficient to complete this analysis.

Step Two: Analyze Processes for Building/Maintaining Community Support

- Identify which community sectors opposed the election and determine why they opposed it.
- Evaluate the district's community listening/learning/communications methods.
- Determine where improvements are needed, based on which community sectors did not support the bond election.

Step Three: Analyze Financial Implications of the Failed Bond Election

- Determine the impact on projects that were to have been funded by the failed bond election.
- Determine the impact on schedules underlying the district's overall Facility Master Plan (FMP).
- Revise schedules for projects and for the district FMP.

Step Four: Revise District Financial & Operational Strategies

- Determine strategy revision based on analysis of what would be supported by the community.
- Determine revisions in the question to put to voters in a second bond election, working with the district's legal counsel.
- Determine if an alternative like Lease/Purchase could be used instead of a bond election.

Local Examples:

A small New Mexico district once lost a school bond election when attempting to fund a geothermal system. The district rushed into a second election without spending time to determine, analyze and address community opposition to the project, and lost a second election for the same project.

A mid-sized district in New Mexico also lost its first bond election for a geothermal system for its high school. The district knew that local knowledge of geothermal heating/cooling systems was minimal, so it produced a comprehensive brochure on the technology. After losing the election, community feedback indicated that the brochure was too technical, and if anything, caused community members to question if such a complicated system made sense for the high school. Given this information, for its second election, the district provided a short list of bullets on why geothermal was cost effective and would help improve student learning outcomes. This bulleted list was easy to understand, and the community came to see the value of geothermal. The second bond election won by a large margin.

For Further Info:

For comprehensive information on public bond campaigns: "*Election Success: Proven Strategies for Public Finance Campaigns.*" www.nspr.org

End of Box 6

**Stage Two:
Resource
Assessment**

**Box 7: (Page 19)
Community Involvement in
Resource Assessment**

**Box 8: (Page 20)
Assessing Awarded State
Capital Outlay Funds**

**Box 9: (Pages 21 – 22)
Determining Tax Rates &
Assessed Valuation**

**Box 10: (Page 23)
Determining Bonding
Capacity & Unsold Bonds**

**Box 11: (Page 24)
Assessing Direct Legislative
Appropriations and
Offsets**

**Box 12: (Page 25)
Key Communications
for Resource Assessment Stage**

**ENDPOINT: know exactly what
financial resources are currently
available to address the need**

Community Involvement in District Resource Assessment:

In the Needs Assessment Stage (Stage 1), we suggested that your district:

- Set up a community facilities steering committee made up of a broad cross section of your community—whether the committee is formal or informal, holds meetings or is based on informal conversations, the key point is that it provide an effective means for your community to participate in, and to express its opinions on your district’s facility development and funding plans (Please see Box #1).
- Involve your community in the development of your district’s Facility Master Plan (FMP). (Please see Box #2).
- Involve your community in the Ed Specs process that precedes design and development of new facilities. (Please see Box #4).

The Resource Assessment Stage (Stage 2) within the bond election process is a continuation of this interaction with your community. After working collectively to determine district needs in Stage 1, you’ll need to share with your community the current level of district resources available to meet (or that is insufficient to meet) those needs in order to develop consensus with community members on whether the district will need to find new sources of revenue. Needs assessment should have already been hashed out between the district and community in Stage 1 and a general consensus should already have been reached. In Stage 2:

- Continue to include the steering committee in meetings with your district financial advisor, or at a minimum, provide community members with an executive summary on resources available and bond capacity.
- Continue to share this same information with local media. It may be useful to provide the telephone number and email address of your district financial advisor to local journalists—the district’s financial advisor may be the most qualified person to answer technical financial questions in a manner that everyone can easily understand.
- Be as transparent as possible in sharing information in order to establish credibility. Keep in mind that specialized technical information needs to be “translated into plain English” and summarized in order to be meaningful to non-specialists and to be able to be read in a few minutes. It may appear suspect to some community members if your district doesn’t share financial information in a clear, transparent and easy to understand form.

End of Box 7

Analyzing the Impact of Awarded State Capital Outlay Funds

In order to fully assess district financial resources, your district needs to consider previous awards from the Public School Capital Outlay Council (PSCOC) and other available, not yet utilized capital funding listed in the district's 5 year Facilities Master Plan (FMP), along with revenues from bonds.

Provide an Overview of Previous PSCOC Awards:

- Identify the project
- Identify PSCOC award total
- Identify local match dollars, if any
- Identify project status (i.e., project is completed, project is at which particular phase in construction, project has not yet started, along with funds that have been spent)

Who is Responsible:

This process is technical in nature and should include involvement from the district's financial advisor, and from the district's PSFA regional manager.

NOTE: Move quickly when one of your district projects is a priority in your district FMP, and when that project is near the top of the state Facilities Assessment Database (FAD) of ranked facilities needs across New Mexico¹. State capital outlay dollars can be plentiful at times when oil and gas prices are high, but likewise, those revenues can at times be limited. So if you have a project near the top of the ranked list and state funds are available, get the project completed quickly because the opportunity for funding in future years may no longer be available. Also, it can be effective to highlight to your community that if your bond election is successful, additional state funds can be awarded to leverage the value of the local community investment.

For Additional Information:

See PSFA's website, www.nmpsfa.org for additional information on PSCOC award funding program requirements, along with district obligations and time deadlines when awarded PSCOC funding.

End of Box 8

¹ In order for your district to be awarded capital outlay funds from the PSCOC, your district needs to apply for the funding award, AND the project for which your district is applying for funding will generally need to be within or near the top 100 on the Facilities Assessment Database (FAD) ranked list of all facility needs in New Mexico.

Determining Tax Rates & Assessed Valuation:

When your district needs to raise funds for major capital improvements, the most common way to do that is to use General Obligation (GO) Bonds¹. The “*credit limit*” on how much money you can raise with a GO bond election is your district’s bonding capacity. District leaders need to know the district’s *current and future* bonding capacity, as well as what tax level would be required to mature² the bonds before your district holds a bond election, in order to ensure that sufficient resources are available to fund the district’s facility master plan (FMP). N.M. Const. art. IX, § 11.

The New Mexico Public Education Department (PED) publishes all school district bonding capacities twice a year—as of June 30th, and as of December 31st. However, bonding capacity is dynamic, and districts need to determine their capacities as of the current date. This calculation is specialized, *so district leaders should ask the district’s financial advisor to perform the analysis*. Here’s an overview of the process:

Step 1:

Determine the total assessed value³ of property in the district

- This is the key measure in calculating the district’s bonding capacity.
- Include residential, non-residential and property that is centrally assessed by the state, such as electrical transmission lines.
- A higher assessed value means that more money can be raised by each mill.⁴
- There is wide variance in total assessed value across New Mexico school districts.

Step 2:

Analyze assessed value trends in order to forecast future bonding capacity

- Evaluate the assessed value trend line over four years in order to plan the quantity of bonds to sell, as well as the capital allocation for the bond election
 - Your district has four years to sell the bonds from the date of a successful election, but state law limits any one bond sale to no more than 6 percent of total taxable value.
 - In addition to current capacity, the district can include on the ballot the amount of principal that will be paid off, plus an estimated increase in capacity. (*Please see Box 10 in this manual for additional details on bonding capacity*).

¹ For additional information on GO Bonds, see Box 14 in this manual.

² To “*mature*” a bond means to pay off the bond.

³ “*Total assessed value*” is the sum of all taxable property within the district. It is determined by the county assessor and includes “centrally assessed property,” which is determined by the state—like electrical transmission lines.

⁴ A mill is a monetary unit equal to 1/1000 of a U.S. Dollar, or to 1/10 of a cent. Tax rates are commonly expressed in dollars per \$1,000 of taxable value.

Step 3:

Determining the tax consequences of a bond election on the community:

- This is a specialized calculation. District leaders should delegate it to the district's financial advisor.
- Various types of public capital tools have different requirements and tax consequences, which can change from year to year.
- Given estimated data on how much taxes will increase for community members, based on the proposed level of funds to be raised with the bond elections, estimate/evaluate the level of community support.
- District leaders should have estimated tax impact data available—whether and/or how much taxes may increase if the bond election succeeds is the first question that many community members will ask.

For Additional Information:

Please contact your district financial advisor.

Also: N.M. Const. art. VIII, § 2, art. IX, § 11; NMSA 1978, §§ 7-32-1; 7-34-1; 7-32-15

End of Box 9

Determining Bonding Capacity and Unsold Bonds

A school district's bond capacity is an estimate of how much money the district can raise in a bond election over a particular period of time according to the district's assessed valuation. An overview of the complete formula is in the box below, but this specialized calculation should be provided by the district's financial advisor. District leaders need to know the bottom line—that is, the potential size of a bond election, and the factors that determine capacity.

Step One:

Determine available bond capacity via formula, which works like this:

$$\text{(District Taxable Value)}^1 \times .06 = \text{Total Bonding Capacity}$$

$$\text{Total Bonding Capacity} - \text{Outstanding Debt} = \text{CURRENT AVAILABLE BONDING CAPACITY}$$

- A bond election can be held for any amount that may be more or less than the district's bonding capacity.
- If an election is held for more than the district's available bonding capacity, it includes an estimate of future bonding capacity.

Step Two:

Evaluate whether your district is holding unsold bonds

- Generally it does not make sense to have a bond election if your district has unsold bonds.
- Sell any unsold bonds before holding a bond election—it will look better to your community.
- Possibly explore options for selling unsold bonds under Qualified School Construction Bond (QSCB) and Qualified Zone Academy Bond (QZAB) programs that are explained in Box 14.

Step Three:

Determine your district's maximum future bonding capacity via this formula:²

$$\text{Available bonding capacity} + \text{payments to be made during the next four years} + \text{the net change in the district's total assessed value} \times .06 = \text{Maximum Future Bonding Capacity}$$

Step Four:

Based on this analysis, determine if the bonding capacity meets the need.

For further information:

See N.M. Const. art. IX, § 11;

End of Box 10

¹ "District Taxable Value" is one third of the total assessed value for taxes.

² Determine over FOUR years because the district has four years from the date of a successful bond election to sell the bonds.

Assessing Direct Legislative Appropriations and Offsets

When your district is assessing its potential revenue sources, it should take into account the impact of the legislative offset on previous appropriations. The effect of the offset can be confusing. Here’s a simple explanation.

What It is

The law says that the PSCOC must “*reduce any grant amounts awarded to a school district or another governmental entity for the purpose of passing money through to the subject school district by a **percent** of all direct non-operational legislative appropriations for schools in that district that have been accepted, including educational technology and re-authorizations of previous appropriations.*”¹

How It Works

The *percent reduction* mentioned in the law is each school district’s local match percent for PSCOC award funding. The offset applies to all PSCOC award allocations after January 2003, including funds appropriated through another government entity which pass directly to the school district.

The offset applies to the *district*², so if one school in a district receives a direct appropriation, other projects in the district that receive PSCOC award funding will be subject to an offset. Offset amounts not used in the current year apply to future PSCOC grant amounts.

The law gives districts the right to reject a direct appropriation because of the effect of the offset. For example, a school district receives a direct legislative appropriation for a specific purpose. The effect of the offset would cause the district to receive reduced PSCOC award funding for what it considers a higher priority need, and it chooses to reject the appropriation.

An Example:

Legislative appropriation to a school	\$1,000
PSCOC award to that school’s district	\$2,000
That district’s local match percent	40%
Offset reduction in district’s PSCOC award allocation (\$1,000 x 40%)	(\$400)
District’s net PSCOC award amount (\$2,000 - \$400)	\$1,600
Total funds received by district (\$1,000 + \$1,600)	\$2,600

Fiscal Effects

The most significant effect of the offset is not to reduce total funds that the district receives³, but instead to potentially reduce funds available for higher priority needs, in the event that the direct appropriation was for a lower-priority project than projects for which the district had applied for PSCOC award funding. The offsets can be reduced when the appropriations are for joint-use facilities with another governmental entity or when the appropriation is toward a school facility ranked in the top 150 statewide.

Why An Offset?

The Legislature enacted the offset as one of a number of initiatives it has taken recently to better equalize state funding of capital requests across all of New Mexico’s school districts. The 2002 report of the Special Master appointed as a result of the Zuni lawsuit specifically highlighted “*the dis-equalizing effect of direct legislative appropriation to individual schools for capital outlay purposes.*” The offset was enacted to mitigate this concern.

End of Box 11

¹ NMSA 1978, Section 22-24-5.B(6).

² Excludes direct appropriations received by a state-chartered charter school located in the district.

³ The post-offset net amount of a direct appropriation will always be revenue positive for the district, given current local match percentages.

Key Communications for Resource Assessment Stage: With Whom Should Your District be in Communication During This Stage?

- With ALL school board members.
- With your community, through your district's community facilities steering committee, and via informal contact—the exact approach will of course depend on the characteristics of your community.
- With your district financial advisor.
- With local media. Ideally, a local member of the press, or possibly a free-lance stringer who writes only occasionally for the local paper could be included on the steering committee.
- With your teachers and staff. When staff is kept informed about district facilities and financial planning they are more likely to support those plans—particularly if they have been consulted for their views in an ongoing manner.
- With parents of your current student body. Along with district staff, parents are the local constituency most likely to support school bond elections and should be kept informed.
- With your local government and county clerk. At a minimum, they need to be consulted and kept informed of district plans for facilities and bond elections. Ideally, representatives from local government would be included on the district's facility steering committee.

End of Box 12

**Stage Three:
Determining
Revenue Options**

**Box 13: (Page 27)
Community Involvement in
Determining Revenue Options**

**Box 14: (Pages 28 – 32)
Revenue Source
Analysis**

**Box 15: (Pages 33 – 34)
Legal Factors and
Statutory Calendar**

**Box 16: (Pages 35 – 36)
Analyzing Taxpayer
Impact, If Any**

**Box 17: (Pages 37 – 38)
Key Communications
for Revenue Options Stage**

**ENDPOINT: know if a bond, tax
or other resource would be
most appropriate to the need.
Go to stage four if a bond or
tax election is appropriate**

Community Involvement in Determining Revenue Options

Summary:

By this stage, your district, working with your community facilities steering committee, has analyzed needs and available resources. If resources aren't sufficient to meet needs and needs have been identified through consensus with the steering committee, the district and the committee will need to look at raising money, possibly through a bond election.

In many ways, this is the point when the rubber meets the road in building to the decision to hold a bond election, because this is when your community decides that it may cost them something personally and collectively to address the facilities needs which were identified in Stage 1.

Key Tactics:

- The steering committee should be involved in analyzing revenue options, or at least in evaluating the analysis performed by the district and its financial advisor. It must understand why a particular financial instrument would be the right choice.
- The steering committee should also be briefed on how to answer this question from voters: "*How much is it going to cost me?*"
- It may be sensible for district leaders to seek out community leaders and other persons of influence to solicit their views, and to explain what the district feels would be the right choice. When community leaders are included in the discussions at an early stage, support for the plan may be easier to achieve.
- District leaders and the chairperson of the facilities steering committee may wish to meet with the editorial board of the local newspaper to explain what the steering committee is recommending to the district, along with the underlying rationale for the recommendation.
- Is it possible to OVER promote and thus mobilize opposition to the election? Yes. Your district must use its best judgment on the right level of promotion, with sensitivity to the specific political circumstances of your community.
- The district's financial advisor may not only need to be available, but front and center at this stage of community outreach.

End of Box 13

Revenue Source Analysis Checklist Overview¹:

Here is a list of the most important methods for raising capital, along with how each method can and cannot be used.

It is essential for district leaders to review each of these potential revenue sources to determine which would be most appropriate for its needs. Part of the analysis should be to calculate how much revenue would be available for the project(s) your district is seeking to finance from each of these potential sources.

This is only a general summary. For the most current and comprehensive information, please see the relevant New Mexico statutes, and/or speak with your district financial advisor or district legal counsel.²

General Obligation (GO) Bonds—*require an election*

(N.M. Const. art. IX, § 11; NMSA 1978, § 22-18-1)

What they are: A GO Bond is a promissory note between the taxpayers of a district and a provider of revenue. GO Bonds are matured³ by a tax on all taxable property in the district (via assessed value). (NMSA 1978, § 22-18-12; § 6-15-4)

How they work: The district asks its voters, in a bond election, to allow the district to issue GO Bonds for certain purposes within the district. If the election is successful, and subject to the Attorney General's approval, bonds are issued by the district that are purchased by a brokerage house, bank or other financial institution and then re-sold to investors—or the financial institution may hold the bonds as part of its own investment portfolio. GO Bonds have maturities of up to 20 years. (NMSA 1978, § 6-15-3; § 6-15-4; § 6-15-7 § 22-18-7; § 22-18-9)

What they're used for: New Mexico law limits the use of GO Bonds to facility capital outlay, purchase of a leased facility but NOT lease payments, and/or information technology investments (i.e., hardware/software) *for use in the classroom*. (N.M. Const. art. IX, § 11; NMSA 1978, § 22-18-1)

What they cannot be used for: District salaries or benefits, activity buses, constructing administrative buildings or teacherages, or buying equipment that would network a district's business operations—but GO Bonds CAN be used to network classrooms.

Capital Improvement Act (SB9) Taxes—*require an election*

(NMSA 1978, § 22-25-3)

What it is: A tax of up to two mills⁴ of the district's total assessed value that can be levied by the district for capital improvements. (NMSA 1978, § 22-25-3(A)(2)) The state takes a strong oversight role for SB9 monies, since state funds are potentially at risk.

How it works: The district's electorate is asked to vote on the levying of a tax for up to six years—under certain conditions, the state guarantees that if revenue from the levy does not raise at least \$70 per program unit⁵ per year, the state will make up the difference. (NMSA 1978, § 22-25-3(A)(4))

¹ Please also see Appendix One: *A Brief Primer on Public School Capital Outlay Funding in New Mexico*.

² Legal citations are current as of April 25, 2010.

³ That is, retired, or paid off.

⁴ A mill is a monetary unit equal to 1/1000 of a U.S. Dollar, or to 1/10 of a cent. Tax rates are commonly expressed in dollars per \$1,000 of taxable value.

What it's used for: SB9 funds can be used to purchase vehicles that are used for after school activities, and can be used for capital purchases related to district facility maintenance. (NMSA 1978, § 22-25-2) SB9 monies are the primary revenue stream for district annual maintenance.

What it cannot be used for: Ongoing janitorial expenses, building administration, constructing teacherages, and/or salaries. (NMSA 1978, § 22-25-2)

School Buildings Act (HB33) Taxes—*require an election* **(NMSA 1978, § 22-26-3(A))**

What it is: A tax of up to 10 mills of the district's total assessed value that can be levied by the district for capital improvements. HB33 taxes are similar to SB9 taxes, but the state maintains less oversight on HB33 because state funds are NOT potentially at risk. (NMSA 1978, § 22-26-3(A))

How it works: HB33 is simply a flat tax that requires a local election, and is designed for school districts that have high assessed values. For example, one district in New Mexico has never had a bond election. The District uses SB9 and HB33 taxes for all its capital outlay needs. (NMSA 1978, § 22-26-2) Districts with low assessed values do not gain sufficient revenue from HB33 taxes. There is no potential state match with HB33 taxes. The maximum length of time for this tax is six years. (NMSA 1978, § 22-26-8)

What it's used for: Same as SB9, but with a few additional statutory limitations. (NMSA 1978, § 22-26-2)

What it cannot be used for: HB33 tax revenues cannot be used to buy computer software for student use in public school buildings.

Public School Capital Outlay Council (PSCOC) Standards-Based and other PSCOC facilities funding—*do NOT require an election*

What it is: State capital outlay grants, based on a statewide ranked list of greatest facility needs. If a facility need falls within the top 100 greatest needs on the state's New Mexico Condition Index (NMCI)⁶ List, a district is likely to receive a state grant during the current funding cycle to address the need. This Standards Based funding program requires local matching funds from school districts. The PSCOC also awards grants to districts and charter schools for lease payment assistance, abandoned facility demolitions and other programs, which can vary somewhat from year to year.

How it works: Districts need to apply for these funds. High rank on the NMCI list isn't sufficient to receive an award. The New Mexico Public School Facilities Authority administers all PSCOC funding programs. PSCOC award grants are offset against district legislative appropriations—(see Box 11 for further details).

What it's used for: The Standards Based program helps fund school facility—new construction and/or renovation—needs up to the limits defined in the state's public school facility Adequacy Standards. The state's Lease Payment Assistance Funding is used to help charter schools and other public schools provide classroom space.

What it cannot be used for: Standards-based funding cannot be used for public school facilities expenses which go beyond the state adequacy standards, or for the purchase of land for a school building.

⁵ "Program unit" as calculated in the Public Education Department's funding formula.

⁶ New Mexico's NMCI ranked list of greatest public school facilities needs is sometimes also called the Facilities Condition Index (FAD), the 3DI list, and/or the Comet database.

Education Technology Equipment Lease-Purchase Arrangements (LPAs)—*do NOT require an election* (N.M. Const. art. IX, § 11; NMSA 1978, § 6-15A-2)

What they are: A financial instrument that can be used to provide revenue for Ed Tech equipment for school districts—under New Mexico statute, LPAs can be used for a broader array of technology equipment than GO bonds. (NMSA 1978, § 6-15A-3)

How they work: Ed Tech Equipment Lease-Purchase Arrangements (LPAs) are a debt created by a district through certificates of participation (COPs) or similar obligations without a local election paid through a tax that is levied on the assessed value of property in the district. Ed Tech Equipment LPAs have maturities of up to five years. (NMSA 1978, § 6-15A-7(C)) The New Mexico Attorney General has issued an opinion that a debt incurred under the Education Technology Equipment Act must be pursuant to an LPA and that the language in NMSA 1978, § 6-15A-3(C) that expands the definition of LPAs to beyond a true lease-purchase arrangement, *e.g.*, notes and bonds, is unconstitutional. AG Opinion No. 08-01 (2008).

What they're used for: A broad range of education technology equipment, including computer hardware and software, transmission, networking hardware etc. (NMSA 1978, § 6-15A-3(B))

What they cannot be used for: The New Mexico Attorney General has determined that “education technology equipment” does not stand alone as a desk or other piece of furniture or equipment, but can include improvements, alterations and modifications to or extensions of existing buildings as long as there is a nexus between the personal property that is being leased/purchased and those tasks. (AG Feb. 12, 2001 Letter to Representative Nick Salazar.)

Teacher Housing (Teacherage) Revenue Bonds—*do NOT require an election* (NMSA 1978, § 22-19A-3)

What they are: Bonds that can only be used to build/remodel/maintain teacherages. (NMSA 1978, § 22-19A-3) The only revenue that can be used to mature these bonds is 1) federal Impact Aid, 2) other unrestricted federal funds, and 3) revenues received as rent on the teacherages. (NMSA 1978, § 22-19A-2(F); § 22-19A-4(B))

How they work: An election isn't required for these bonds to be issued. Teacherage Revenue Bonds have maturities of up to 30 years.

What they're used for: Residential housing facilities for teachers, including land and land improvement. (NMSA 1978, § 22-19A-2 (C))

What they cannot be used for: Anything other than teacherages.

Tax Anticipation Certificates – *do NOT require an election* (NMSA 1978, § 22-8-35)

What they are: Short term notes used to provide cash immediately, based on anticipated revenues from either HB33 or SB9 taxes. (HB33 and SB9 tax levies DO require an election, NMSA 1978, §§ 22-25-3 and 22-26-3).

How they work: Tax Anticipation Certificates provide revenue that can be used for school building construction and repair or both as approved by the voters in the SB9 or HB33 election, with a maturity of one year or less and bear interest of no more than 6% per year. For example, one New Mexico district has a two mill SB9 tax levy in place, and the district issued a Tax Anticipation Certificate for \$150k, based on its anticipated receipt of \$150k within 12 months from their SB9 levy. Tax Anticipation Certificates can be issued without an election.

What they're used for: Getting cash now when revenues will accrue within 12 months to retire the certificate. Tax Anticipation Certificates can be used for school building construction and repair or both if that is the purpose for which the SB9 or HB33 tax levies have been made.

What they cannot be used for: Purposes other than operating expenses and school building construction and repair or both as approved in the SB9 or HB33 election.

NOTE: Tax Anticipation Certificates can also be used for operating expenses. As a practical matter, however, it may not be good financial policy to use this or any other one time revenue source for recurring expenses.

Bond Anticipation Notes (BANs) – *do NOT require an election* (NMSA 1978, § 22-19B-4; § 22-19B-5)

What it is: BANs are conceptually similar to Tax Anticipation Certificates, but for use when districts have authorized but unsold bonds, and need revenues immediately.

How it works: A district can issue BANs 1) up to the amount of bond principal payments that will be made over the next twelve months, OR 2) up to the amount of authorized by unsold bonds the district is holding *whichever is lower* (NMSA 1978, § 22-19B-6). For example, if your district has \$1 million in authorized but unsold bonds and the district will pay off \$1 million in principal over the next twelve months, the district can issue \$1 million in BANs. BANs carry no local election requirement, and must be retired in one year or less by the sale of GO Bonds. (NMSA 1978, § 22-19B-5)

What it's used for: To gain access to revenues immediately. BANs can be used for whatever was authorized by the voters for the GO Bonds that underlie issuance of the BANs. (NMSA 1978, § 22-19B-6(D))

What it cannot be used for: BANS cannot be used for anything that goes beyond the scope of the bond question that was approved in the local election. (NMSA 1978, § 22-19B-6(D))

Direct Legislative Appropriations—*do NOT require an election*

What it is: Districts can make a request to their state senator or representative for a grant from the New Mexico Legislature.

How it works: For example, a district may request funds for a sports facility from their state legislator, who may succeed in gaining the funds for the district. Direct Legislative Appropriations are subject to an offset against PSCOC funds—meaning that districts may have any PSCOC funds reduced by a portion or by the full amount of the legislative appropriation they received. (See Box 11 for additional details on legislative offsets.)

What it's used for: Direct Legislative Appropriations can be used for any public purpose that is specified in the contingency language in the appropriation.

What it cannot be used for: Uses for Direct Legislative Appropriations are limited by the language governing the appropriation.

Qualified Zone Academy Bonds (QZABs) –*do NOT require an election*

What it is: QZABs, created by the federal government, are non-interest bearing bonds that provide a government tax credit to the bondholder, rather than an interest payment from the school district. Therefore, the district is generally responsible for repaying only the amount borrowed. Districts that have been authorized to issue bonds may designate all or any part of the bonds as QZABs as long as they meet federal and state criteria, such as at least 35 percent of the school's students are eligible for free or reduced-prices school meals, and have a 10 percent match from a business or nonprofit partner,

which can be in cash or in-kind donations. Districts must submit an application to the New Mexico Public Education Department (PED) for authorization to issue QZABs. (NMSA 1978 §22-18B-2, 3, 4)

How it works: One New Mexico district had authorized but unissued bonds of \$15 million. The district's non-profit foundation served as its local business partner to allocate \$1.5 million to the district. \$15 million in bonds were issued, and the district saved \$6 million in interest costs.

What it's used for: Building renovation and remodeling, technical assistance in developing curriculum or in training teachers, services of employees as volunteer mentors, internships, field trips or other educational opportunities outside the school, and any other property or service specified by the board. (NMSA 1978, § 22-18B-3, -4)

What it cannot be used for: QZAB funds cannot be used for new construction. (NMSA 1978, § 22-18B-3)

Qualified School Construction Bonds (QSCBs)—*do NOT require an election*

What it is: Districts that have been authorized by voters to issues bonds, or are in the process of obtaining authorization, may designate any or all of the bonds as QSCBs, with an allocation from the PSCOC—districts cannot designate bonds as QSCB without authorization or an allocation.

How it works: QSCBs are a complicated financial tool that have not been widely used in New Mexico—they are a new tool created under the American Recovery and Reinvestment Act of 2009 (ARRA). Bonds must meet all the requirements of state law (NMSA 1978, § 22-18C-3) and Section 1521 of the federal American Recovery and Reinvestment Act of 2009.

What it is used for: Must be used for construction or repair of a school facility, acquisition of land on which a school facility is to be constructed with part of the proceeds, or the acquisition of equipment to be used in a school facility being constructed or repaired with the proceeds, all as defined by state and federal law. (NMSA 1978, § 22-18C-3).

What it cannot be used for: Districts must use QSCBs only for purposes permitted by state and federal law – please see your district financial advisor for specifics. (NMSA 1978, § 22-18C-3).

Defeating Bonds—*do NOT require an election* (NMSA 1978, § 22-19-13)

What it is: Paying off issued bonds either to make bonding capacity available or to lower local tax rates by potentially retiring higher interest rate bonds by issuing lower interest rate bonds. (NMSA 1978, § 22-19-13)

How it works: Assume that a bond series sold at 5 percent. 8 years later interest rates have declined to two percent. If the bonds are callable⁷—the district can issue new bonds at a lower interest rate in order to pay off the sold bonds. No local election is necessary.

What it's used for: To increase bond capacity or to lower interest rates.

What it cannot be used for: Cash dedicated to debt service cannot be used for any purpose other than to pay off debt or to lower interest rates. (NMSA 1978, § 22-19-13)

For Additional Information:

The information in this checklist is highly technical and subject to annual change. Before determining that one or more financial instruments outlined here would be appropriate for your facilities funding strategy, please consult with your district's financial and/or legal advisor.

End of Box 14

⁷ "Callable" means that the district can "call" the bonds back from investors and retire them.

Legal Factors & Statutory Calendar¹

Summary:

A school district must ensure that it complies with all applicable statutory and other requirements. Failure to do so can invalidate a successful bond election, or delay the sale of bonds.

Step One: Ensure purposes for which the general obligation bonds will be issued are authorized by law:

- NMSA 1978, Section 22-18-1 allows general obligation bonds to be issued for the following purposes only:
 - Erecting, remodeling, making additions to and furnishing school buildings;
 - Purchasing or improving school grounds;
 - Purchasing computer software and hardware for student use in public schools;
 - Providing matching funds for capital outlay projects funded pursuant to the Public School Capital Outlay Act (NMSA 1978, Section 22-24-1);
 - Executing an option to purchase a lease-payment facility, but NOT to make lease payments, pursuant to a financing agreement entered into by the school district or a charter school located in the school district for the leasing of a building or other real property; or
 - Any combination of these purposes.

Step Two: Draft question(s) on the ballot to state purpose or purposes for which bonds are to be issued and amount of the bond issue:

- NMSA 1978, Section 22-18-5 permits two or more separate questions on the ballot, but each must state the purpose(s) for which the bonds will be issued and the total amount of the bonds;
- Each question must be separately counted, canvassed and certified.
- The ballot must contain a place for:
 - A vote “For the school district bonds” and
 - A vote “Against the school district bonds”
- If paper ballots are used at a bond election, all questions to be voted on must be listed on one ballot.

Step Three: Ensure that the same question has not been presented to voters within last two years:

- NMSA 1978, Section 22-18-8 states that if a majority of voters vote against a bond question at a bond election, the same question may not be asked in another bond for a period of two years from the date of the failed election, unless;
 - At least six months have expired from the failed election; and
 - Presentation to the Board of a petition signed by at least ten percent of the number of votes cast for governor in the school district at the last preceding general election. The Board must call for a bond election within ninety days from the date such a petition is filed.

¹ Statutes cited are current as of April 25, 2010, but are subject to change.

Step Four: Make sure that the Board's Open Meetings Resolution is current and that all Board meetings comply with it:

- NMSA 1978, Section 22-18-9 requires the Attorney General's approval of any bond issue;
 - Attorney General requires:
 - Current Board Open Meeting Resolution;
 - That all Board meetings be advertised and noticed in accordance with the Board's Open Meeting Resolution;
 - Failure to obtain Attorney General's approval can invalidate the election or delay the sale of bonds
- NMSA 1978, Section 22-18-10 permits a bond election to be challenged within ten days of publication of the certificate of results of the bond election by the superintendent of schools.

NOTE: A number of school boards in New Mexico are unaware that they must adopt an open meeting resolution *once every year*.

Step Five: Review, become familiar with, and comply with statutory deadlines:

- New Mexico law sets forth specific time frames for Board meetings to be held, for publication of notices of elections, and other pre-election activities
 - The New Mexico School Boards Association provides an election calendar for the upcoming year at its Annual School Law Conference.

End of Box 15

Analyzing the Taxpayer Impact of a Pending Bond Election—and How to Explain It to Your Community

Summary:

A new bond election can increase the tax bill of some or all of the members of your community. “*How much are my taxes going to go up?*” is the first question people ask when the district calls a new bond election. District leaders need to work with their financial advisor in order to cut through all the complexities of this calculation, and to develop a *simple, bottom line answer* to this key question.

As early as possible in the bond election process, and once your district and community have established the validity of the need, your community should be informed about the cost of addressing the need, along with the corresponding property tax impact.

Not all GO bond elections will increase local taxes. Bond elections that don’t increase local taxes are obviously much easier to pass, and are preferable when possible. When an election won’t increase local taxes, this would be the single most important aspect of the election to promote to your community.

An effective means to promote a new tax may be to look at the average tax rate over ten years, and to compare the proposed tax to the average paid over time—ideally, the proposed tax would not increase what a voter will pay beyond that ten year average.¹

Steps in this Process: how to explain the tax impact on a voter of the proposed bond election:

- Determine the full value of the voter’s home (full value is 100 percent of the value of the home)
- Determine the taxable value of the voter’s home (taxable value is 33 percent of full value)
- Determine the tax rate, but focus instead on the amount of taxes to be paid—focusing on tax rates raises a range of technical complexities that can be confusing.
- Multiply the tax rate against the taxable value of the voter’s home to determine an estimate of what the bond election will cost that particular voter.²
- Beyond this simple analysis, refer voter questions to your financial advisor, district business manager or other financial specialist.
- Keep it simple. Complicated explanations are NOT what most voters are looking for.
- Avoid dealing with exemptions in the formula—the tax impact of exemptions is minor, but the negative impact on a clear explanation of “*what’s it going to cost me*” can be enormous when exemptions are included.

¹ There are any number of minor variances which slightly raise and lower taxes paid over time. While a proposed bond election may raise taxes over current levels, it can often be the case that the election will NOT raise taxes over the average ten year rate. This explanation can be effective in gaining support for the bond election from your community.

² The tax rate is applied to one third of the full value, so if you raise taxes by 1 mill, that is, by \$1 per \$1,000 of value, you would be raising taxes by \$33 on a \$100,000 property.

Communicating Taxpayer Impact:

- Consider preparing a SIMPLE brochure that provides an example of how to calculate how much taxes will increase, or that indicates clearly that they will NOT increase.
- Use picturesque examples for how small the increase may be—for example, the increase will be a case of soda, or a dinner in a modest restaurant, which begs the question: are our kids worth the cost of a case of soda?
- Again, less is more in the financial explanations. Refer anyone who wants more detail to your financial advisor.
- Make your financial advisor available to the community to answer questions. Since not everyone in every community may trust the district, provide contact info for your financial advisor—a third party source may add credibility.
- Fully explain the need in layman’s terms, both in the bond election brochure and in any other communications with your community. Feedback from past school bond elections in New Mexico indicates that tax rates matter less to most communities than knowing what the district intends to do with the bond proceeds and why that is something that the school needs.
- If your district has established a community facilities steering committee as the first step in your bond election process, steering committee members will have a clear idea of the need, the available resources, and why raising money to meet the need is essential. Use the committee to gain community support. In New Mexico, community facilities steering committees have often decided to ask for a larger bond amount than their school district felt the community would support, once the committee fully understood the need.

Local Examples:

One New Mexico district distributed a bond election brochure that was 8.5 x11 and six pages long. It was hard to read and harder to understand. The election failed.

After failing a bond election, another New Mexico district put out a brochure for a second bond election that explained tax impacts in great detail, including head of household exemptions, veteran’s exemptions and other minutiae, all with multiple examples. It was hard to read and harder to understand. The election failed.

Another New Mexico district had an HB33 mill levy in place, but for its needs, SB9 was more appropriate, so the district presented the SB9 election on the basis of transferring 2 mills from one tax to the other, meaning that there was no net increase in local tax rates, even while the district was able to gain the funds it needed. The election passed.

A district in New Mexico with a significant elderly population passed a GO bond election for \$42 million—a bond election had not passed since 1954, so the community wasn’t used to paying taxes for schools. The district succeeded with this election by clearly explaining why it needed the money, for what the money would be used, and by involving the major business leaders in the community in the election process.

End of Box 16

Key Communications for Revenue Options Stage:

- The focus is on your community facilities steering committee—if the committee is large, it may be practical to create a financial subcommittee within the steering committee. The steering committee should educate the public about the need for the election and garner support.
- At this stage, your district may need to hand off communications to the financial specialists.
- Produce a bond election brochure which is **SIMPLE, SHORT, FACTUAL, CLEAR** and written in language that non-specialists, and most importantly, that your average community members would be able to understand. Focus the brochure on 1) what and how much the district needs, 2) what the district will do with the money, 3) and what it will cost taxpayers. (Please see Box 20 for additional information.)
- This is the stage in the bond election process that is immediately before the election. So, this is when your steering committee really needs to be building up momentum for garnering public support for the election.
- Is it possible to **OVER** promote and thus mobilize opposition to the election? Yes. Your district must use its best judgment on the right level of promotion with sensitivity to the specific political circumstances of your community.
- You should have been developing a close working relationship with local media in stage one. At this stage, media can assist in answering the question: *“What’s it going to cost me?”* Give the local reporters a copy of your election brochure so that they have the facts in hand to best explain costs to local constituents.
- Consider arranging a meeting between the local paper’s editorial board, your steering committee chair, school board president and superintendent in order to discuss and explain all the key details about the election and why it’s needed.
- Put your district financial advisor in contact with local media, both as a subject matter expert and as an objective third party source of information.
- It may be effective for your financial advisor to offer early updates of any key bond election events to media in order to pre-empt uninformed speculation from appearing in the press that could be negative.
- Establish clear lines of communication in order to speak with one voice and minimize confusion among voters regarding the key facts about the election.
- Keep your staff and parents of your current student body informed. It may be effective to have students take home a factual brochure to their parents.

Local Case Studies:

The steering committee in one New Mexico school district has 40 members who represent all sectors of the community, including PTA, parent advisors, bankers, representatives of public service clubs like Rotary and local media.

In another New Mexico district, the term *bond election* was simply never used—it was a major negative within the community. In raising facilities funds, the district was at first intending to increase HB33 taxes to the maximum levy available. The steering committee and the district financial advisor analyzed revenue options. The steering committee saw what needed to be done and the level of funding that would be required, and at that point *the community steering committee itself* decided that it was necessary to hold a bond election. News media were also important to the process in writing articles and explaining specifics.

End of Box 17

Stage Four: Election Planning

**Box 18: (Page 40)
Community Involvement
in Election Planning**

**Box 19: (Pages 41 - 42)
Election Timing
Factors**

**Box 20: (Pages 43 – 47)
Election
Strategy**

**Box 21: (Pages 48 – 49)
Election Logistics
and Legal Requirements**

**Box 22: (Page 50)
Key Communications
for Election Planning Stage**

**ENDPOINT: determine all
key factors that optimize
the probability of bond
or tax election success
while complying with the law**

Community Involvement in Election Planning:

- Stage 4 will involve the greatest number of participants of any of the 5 stages in the bond election process.
- Your district will need to manage the logistics of the election—while your county clerk is responsible for direct election administration, all the details of the election will need to be established and verified.
- Your district will need to *facilitate* management of the election campaign. Again, use of public funds for a YES or NO vote in a bond or tax election is prohibited. The steering committee has no such prohibition and should play this role. The *district's* role in election related communications is to inform voters of the underlying facts—why the need, how much it will cost, the tax impact if any, how the money will be used, when the project will be scheduled etc.
- Is it possible to OVER promote and thus mobilize opposition to the election? Yes. Your district must use its best judgment on the right level of promotion with sensitivity to the specific political circumstances of your community.
- District staff and parents of current students should be fully informed about all aspects of the election. If staff and parents have played an active role in stages 1-3 of the bond election process, gaining their support for the election and for getting out the vote should be easier.
- Sending students home with a copy of the informational bond brochure may be an effective means of getting election information into the hands of parents.
- Potential supporters, especially opinion leaders in the community, should probably be contacted in person by steering committee members, the rationale for the election should be explained and their support should be respectfully requested.
- Media contact at this stage should be extremely active. It may be effective for the steering committee chair, school board president and superintendent to meet with the editorial board of the local paper to provide factual information about the bond election, why it is needed, how funds will be used, etc.
- All in all, your district should analyze the level of support from each of its community constituencies and seek to get out sufficient votes to prevail in the election.

End of Box 18

What Your District Should NOT Do in Timing a Bond or Tax Election:

Here are a few election timing factors that can negatively impact bond elections:

- Do not hold an election when school is not in session.
- If your district chooses not to hold the election during the regular bond election cycle in February, consider holding it shortly after school starts because parents tend to be interested and concerned about school at that time.
- Do not hold an election around tax time in April.
- Do not hold an election around Christmas or Thanksgiving—December elections are generally not optimum. Your community is less likely to be engaged in the election process during the holiday season.
- If at all possible, do not hold an election near any other elections. State law prohibits a school election from being held 42 days prior to a statewide election. **NMSA 1978, § 1-4-10. State law allows** a municipal election to be held concurrently with a regular school district election but prohibits a municipal election from being held 42 day prior to or 30 days after a regular school district election. **NMSA 1978, § 3-8-9.** Try to coordinate elections with municipal governments. Multiple elections on the same day and/or using one ballot can be confusing to voters.
- Try to hold your election earlier on the calendar than municipal elections—it is better that school and municipal bond elections are as far apart as possible on the calendar—six months is too close. Work with the municipal government to spread out any elections on the calendar as much as possible.
- If your school district is in a Native American community, work to assure that the tribal council supports the election.
- It may be effective to seek the support of non-tax paying voters in district bond elections.
- In years past, conventional wisdom indicated that bond elections should not be combined with school board elections because the bond campaign could become a lightning rod for dissent against board members. This simply hasn't proven to be a factor anymore—more than 20 bond and school board elections were combined in New Mexico in 2009 with no evident negative effect on bond election results. So the district may be able to economize by combining bond and board member elections.
- Early planning for the availability of election equipment and for logistics with the county clerk is essential. Voting machines may need to be quarantined for at least 30 days after an election, so machines may not be available upon short notice. (However, if the machines are not available, it may be possible to ask a judge to order the release of at least a handful of machines.)

What Your District SHOULD Do in Timing a Bond or Tax Election:

- Communicate with and update your county clerk.
- Communicate with all the key people in the community about the district's plans. It may be counterproductive to seek to exclude information from potential opponents to the election because this may cause anger, and anger may in turn cause opposition voters to make an extra effort to turn out on election day.
- Do early planning to offset all the logistical constraints outlined on the preceding page.
- Meet with potential opponents who may be willing to take a neutral stance in the election after learning about the needs and plans of the district.

End of Box 19

Bond Election Strategy

New Mexico is a rural state, and most of our school districts are small. Purely in terms of the number of voters compared against the number of district staff, a great many district bond elections can—and have—been won by getting as many district staff as possible to vote. Given that voter turnout in bond elections can be quite low, it may be possible to carry elections even in larger communities on the basis of votes only from district staff and parents of current students.

As we've explained in earlier stages, this strategy, although it can be effective, has the significant downside of potentially alienating your community, and potentially leading to the emergence of an organized opposition to district initiatives, a high number of protest votes and other long term negative consequences. All in all, it may be better over the long term to cultivate an active partnership with your community, based on giving people a seat at the table (via a district community steering committee), and by demonstrating your district's honesty and transparency of actions.

Getting Out the Vote Among District Staff and Parents

However, purely from a tactical standpoint, a district which does not garner the support of its staff and of the parents of its students in bond elections is failing to capitalize on the two constituencies that have the greatest potential interest in supporting the election. So the district *should* take active measures to gain support of staff and parents, and to assure that staff and parent voter turnout is exceptionally high.

Communicate with ALL District Staff

In small communities in particular, word of mouth is the primary driver of election success. Because they usually live in the community, janitors, bus drivers, cafeteria workers and administrative assistants may drive the majority of word of mouth election promotion, and cannot be overlooked in communicating with staff about why the election is necessary. A New Mexico district once lost a bond election, and post election analysis suggested that an incorrect rumor may have played a critical role in the loss. The district tracked down the source of the rumor to a bus driver, who had heard children talking on the bus and assumed, incorrectly, that there was a problem with what the bond election was meant to fund. If district election communications had been more fully inclusive of all staff, the loss might have been avoided.

Do Not Waste Time or Money on Entrenched Opponents—On Reversing the NO Vote

Statistically, approximately 30 percent of voters oppose school district bond measures—because they resent the public sector, are on fixed incomes, have no children, have no other personal incentive for schools to be successful, or for any number of other reasons. Districts cannot afford to waste their effort on attempting to convert the entrenched NO. Focus instead on finding the people who have a reason to vote YES, target a sufficient number of sectors to represent a majority in order to pass the election, and then focus on getting potential YES voters to turn out for the election.

Is it possible to OVER promote and thus mobilize opposition to the election? Yes. Your district must use its best judgment on the right level of promotion, with sensitivity to the specific political circumstances of your community. Likewise, it may be counterproductive to exclude potential NO voters from communications about the election because this may lead to anger, and anger may cause opposition voters to make an added effort to turn out on election day.

Longer Term, Seek to Create a Vested Interest in the District on the Part of Entrenched NO Voters

Do senior citizens have a place to meet? The school may be able to provide it. Could the district partner with the community in other ways to draw community members into a relationship with its schools? Perhaps fitness facilities could be made available; performing arts facilities may be able to be used by community groups etc.

Seek to Maintain A Consistent Tax Level

Voters are naturally more willing to continue paying their current level of tax, so it may make sense to balance project timetables in your district's FMP in order that tax levels remain stable. Allowing taxes to drop off will require your district to re-establish your community's comfort with the level of tax that the district needs to meet community expectations for quality education.

Properly Maintain District Facilities and Communicate This to Your Community

If your district can demonstrate that it takes good care of its community-funded facilities, community members may be more inclined to support new facilities projects.

Use State Matching Funds as a Carrot for Passing Local Bond Elections

Standards-based public school capital outlay funding, New Mexico's largest public school facilities funding program, partners with school districts by providing *matching funds* for facilities projects. Districts are obligated to share in project costs. A number of school districts have successfully communicated to their communities that for every dollar raised locally, the state will provide an additional XX dollars, leading to greater "bang for the buck."

Focus on How the Bond Question Should be Written

It should be specific enough to draw out the vote—for example, "*Build a new school*"—but not so specific that it limits district flexibility when circumstances in the district change.

A school district may use the bond proceeds only for the purposes authorized by the majority of voters at the election. Therefore it's important to carefully draft the bond question that will appear on the ballot. Because it may be impossible to predict what the district's needs and costs for specific projects will be when the bond proceeds are available, it's usually best to develop a bond question that states the broad purposes authorized by law instead of one with specific purposes.

For example, approval of a question that authorizes a district to issue bonds for the purpose of “erecting, remodeling, making additions to and furnishing *school buildings*” will allow the district to construct, remodel or furnish *any of its school buildings*. On the other hand, approval of a question that authorizes a district to issue bonds for the purpose of “erecting a *middle school*” will allow the district to construct a middle school *only*. By the time the district sells its bonds and is ready to begin construction of the middle school, there may no longer be a need for a new middle school, *i.e.*, enrollment of middle school-age students may have declined. The school district will not be able to use the bond proceeds for any other purpose because the voters’ approved bonds for a very specific purpose.

Old and New Tactics

There are two strategies which have been effective in the past, but which may no longer be as important from a tactical standpoint:

1. Linking a bond campaign for needed academic facilities with one that funds sporting facilities—communities have often tended to support new football stadiums or swimming pools more readily than they have supported new classrooms.¹
2. And in larger districts, making sure that the bond election, if successful, will offer something to everyone, with improvements at as many of the schools in the district as possible as a means to garner the highest possible voter turnout based on “*what’s in it for me or my kids.*”

What has made these election tactics potentially less important? Almost all school districts in New Mexico now create five year facility master plans (FMPs). The FMP clearly outlines how the district intends to address its facility needs over a five year planning period. If your community members can see that *their* schools are scheduled for repair, refurbishment or replacement within a reasonable time period, they may be more inclined to vote for bond elections that don’t include schools in which they have a personal interest. Also, the state Facility Assessment Database (FAD) makes it easier to convey to your community that projects near the top of the list of greatest school facility needs in New Mexico, *i.e.*, the worst in the state, would need to be addressed.

An example: For the past 20 years, one large New Mexico school district found it difficult to include new high schools in its bond elections because the projects were expensive AND only directly addressed educational needs in a portion of the city. With the advent of FAD, this district has found it easier to raise local funds for larger projects, and has recently built two new high schools.

¹ This approach has been used widely across New Mexico. However, it’s important to understand that adding unnecessary square footage to the district as a carrot to pass bond elections incurs a cost. Each square foot of additional space at the district consumes on average \$6 per annum in maintenance and overhead costs. When a district has substantial unnecessary square footage the drain on school operating budgets can be substantial. Teacher salaries come from the same pot of money as facility operating costs, so by adding unneeded space, districts may be reducing resources which could more productively be directed to the classroom.

Of course your district must assess the priorities of your community to determine what is needed for the election to garner majority support. Any one or more of the three options above may be effective.

Preparing an Effective Election Pamphlet/Flyer

The NM Attorney General has concluded that school districts may make reasonable expenditures to give voters relevant facts to aid in voting on a school tax or bond proposal, but *may not take any official position in any printed material produced and distributed with public funds, and may not use public money to urge voters to vote a particular way.* N.M. Att’y Gen. Op. No. 85-6 (1985); April 25, 1994 Advisory Letter to Thomas A. Rutledge, District Attorney.

The style, tenor and timing of any literature provided by a school district must be designed primarily to *educate* voters rather than to *influence* voters. The information provided by a school district must be factual information about a bond issue that is presented in a fair and balanced manner and can urge voters to vote in the election.

Your district facilities steering committee can raise and expend private funds, and does not have the same or similar restrictions. These committees may create and distribute material intended to persuade voters to vote in favor of the bonds.

An Effective Election Pamphlet/Flyer Should:

- Identify the school district as the source of the pamphlet or flyer. State law requires all campaign communications to identify the sponsor or source of the communication. NMSA 1978, § 1-19-16.
- Be honest about how the bond proceeds will be used. Do not promise something you cannot deliver. You do not want voters coming back after you begin spending the bond proceeds and saying that they thought the money was going to be used for something else.
- Use clear and plain language. Technical terms can create distrust in voters, who may feel that the “fancy” language is hiding something. It can also lead voters to believe the money is intended for experimental or gold-plating purposes rather than practical needs.
- Focus on what the immediate needs of the district are. You should not include your complete wish list for the district.
- Describe the purposes for which the proceeds of the bonds will be used in general terms. It is not necessary to go into great detail, which can raise questions and/or cause doubt in a voter’s mind. For example, state that the money from the bonds will be used to install a new heating and cooling system in the middle school; do not say that the money will be used to install the latest hi-tech geothermal HVAC system manufactured by XYZ, Inc. Voters may view this as a passing trend that they do not want to invest in. And, although the Board may be considering installing such a

- system, by the time the bonds are sold to purchase the system, market conditions may make it cost prohibitive or impracticable.
- Provide information about who may vote and where voting will take place. Be sure to include early voting information and absentee voting information.
 - Include the bond question exactly as it will appear on the ballot so that voters will be familiar with the question when they vote. This will also allow voters to ask questions and become better informed before they get to the polls.
 - State whether there will or will not be an increase in taxes and whether this is a continuation of an existing tax.

The Day of the Election

An effective election strategy should include a plan for getting out the vote, particularly among key constituencies. Here are two possible ideas:

- Consider holding a parents' lunch at school on election day that would be sponsored by local merchants and/or members of the facilities steering committee. Schools are usually also polling places, and it may act as an incentive for parents.
- To emphasize the importance of the arts and the need for funding, consider having the choir or band provide entertainment during the parents' lunch or during polling.

End of Box 20

The Election: Logistics and Legal Requirements¹

Summary:

The superintendent and the county clerk of record each play an important role in preparing for the election. Both have statutory filing and publication deadlines that must be met prior to the election. Failure to meet these deadlines can require cancellation, postponement, or nullification of the election. The school district is responsible for the costs of the election, but the election itself is conducted by the county clerk of record.

We want to emphasize that all the seemingly minor technical and legal details **MUST** be carefully managed. (*One school district in New Mexico left a typo for the wrong date in election documents, and after carrying the election, was unable to access funds for twelve months due to that typo.*)

Also, remember that your district can hold an election for SB9 every six years—it can be easy to overlook that SB9 taxes must be renewed every six years via an election.

Step One: Ensure the proclamation calling for the election is filed:

NMSA 1978, Sections 1-22-4(A) and 1-22-5(A) require the superintendent to file the proclamation calling for a regular or special school bond election with the county clerk of record.

Step Two: Confirm the proclamation calling for the election is published within the statutory deadline:

NMSA 1978, Sections 1-22-4(C) and 1-22-5(C) require the county clerk of record to publish the proclamation at least once in a newspaper of general circulation within the school district not less than fifty days before the election.

Step Three: Ensure the proclamation with the bond question and precinct board members is issued and published pursuant to the statute:

NMSA 1978, Section 1-22-11 requires the superintendent to issue and publish the proclamation listing the bond question to be submitted to the voters of the school district and the names of precinct board members of the school district.

NMSA 1978, Section 1-22-11 also requires the proclamation be published once each week for two successive weeks, with the last publication being made within seven days but not later than two days before the date of the bond election.

The cost of the publication must be paid by the school district.

¹ Statutes cited are current as of April 25, 2010, but do change over time. Please verify with your district's bond counsel.

Step Four: Contact the county clerk to ensure ballots are prepared and printed with the correct bond question:

NMSA 1978, Section 1-22-10(B) requires the county clerk to prepare and print the ballots by the thirtieth day preceding the election.

NMSA 1978, Section 1-22-10 specifies the form and content of a ballot and requires that voting machines must be used for the recording of votes, except that paper ballots may be hand counted instead of using a voting machine to tabulate ballots for school districts of less than 500 average daily membership.

NMSA 1978, Section 1-22-19(B) requires absentee ballots to be printed at least thirty days prior to the election. Any voter must be able to vote by absentee ballot for a bond question appearing on the ballot as if he/she were able to cast his/her vote on the day of the election.

Step Five: The county clerk is responsible for voter registration.

NMSA 1978, Section 1-4-8(A)(1) sets the deadline for voter registration for a school district election at 5:00 p.m. on the 28th day immediately preceding the election.

NMSA 1978, Section 1-22-19(B) requires absentee ballots to be marked in person at the county clerk's office between 8:00 a.m. on the 25th day preceding the election and 5:00 p.m. on the Friday preceding the election.

NMSA 1978, Section 1-6-10(C) requires the county clerk to destroy unused absentee ballots.

NMSA 1978, Section 1-6-10(B) requires the county clerk to receive mailed absentee ballots.

NMSA 1978, Section 1-6-11 requires the county clerk to deliver marked absentee ballots to the absentee voter precinct board.

Step Six: The county clerk administers and conducts the election, but the school district pays the costs.

NMSA 1978, Section 1-12-1 requires the polls to be open from 7:00 a.m. to 7:00 p.m.

NMSA 1978, Section 1-22-12 requires the county clerk to administer and conduct the election and the school district to pay the costs.

NMSA 1978, Section 1-6-6(D) requires the county clerk to deliver a complete list of all absentee ballot applicants and early voters to the absent voter precinct on election day.

End of Box 21

Key Communications for The Election Planning Stage:

- In stages 1-3, the deep involvement of your community in determining needs, available resources and any requirements for additional resources means that the community steering committee and other local advisors have become fully informed and educated about what has culminated into a viable bond election strategy. Inevitably, this process will have resulted in discussion and analysis of the major concerns that the community has about the election. *These concerns should be addressed in election communications and materials.*
- Your district should be in close communication with your local government, and in particular, with your country clerk—both on election logistics and in seeking to gain local government support.
- The facilities steering committee should take the lead in advocating for the election.
- The district may wish to organize one or more community meetings in which district staff explain the need and provide the facts about costs, any tax increases and other concrete information. Districts are prohibited from spending public funds to advocate for a YES or DO PASS vote in bond or tax elections, but your steering committee is not restricted and can advocate for a Yes vote with voters (see Box 20).
- Your district should determine its media and communications strategy for the election.
- Is it possible to OVER promote and thus mobilize opposition to the election? Yes. Your district must use its best judgment on the right level of promotion, with sensitivity to the specific political circumstances of your community.
- Election logistics need to be organized.
- The district superintendent, steering committee chair and financial advisor should all contact the local press on a regular basis to keep the press informed, and be available for phone contact at any time to provide accurate information when issues arise that have the potential for confusion. It may be effective for the steering committee chair, the school board president and the superintendent to meet with your local paper's editorial board to explain the underlying rationale for the election, and to provide specific details on projects, such as how funds will be used.

End of Box 22

**Stage Five:
The Post Election
Process**

**Box 23: (Page 52)
Community Involvement
in the Post Election Process**

**Box 24: (Page 53)
Legal requirements for
Elections Assessment**

**Box 25: (Pages 54 – 55)
What to Do if
the Election PASSES**

**Box 26: (Pages 56 – 57)
What to Do if
the Election FAILS**

**Box 27: (Page 58)
Gaining Access to
Funds After a Successful
Election**

**Box 28: (Page 59)
Key Communications for
the Post Election Process**

**ENDPOINT: capture
data on election results
to learn and improve,
sell bonds, complete post
election statutory
requirements**

Community Involvement in the Post Election Process:

- Although for simplicity we have flowcharted a linear, 5-stage bond election process that creates alignment between district facilities planning, district community outreach/relationship management, and district capital acquisition planning, the process is ultimately circular rather than linear, there are overlaps between stages, and multiple projects may very well be in different stages of development all at the same time. So while stage 5 may be the culmination of one bond election, it may also just be one step on the continuum within the district's evolving facilities administration.

- Depending on the size and complexity of the district's physical plant, the facilities steering committee can either sunset at this stage, or can continue. In the latter case, many of the volunteer members who may have worked hard for a successful bond election may wish to take a break and rotate off the committee. Revolving committee memberships can be a plus because more community members may be able to serve, offering advantages to the district for cultivating broader/deeper community support.

- Before making changes to the steering committee, a *lessons learned* meeting should be held in which the district and the steering committee gather and analyze what worked well and what could be improved, along with the resulting implications to the community and the district. This information should be captured in writing for future district use.

- In many ways the completion of a bond or election is really the beginning rather than the end of the process. Your district may now have the funds to address the need identified in Stage 1. To the degree that your community has been involved in the process, they'll know district plans and will want to remain informed about the progression of project development, construction and occupancy. Your district should critically analyze current communication methods, and make adjustments as needed. Keep in mind that how well your district cultivates and engages your community in one election will likely be remembered the next time the district seeks community support for an election. So a long term strategy for building good will among local voters is arguably the best possible means to gain community support for district facilities and financial plans over the long term.

End of Box 23

Legal Requirements for Elections Assessment

Summary:

The results of the election must be canvassed, certified and published pursuant to state law.

Step One:

The canvassing board must meet and canvass the results of the election, issue a certificate of canvass of the results of the election, and send copies of the certified results to the school board, the Secretary of State, the proper filing officer (County Clerk of Record), and the Secretary of the Public Education Department¹ within three days of the election.

NMSA 1978, Section 1-22-15(A) sets the composition of the canvassing board as the superintendent, the county clerk of record, and the designated magistrate or the presiding judge of the metropolitan court.

NMSA 1978, Section 1-22-15(C) requires the canvassing board to meet within three days after the election in the office of the county clerk and

- (1) canvass the returns in the same way as county election returns are canvassed;
- (2) determine the total number of persons in the school district voting in the election, and
- (3) issue a certificate of canvass of the results of the election and send a copy of the certified results to:
 - a. the school district board,
 - b. the secretary of state, and
 - c. the county clerk for filing in his/her office.

Step Two:

The county clerk and the superintendent must publish the results of the election and the canvass certificate.

NMSA 1978, Section 1-22-15(E) requires the county clerk of record to cause the results of the election to be published once in a newspaper of general circulation in the school district.

NMSA 1978, Section 22-18-10 requires the superintendent to publish the certificate of results of the bond election.

Step Three:

Determine if anyone has contested the election by the statutory deadline.

NMSA 1978, Section 22-18-10 states that an action on a bond question may not be maintained in district court unless it is filed within ten days of the superintendent's publication of the certificate of results of the bond election.

End of Box 24

¹ NMSA 1978, Sections 22-25-6 and 22-26-6 require that a copy of the certification of the results of a SB9 and HB33 tax election be sent to the Secretary of the New Mexico Public Education Dept.

Overview on What to Do if an Election Passes:

Now that the bond question has been approved by the voters, it is time to evaluate the work done and determine what was effective and what was not. This evaluation will be invaluable for the next election, whether it be on another bond question or a mill levy.

Analyzing successful bond elections is mainly the responsibility of the School Board.

The superintendent should meet with the community facilities steering committee, financial advisor, and county clerk and carefully analyze election statistics. The superintendent should then report the information gathered to the school board.

Key Steps in This Process:

Step 1: Say “Thank You.”

- The board president and superintendent should call members of the facilities steering committee, administrators, teachers, staff, parents, and others who helped make the election successful and thank them for their efforts.
- The steering committee should consider placing an ad in the local newspaper and announcement on the local radio station thanking the voters for their support.
- The board president and/or superintendent should determine if the local newspaper or radio station will be announcing the results of the election and provide a statement thanking the voters for their support.
- Certificates of appreciation should possibly be printed and awarded to steering committee members, and to others in the community whose efforts were important in the success.

Step 2: Analyze election data:

- Review all available voting information, possibly with your steering committee. The county clerk will be able to provide you with “for” and “against” votes by precinct and polling place, and by absentee and/or early voting. This will allow you to find out on a geographic basis, your areas of support and opposition. You may be able to get information by age, gender and income level. Voter turnout may also tell you if the timing of the election was good.
- Compare this election voting information to that of prior elections to determine if support for school bonds is increasing or decreasing. This should help identify areas of concern that may need to be addressed.
- Prepare a plan of action to address concerns. Rapid responsiveness to community concerns is more effective in gaining and maintaining community support than would be a less expeditious response.

Step 3: Review all election materials:

- Review any and all information distributed by the district regarding the election and evaluate for clarity and effect.

- Review all news releases, articles, and other written materials distributed by others, including opponents.

Step 4: Organize and maintain a record of the election in one file:

- Gather all information regarding the election into one file separated by category, *e.g.*, election data, election materials, steering committee, etc.
- Compile a list of the names and contact information of all members of the steering committee, parents, teachers, staff, community volunteers, and reporters.

Step 5: Issue and Sell the Bonds:

- The School Board meets with its financial advisor to determine bonding capacity, amount of bonds to be issued and sold, and use of proceeds, which must fall within the purposes authorized by voters and statutory requirements.
- The Board adopts a resolution for issuance of bonds and publication of notice of sale, notice of meeting, and official bid form.
- The Board publishes a notice of sale.
- The financial advisor prepares a Preliminary Offering Statement and Official Statement describing the school district, the bonds to be sold, the purposes for which the proceeds will be used, and New Mexico legal requirements for issuance and use of the bonds.
- The Board opens bids and determines the winning bid and adopts a resolution authorizing the sale.
- The Board publishes a notice of award.
- Determine if school district will act as its own paying agent. If not, the district selects the paying agent and signs the paying agent/registrar agreement.
- The school district must also provide an affidavit of filing of certified signatures, a signature identification certificate, a no litigation certificate, and a bond specimen.
- Bond counsel will prepare a federal tax certificate and opinion(s) regarding the sale.
- The Attorney General is provided a preliminary transcript containing copies of all documents concerning the election and sale and issues an opinion regarding the sale.
- The bonds are sold and a final transcript is compiled and distributed to the school district, the Attorney General, the financial advisor, the PED, and bond counsel.

End of Box 25

Overview on What to Do if an Election Fails:

Now that the bond question has failed, it is time to evaluate the work done and determine why the election was not successful. This evaluation will form the first step of preparing for the next election, whether it will be on another bond question or a mill levy.

Analyzing unsuccessful bond elections is mainly the responsibility of the School Board.

The superintendent should meet with the community facilities steering committee, financial advisor, and county clerk and carefully analyze election statistics. The superintendent should then report the information gathered to the board.

Key Steps in This Process:

Step 1: Say “Thank You”.

- The Board president and superintendent should call members of the steering committee, administrators, teachers, staff, parents, and others who worked in support of the bond questions and thank them for their efforts.
- The president and/or superintendent should determine if the local newspaper or radio station will be announcing the results of the election and provide a statement thanking those who supported the bond question.

Step 2: Get feedback from as many sources as possible.

- The Board president and superintendent should talk to members of the steering committee, administrators, teachers, staff, parents and community leaders to find out what they heard or know about voters’ concerns.
- The board president and/or superintendent should also talk to the county clerk for his/her input and view of the election and why the election failed.

Step 3: Analyze election data.

- Review all available voting information. The county clerk will be able to provide the district with “for” and “against” votes by precinct and polling place, and by absentee and/or early voting. This will allow the district to find out on a geographic basis, areas of support and opposition. You may be able to get information by age, gender and income level. Voter turnout may also tell you if the timing of the election was good.
- Compare this election voting information to that of prior elections to determine if support/opposition for school bonds is increasing or decreasing. This should help identify areas of concern that may need to be addressed (*e.g.*, school administration, curriculum).
- Prepare a plan of action to address concerns. Rapid responsiveness to community concerns is more effective in gaining and maintaining community support than would be a slower response.

Step 4: Review all election materials

- Review any and all information distributed by the district regarding the election and evaluate for clarity and effect.
- Review all news releases, articles, and other written materials distributed by others, including opponents.

Step 5: Consider an independent survey/poll

- An expert in the area of research and polling may be able to obtain information that is not otherwise available to the district. An expert can formulate questions and identify areas for evaluation that the district cannot.
- If an expert is retained, meet with the expert and provide him/her with all public information concerning the election.
- Review any survey instrument(s) and provide comments and make suggestions that will ensure the survey is tailored to your district and election.
- Review the results of the survey and meet with the expert to make sure you understand the results. Work with the expert to determine how the information can best be utilized by the district and used in the next election.

Step 6: Organize and maintain a record of the election in one file

- Gather all information regarding the election into one file separated by category, *e.g.*, election data, election materials, steering committee, etc.
- Compile a list of the names and contact information of all members of the steering committee, parents, teachers, staff, community volunteers, and reporters.

Step 7: Possible Change in Facilities and/or Funding Strategy

- Determine among the district board, administrators, steering committee and others in the community what may need to change in the district's facility and financial strategies, including the district Facilities Master Plan.
- Determine if an alternative to a bond or tax election would be viable.

End of Box 26

Gaining Access to Funds After a Successful Election

The short answer to this process: talk to your district financial advisor and bond counsel.

Here are four major considerations:

- Bonds authorized should be sold in conjunction with construction revenue needs.
- The bond sale process requires approximately 60 days to complete. Board action is required to adopt a Notice of Sale and a Resolution authorizing the sale.
- Federal and State requirements govern bond sales and must be taken into account.
- If revenue other than bonds is anticipated, other requirements may apply.

End of Box 27

Key Communications for the Post Election Process:

- Please see Boxes 24, 25, and 26.
- Thank your community, election volunteers, steering committee, county clerk and other local government members, and district staff, whether the election passed or failed. Consider some means of celebrating the success or acknowledging the effort of participants—a lunch or other event may be appropriate. Certificates awarded by the president of the school board to community members who worked hard during any stage of this process may be appropriate.
- Your financial advisor and bond counsel will both have specific tasks for which the district will need to remain in contact.
- Your county clerk will be able to provide detailed election analysis data. The district and its steering committee should do a “lessons learned” evaluation of this data, whether the election passed or failed.
- If the election is successful, the district should follow up with the community on the timing and progression of facilities projects that relate to the bond election. Plans thereof should be communicated through the press or through other means. Make sure to post signs at the location of construction projects which thank voters for supporting the project, and indicate that the district is completing what it said it would complete.
- If the election failed, after analyzing the process, the district should communicate with its community about what it has concluded from the failure and what the district intends to change, if anything, to address voter concerns.
- The district also should communicate directly with students on forthcoming plans and the benefits thereof to their opportunities for learning.

End of Box 28

A Primer on Public School Capital Outlay Funding in New Mexico

By Sharon Ball, New Mexico Legislative Council Service

Public school *capital outlay* funding, that is, funding used to purchase *capital assets* like buildings (as opposed to operating funds that are used to pay ongoing *expenses that are not capital assets*) is both a local and a state responsibility in New Mexico.

School districts can generate capital outlay revenues *from the state* through two statutory measures: one that guarantees a level of funding based on a district's ability to support its capital outlay needs through local property taxes, and another that provides funding to meet state adequacy standards for school facilities.

School districts can generate capital outlay revenues *locally* from the sale of bonds, direct levies, earnings from investments, rents, sales of real property & equipment, and other miscellaneous sources.

DETAILS ON STATE SOURCES OF REVENUE:

Public School Capital Improvements Act:

Also called "SB9" or the "two-mill levy," this funding mechanism allows districts, with voter approval, to impose a levy of up to two mills¹ for a maximum of six years.

Participating districts are guaranteed a certain level of funding supplemented with state funds if the local tax effort does not generate the guaranteed amount. The "program guarantee" is based on the school district's 40th day total program units² multiplied by the matching dollar amount (\$70 per program unit, plus consumer price index adjustments) multiplied by the mill rate stated in the voter approved resolution. The total revenue generated by the two-mill levy is subtracted to determine the amount of "matching," or guarantee funds the district will receive from the state (see also Public School Capital Improvements Act under "Local Support").

The Public School Capital Improvements Act also guarantees each district whose voters agree to impose the levy a minimum distribution from state funds of approximately \$5 per mill per unit (with yearly adjustments based upon the consumer price index).

Public School Capital Outlay Act:

Enacted in 1975 and formerly called "critical capital outlay," this funding mechanism has provided for state funding of critical school district capital outlay needs that could not be met by school districts after they had exhausted other sources of funding. Generally, these were districts that had imposed the SB9 levy and were bonded to "capacity." Amendments enacted beginning in 2003, however, have changed the former "critical capital outlay" process to a new standards-based process that all school districts may access regardless of bonded indebtedness. The new

¹ A "mill" is \$.001. A mill levy is the number of dollars a taxpayer must pay for every \$1,000 of assessed value of taxable real property. In New Mexico, one third of the assessed value of qualifying real property is taxable, so a two mill levy would cost a property owner \$2.00 for each \$1,000 of taxable assessed value. A property worth \$100,000 in assessed value would have a taxable value of \$33,000. A two mill levy would therefore cost this property owner \$66.00 (that is, \$2.00 x 33 = \$66.00)

² On average, a student generates approximately two program units.

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process is based on the public school facilities adequacy standards that the Public School Capital Outlay Council (PSCOC) adopted in September 2002.

Provided for in statute, the PSCOC is required to investigate all applications for grant assistance from the Public School Capital Outlay Fund and determine grant amounts for each qualifying applicant district. The council's membership consists of the following representatives (or their designees):

- **Secretary of the Department of Finance & Administration (DFA)**
- **Secretary of Education**
- **Governor**
- **President of the New Mexico School Boards Association**
- **Director of the Construction Industries Division**
- **President of the Public Education Commission**
- **Director of the Legislative Education Study Committee**
- **Director of the Legislative Finance Committee**
- **Director of the Legislative Council Service**

Through legislation enacted in 1999, 2001, and 2003, and later amended, the standards-based public school capital outlay program was developed and established partially in response to a 1998 lawsuit filed in state district court by the Zuni Public Schools and later joined by the Gallup-McKinley County Public Schools and the Grants-Cibola County Public Schools. State district court Judge Joseph Rich found, in a partial summary judgment rendered in October 1999, that, through its public school capital outlay funding system, which relied primarily upon local property tax wealth to fund public school capital outlay, the state was violating that portion of the state constitution that guarantees establishment and maintenance of a "uniform system of free public schools sufficient for the education of ...all children of school age" in the state.

In 2001, the legislature also established a Deficiencies Corrections Program (DCP) to identify and correct serious deficiencies in all public school buildings and grounds that may adversely affect the health or safety of students and school personnel. All districts received DCP funding based on evaluation of deficiencies. Currently, all districts' DCP projects are completed or near completion.

In 2003, the legislature enacted a state share funding formula to take into account the availability of school district revenues from both bond levies and direct mill levies that support capital outlay. Relying primarily on the relative property tax wealth of a school district as measured by assessed property tax valuation per student, the funding formula calculation also takes into account the total mill levy applicable to residential property of the district for education purposes. The formula recognizes that the maximum state share of the most property-poor districts in the state can be a total of 100 percent state funding. The overall formula provides approximately an average state share for all districts of approximately 50 percent, while providing for a minimum state share of 10 percent.

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Also in 2003, the legislature created the Public School Facilities Authority (PSFA) to serve as staff to the PSCOC and, under PSCOC oversight, to administer the public school capital outlay standards-based program, which was implemented for the first time in 2004. The PSCOC developed the New Mexico Condition Index (NMCI), which ranks every facility in every school district based upon relative need, from the greatest to the least. The current NMCI database includes all 89 school districts, approximately 800 public school buildings in these districts, and 65,000 separate, distinct systems in those buildings. In all, about 200,000 specific line items feed into nine weighted categories. Working with PSFA staff, each school district is responsible for updating its respective buildings’ database as projects are funded.

Each year, the PSCOC updates and publishes the NMCI-ranked list, which includes the estimated cost of repair or replacement of each need on the list. In 2010, the total cost of repair or replacement for all of the state’s school district facilities was about \$3.4 billion for existing facilities. It did not include estimated costs for constructing new facilities in high-growth areas. Since the state lacks the resources to fund all facilities’ needs at once, each year, the PSCOC works down from the top of the list to fund needs as available revenues allow. Once the need has been funded, it drops down to the bottom of the ranked list, and lower level needs accordingly move up in priority.

Within the ranked needs database, deficiencies are divided into categories. Categories with higher importance, including life, safety, or health needs, get higher relative weights, placing those projects higher on the priority list.

NMCI Ranking Categories and Weights:

	<i>Data Category</i>	<i>Weight</i>
1	Adequacy, life, safety, health	3.50
2	Potential mission impact/degraded	1.50
3	Mitigate additional damage	2.00
4	Beyond expected life	0.25
5	Grandfathered or state/district recommended	0.50
6	Adequacy: facility	1.00
7	Adequacy: space	3.00
8	Adequacy: equipment	0.50
9	Normal—within lifecycle	0.25

In addition, adequacy of space is highly weighted so that districts’ needs generated by population growth also move those projects higher on the priority list.

The primary source of state funding for the standards-based process is the issuance of Supplemental Severance Tax Bonds (SSTBs). These bonds are issued by the state Board of

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Finance and paid for with revenue realized from taxes levied upon the extraction of oil and natural gas. Legislative reauthorization for the issuance of Supplemental Severance Tax Bonds on a year-to-year basis is not required, a condition that makes SSTBs a dedicated funding stream for public school capital outlay. Since its beginning in 2003, the standards-based funding process has provided over \$1.4 billion in state funding for public school capital outlay.

Lease Assistance Payments:

State statute authorizes the PSCOC to make grants to school districts and charter schools from the Public School Capital Outlay Fund to assist with lease payments for classroom space. The grants amount to the lesser of the actual lease payment or \$700 per student (adjusted yearly based on the Consumer Price Index (CPI)).

Direct Legislative Appropriations:

Sponsored by individual legislators, direct legislative appropriations are capital outlay project funding targeted for specific projects within the school district. Revenue sources can include the general fund, severance tax bonds, or statewide general obligation bonds. For FY 09, the legislature appropriated approximately \$39 million (which was reduced to approximately \$25.9 million after executive vetoes) from the general fund and from the sale of severance tax bonds for capital outlay projects and equipment in public school districts.

In response to state district court findings related to the Zuni Lawsuit regarding the disqualifying effect of direct legislative appropriations for capital outlay expenditures for school districts or individual schools, the 2003 legislature enacted a measure to require that an offset be applied against the state share of funds awarded to a school district by the PSCOC for all capital outlay projects (including those for educational technology) beginning with the 2003 legislative session. The offset is an amount based on the state share formula equaling 100 percent minus the state share percentage calculated by the formula, times the amount of the legislative appropriation, as shown in the example below:

Example of How the Legislative Offset Works:

Legislative appropriation to a school	\$1,000
PSCOC award to that school's district	\$2,000
That district's local match percent	40%
Offset reduction in district's PSCOC award calculation (\$1,000 x 40%)	(\$400)
District's net PSCOC award amount (\$2,000 - \$400)	\$1,600
Total funds received by district (\$1,000 + \$1,600)	\$2,600

The most significant effect of the offset is not to reduce total funds that the district receives, but to potentially reduce funds available for higher priority needs, if the direct appropriation was for a lower-priority project than projects for which the district had applied for PSCOC award funding. In this case, the higher priority projects would have funding levels reduced by the amount of the offset.

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DETAILS ON LOCAL SOURCES OF REVENUES:***Local General Obligation (GO) Bonds:***

GO bonds allow local school districts to seek voter approval to raise revenues to erect, remodel, make additions to, or furnish school buildings; to purchase or improve school grounds; to purchase computer hardware or software for student use in the classroom; or any combination of these purposes. Each district's issuance of bonds is subject to the constitutional (Article IX, Section 11, NM Constitution) limit of six percent of the assessed valuation of the district. Prior to the bond election, the district must request that the Public Education Department (PED) verify the district's remaining bonding capacity.

If the election is successful, the local school board, subject to the approval of the Attorney General, may begin to issue the bonds. The authorized bonds must be sold within four years of voter approval.

Public School Capital Improvements Act:

Commonly referred to as "SB9" or the "two-mill levy," this funding mechanism allows school districts to ask voters to approve a levy of up to two mills for a maximum of six years.

Funds generated through imposition of the two-mill levy may only be used to:

- Erect, remodel, make additions to, provide equipment for, or furnish public buildings;
- Purchase or improve public school grounds;
- Maintain public school buildings or public school grounds, including the purchase or repair of maintenance equipment, participation in the facility information management system (FIMS), make payments under contracts with regional education cooperatives (RECs) for maintenance support services and expenditures for technical training and certification for maintenance and facilities managements personnel, excluding salaries of school district employees;
- Purchase student activity buses for transporting students to and from extracurricular activities; and/or
- Purchase computer software and hardware for student use in classrooms.

The Public School Buildings Act:

Often referred to as HB33, the Public School Buildings Act allows districts to ask voters to approve the imposition of up to 10 mills for a maximum of six years on the net taxable value of property in the district.

HB33 funds may only be used to:

- Erect, remodel, and make additions to, provide equipment for, or furnish public school buildings;
- Make payments in accordance with a financing agreement entered into by a school district or a charter school to lease a building or other real property with an option to purchase for a price that is reduced according to payments made;

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- Purchase or improve school grounds;
- Purchase activity vehicles to transport students to and from extracurricular activities (This authorization does not apply to the Albuquerque school district); and
- Pay for administration of public school capital outlay projects up to five percent of total project costs.

A limitation to the use of HB33 requires that the voter-authorized HB33 tax rate, when added to the tax rates for servicing the debt of the school district and the rate authorized under the Public School Capital Improvements Act (SB9), cannot exceed a total of 15 mills. If so, the HB33 rate would be adjusted downward to compensate. This funding mechanism is most useful for districts with high assessed valuation and low bonded indebtedness.

Educational Technology Equipment Act:

Enacted in 1997, the *Educational Technology Equipment Act* provides the enabling legislation to implement a constitutional amendment approved by voters in 1996 to allow school districts to create debt, without submitting the question to voters, to enter into a lease-purchase agreement to acquire educational technology equipment.

Public Building Energy Efficiency and Water Conservation Act:

This is a self-funded program that allows school districts to enter into a guaranteed utility savings contract with a qualified provider to reduce energy, water, or conservation-related operating costs, if the cost of the program does not exceed the cost savings over a period of not more than ten years.

DETAILS ON FEDERAL SOURCES OF REVENUES***Impact Aid Funds:***

The federal government provides certain funds to school districts in lieu of local property taxes for children residing on federal lands or children having parents working on federal property.

Forest Reserve Funds:

Fifty-seven school districts in 22 New Mexico counties receive Forest Reserve funds. The counties in which these school districts are located receive 25 percent of the net receipts from operations (primarily timber sales) within their respective reserve areas.

DETAILS ON MISCELLANEOUS SOURCES OF REVENUES

Districts can also derive capital outlay funds from such sources as donations, earnings from investments, rent, and sale of real property and equipment. The legislature can also appropriate limited funds for capital outlay emergencies to the Public Education Department (PED) for distribution to public school districts, based upon need.

Agencies, Documents & Websites:

- The New Mexico Public School Facilities Authority has a wide range of facilities-related material on its website: www.nmpsfa.org. In particular, there is information for how to create a five-year district facilities master plan, and how to conduct an Ed Spec process. PSFA also publishes a manual very similar in format to this bond election manual that provides checklists and step-by-step instructions for planning, funding, building and maintaining schools.
- The New Mexico Public Education Department Capital Outlay Bureau www.ped.state.nm.us publishes a wide range of facilities and financial information.
- The National School Public Relations Association www.nspr.org publishes a comprehensive manual, “*Election Success: Proven Strategies for Public Finance Campaigns*,” which goes into much greater detail than we have in outlining how to run successful school bond and tax elections.

Public Finance Conferences in New Mexico:

- The New Mexico School Boards Association www.nmsba.org presents its annual Law Conference (in June), which among other topics, focuses on bond elections.
- The New Mexico Infrastructure Finance Conference held annually (around October) is sponsored by state and federal agencies and addresses a broad array of topics in public finance. www.nmenv.state.nm.us/cpb/InfFinCon
- The Public Education Department www.ped.state.nm.us presents its annual Spring Budget Workshop (around April), which covers a wide range of public facilities and finance topics.