

**NEW MEXICO
FINANCE AUTHORITY
OVERSIGHT COMMITTEE**

FINAL REPORT



New Mexico Legislative Council Service
Santa Fe, New Mexico
December 2011

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2011
NEW MEXICO FINANCE AUTHORITY OVERSIGHT
COMMITTEE
INTERIM SUMMARY

Doris Faust, Staff Attorney
Legislative Council Service
December 30, 2011

New Mexico Finance Authority Oversight Committee 2011 Interim Summary

The committee met five times in the 2011 interim to carry out its statutory duties to monitor and oversee the New Mexico Finance Authority (NMFA), the Border Authority, the Spaceport Authority and the New Mexico Renewable Energy Transmission Authority (RETA). The committee examined the mission, organizational structure, operations budget, activities and projects of all four authorities.

In its analysis of the NMFA, the committee focused on how the NMFA can utilize its programs and resources to increase economic development in New Mexico. The committee took testimony from NMFA management and board members regarding the NMFA bond rating and funds and programs, including new markets tax credits, the Public Project Revolving Fund (PPRF), the Economic Development Revolving Fund, Water Project Fund, the Local Transportation Infrastructure Fund and the Colonias Infrastructure Trust Fund.

The committee reviewed transportation infrastructure needs in New Mexico and heard testimony regarding the outlook for state and federal transportation funding. The committee considered the serious projected shortfalls in transportation funding and the various sources of road fund revenue, and heard a status report on the GRIP bond program.

The Border Authority reported on the status of all the border crossings, on the Union Pacific Railroad Project at Santa Teresa and on the authority's efforts to expand economic development in the border region.

The committee toured the spaceport and heard from the Spaceport Authority regarding its efforts to attract new business and industry to New Mexico. Virgin Galactic representatives also reported on opportunities being brought to the southern part of the state by spaceport development.

The RETA briefed the committee on its draft rule defining RETA projects, reviewed the Senate Memorial 44 study and updated the committee on a number of renewable energy transmission development projects currently being studied in New Mexico.

The committee endorsed seven pieces of legislation for introduction during the 2012 legislative session, including:

- a \$2 million appropriation from the PPRF to the Drinking Water State Revolving Loan Fund;
- a bill authorizing 71 projects to be funded through the PPRF;
- a bill authorizing projects approved by the Water Trust Board to be funded through the Water Project Fund;

- a bill to expand the purpose of the Local Government Planning Fund to include infrastructure and energy audits;
- a \$1 million appropriation from the PPRF to the Local Government Planning Fund;
- a bill authorizing the NMFA to seek certification as a community development financial institution; and
- a bill clarifying and expanding the application of the Space Flight Informed Consent Act.

**2011 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

Members

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Sen. Sue Wilson Beffort
Sen. Kent L. Cravens
Sen. Tim Eichenberg
Rep. Candy Spence Ezzell
Sen. Stephen H. Fischmann
Rep. Roberto "Bobby" J. Gonzales
Sen. Clinton D. Harden, Jr.
Rep. Yvette Herrell

Rep. Dona G. Irwin
Sen. Howie C. Morales
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil
Rep. James P. White

Advisory Members

Sen. William F. Burt
Rep. Ernest H. Chavez
Rep. Anna M. Crook
Rep. David L. Doyle
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Eric G. Griego
Rep. Rick Little
Sen. Lynda M. Lovejoy

Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Andy Nuñez
Sen. William H. Payne
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor

Work Plan

The New Mexico finance authority (NMFA) oversight committee was created with the enactment of New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31 NMSA 1978, to monitor and oversee the operations of the finance authority. In addition, the legislature assigned oversight of the border authority, the spaceport authority and the New Mexico renewable energy transmission authority (NMRETA) to the committee.

The committee is statutorily required to monitor and oversee state and local government capital planning and financing; provide advice and assistance to the authorities and cooperate with state and local governments on planning and setting priorities for, and financing of, state, local, border and port-of-entry capital projects; review and approve rules proposed by the authorities; and report its recommendations and legislation to the governor and legislature on or before December 15 of each year.

To carry out these tasks and statutory duties during the 2011 legislative interim, the NMFA oversight committee shall:

(1) monitor and oversee the operations of the NMFA, including a review of the NMFA's operational budget, investments, procurement, policies, goals, allocation of resources, funds and loan programs; and review the NMFA effort to integrate loan operations;

(2) receive progress reports on capital projects funded through the NMFA; receive testimony from state and local officials on capital needs and compare NMFA cost of funds relative to other financing sources available to New Mexico borrowing entities; and review NMFA proposals to increase public project revolving fund capacity;

(3) review the NMFA's implementation of the Statewide Economic Development Finance Act; examine the economic development revolving fund; take testimony and evaluate economic development projects proposed for funding or funded through the federal new market tax credit program and tax increment financing; and review NMFA programs to maximize federal grant funding;

(4) take testimony and make recommendations on loans or grants from the water project fund for intrastate water projects that benefit New Mexico;

(5) review the local transportation infrastructure fund; current transportation infrastructure needs, development and funding; review transportation infrastructure bonding; and develop ideas for sustainable transportation funding, including a review of the weight distance tax;

(6) review the status and projected use of the Colonias Infrastructure Act funds and Tribal Infrastructure Act funds;

(7) monitor and oversee the operations of the border authority and review and analyze the border authority's short-term and long-term goals, including an assessment of infrastructure needs in the border region and a review of the effectiveness of the border authority and its projects;

(8) monitor and oversee the operations of the spaceport authority and review and analyze the spaceport authority's budget, short-term and long-term goals, the status of spaceport construction and the authority's procurement, contract, programs and initiatives involving the spaceport;

(9) monitor and oversee the operations of the NMRETA, including a review of the NMRETA's funding, structure, goals and objectives, proposed work plan, policy statements, rulemaking and budget; and

(10) report to the legislature and recommend necessary changes in law or policy.

2011 Approved Meeting Schedule

<u>Date</u>	<u>Location</u>
June 2	Santa Fe
July 11-12	Gallup
August 22-23	Truth or Consequences
October 3	Santa Fe
October 4*	Santa Fe (tentative)
November 30-	Santa Fe
December 1	

*The committee will seek approval from the Legislative Council for a meeting on October 4.

AGENDAS

Revised: May 27, 2011

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**June 2, 2011
Room 307, State Capitol
Santa Fe**

Thursday, June 2

- 9:30 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 9:35 a.m. **Introductory Remarks — NMFA Board Mission and Goals**
—William Fulginiti, New Mexico Municipal League;
 Acting Chair, New Mexico Finance Authority (NMFA) Board of
 Directors
—David Martin, Secretary of Environment, NMFA Board Member
—Paul Gutierrez, New Mexico Association of Counties, NMFA Board Member
- 10:15 a.m. **NMFA General Update and Interim Session Goals**
—John Duff, Acting Chief Executive Officer, NMFA
—Matthew Jaramillo, Director of Government Affairs, NMFA
- 11:15 a.m. **2011 Legislation Summary**
—Matthew Jaramillo, Director of Government Affairs, NMFA
—Doris Faust, Assistant Director for Drafting Services, Legislative Council
 Service (LCS)
- 12:00 noon **Review and Discussion of Work Plan, Meeting Dates and Locations
for 2011 Interim**
—Doris Faust, Assistant Director for Drafting Services, LCS
- 1:00 p.m. **Adjournment**

Revised: July 8, 2011

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**July 11-12, 2011
Gallup-McKinley County School District Administration Building
640 South Boardman
Gallup**

Monday, July 11

- 9:30 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 9:35 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Jackie McKinney, Gallup
—David Dallago, Chair, McKinley County Commission
—Raymond R. Arsenault, Superintendent, Gallup-McKinley County School District
- 10:45 a.m. **Sources for Local Matching Funds to Maximize Federal Grant Funding**
—Rick Martinez, Chief of Client Services, New Mexico Finance Authority (NMFA)
- 12:15 p.m. **Lunch**
- 1:00 p.m. **Example of a Rural Economic Development Project**
—Representative George Dodge, Jr.
- 1:30 p.m. **Public Project Revolving Fund Project Reporting**
—John T. Duff, Chief Executive Officer, NMFA
- 2:30 p.m. **New Mexico Renewable Energy Transmission Authority (NMRETA) Update**
—Jeremy Turner, Executive Director, NMRETA
- 4:30 p.m. **Recess**

Tuesday, July 12

- 8:00 a.m. **New Markets Tax Credits Update**
—Marquita Russel, Chief of Programs, NMFA
- 9:30 a.m. **Economic Development Revolving Fund Update**
—Marquita Russel, Chief of Programs, NMFA

11:00 a.m. **NMFA Systems to Integrate Loan Operations**
—John Duff, Chief Executive Officer, NMFA

12:15 p.m. **Committee Business**

12:30 p.m. **Adjournment**

Revised: August 17, 2011

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**August 22-23, 2011
Ralph Edwards Auditorium — Truth or Consequences Civic Center
400 W. 4th Avenue
Truth or Consequences**

Monday, August 22

- 9:30 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 9:35 a.m. **Overview of Local Capital Projects and Capital Needs**
—Walter Armijo, Chair, Sierra County Commission
—Janet Porter-Carrejo, Sierra County Manager
—Representatives from Dona Ana County
—Ellen Lindsey, City Manager, Truth or Consequences
—Juan Fuentes, Finance Director, Truth or Consequences
- 10:30 a.m. **Spaceport Authority Update**
—Christine Anderson, Executive Director, Spaceport Authority
—Richard Holdridge, Chair, Spaceport Authority Board of Directors
—Jerry Stagner, Member, Spaceport Authority Board of Directors
- 11:30 a.m. **Spaceport Economic Development — Local Area Job Development**
—Christine Anderson, Executive Director, Spaceport Authority
- 12:00 noon **Lunch**
- 1:30 p.m. **Tour — Spaceport Facilities**
- 4:30 p.m **Recess**

Tuesday, August 23

- 8:00 a.m. **Border Authority Update**
—Jon Barela, Secretary of Economic Development; Chair, Border Authority
—Jim Creek, Executive Director, Border Authority
—Border Authority Board of Directors (Invited)
- 8:45 a.m. **Union Pacific Railroad Project at Santa Teresa and Its Binational Impact**
—Zoe Richmond, Union Pacific Railroad
- 9:30 a.m. **Transportation Bond Update**
—John Duff, Chief Executive Officer, New Mexico Finance Authority
- 10:15 a.m. **Federal Transportation Funding Update**
—State Transportation Commissioners (Invited)
—Alvin C. Dominguez, Secretary of Transportation
- 11:00 a.m. **State Transportation Issues: Revenue Update; Sustainability Discussion;
and Discussion of Weight Distance Tax and Options Used by Other States**
—Alvin C. Dominguez, Secretary of Transportation
—Tom Church, Deputy Secretary of Transportation
- 12:20 p.m. **Committee Business, Approval of Minutes**
- 12:30 p.m. **Adjourn**

Revised: September 27, 2011

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**October 3-4, 2011
Room 322, State Capitol
Santa Fe**

Monday, October 3

- 9:00 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 9:05 a.m. **New Mexico Renewable Energy Transmission Authority (RETA) Budget and Proposed Rules**
—Jeremy Turner, Executive Director, RETA
—Angela Gonzales Rodarte, Project Coordinator, RETA
- 10:00 a.m. **Border Authority Budget**
—Jim Creek, Executive Director, Border Authority
—Jon Barela, Secretary of Economic Development
- 10:45 a.m. **New Mexico Finance Authority (NMFA) — Mission and Goals**
—Richard May, Chief Executive Officer, NMFA
—Denise Baker, Chair, NMFA Board of Directors
- 11:45 a.m. **Lunch**
- 1:45 p.m. **NMFA Loan Activity Report**
—John Duff, Chief Operating Officer
- 2:45 p.m. **NMFA Budget**
—Richard May, Chief Executive Officer, NMFA
—Greg Campbell, Controller, NMFA
- 4:15 p.m. **Approval of Minutes and Committee Business**
- 4:30 p.m. **Recess**

Tuesday, October 4

- 9:00 a.m. **Proposed Spaceport Authority Legislation**
—Christine Anderson, Executive Director, Spaceport Authority
—Robert Desiderio, Sanchez, Mowrer and Desiderio, P.C.
- 10:00 a.m. **Proposed Collateral Loan Program Rules**
—Marquita D. Russel, Chief of Programs, NMFA
- 11:00 a.m. **NMFA Proposed Legislation**
—Matthew Jaramillo, Director of Government Affairs, NMFA
- 12:30 p.m. **Adjourn**

Revised: November 15, 2011

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**November 30-December 1, 2011
Room 322, State Capitol
Santa Fe**

Wednesday, November 30

- 9:00 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 9:05 a.m. **Transportation Infrastructure Needs and Funding**
—State Transportation Commissioners (Invited)
—Alvin C. Dominguez, Secretary of Transportation
- 10:00 a.m. **Border Authority — Job Creation Program; Budget; Public-Private Partnerships**
—William Mattiace, Executive Director, Border Authority
- 11:30 a.m. **Approval of Rules Governing the Administration of New Mexico Finance Authority (NMFA) Co-Lending Activities Under the State Small Business Credit Initiative**
—Marquita Russel, Chief of Programs, NMFA
- 12:00 noon **Lunch**
- 1:30 p.m. **NMFA Options to Increase Economic Development**
—Richard E. May, Chief Executive Officer, NMFA
—John T. Duff, Chief Financial Officer, NMFA
—Matthew Jaramillo, Director of Government Affairs, NMFA
- 2:30 p.m. **Water Project Fund Status Update and Project Approval Criteria, Process and Time Line**
—Jana Amacher, Senior Program Administrator, NMFA
—Water Trust Board Members (Invited)
- 3:30 p.m. **NMFA Loan Activity Report**
—Matthew Jaramillo, Director of Government Affairs, NMFA

4:15 p.m. **Approval of Minutes and Committee Business**

4:30 p.m. **Recess**

Thursday, December 1

9:00 a.m. **Colonias Infrastructure Fund Update**
—Doug Moore, Chair, Colonias Infrastructure Board
—Matthew Jaramillo, Director of Government Affairs, NMFA

10:15 a.m. **Spaceport Authority Legislation**
—Christine Anderson, Executive Director, Spaceport Authority
—Robert Desiderio, Sanchez, Mowrer & Desiderio, P.C.

11:00 a.m. **NMFA Legislation**
—Matthew Jaramillo, Director of Government Affairs, NMFA

12:00 noon **Adjourn**

MINUTES

**MINUTES
of the
FIRST MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**June 2, 2011
Room 307, State Capitol
Santa Fe, New Mexico**

The first meeting of the New Mexico finance authority (NMFA) oversight committee was called to order by Representative Patricia A. Lundstrom, chair, on June 2, 2011 at 9:36 a.m. in room 307 of the state capitol in Santa Fe, New Mexico.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Sen. Sue Wilson Beffort
Sen. Tim Eichenberg
Rep. Candy Spence Ezzell
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Rep. James P. White

Advisory Members

Sen. William F. Burt
Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Rick Little
Sen. Lynda M. Lovejoy
Rep. Ben Lujan
Rep. W. Ken Martinez
Rep. Andy Nuñez
Rep. Edward C. Sandoval

Staff

Doris Faust, Legislative Council Service (LCS)
Tom Pollard, LCS
Claudia Armijo, LCS

Absent

Sen. Kent L. Cravens
Sen. Stephen H. Fischmann
Rep. Roberto "Bobby" J. Gonzales
Rep. Yvette Herrell
Sen. Howie C. Morales
Sen. David Ulibarri
Rep. Richard D. Vigil

Rep. David L. Doyle
Rep. Mary Helen Garcia
Sen. Eric G. Griego
Sen. Richard C. Martinez
Sen. George K. Munoz
Sen. Steven P. Neville
Sen. William H. Payne
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the New Mexico legislature web site.

Tuesday, June 2

Welcome

Representative Lundstrom welcomed committee members and guests. She advised the members that the meeting was streaming live on a webcast, and she asked them to turn their microphones on and off before and after speaking. Additionally, she asked them to keep side conversations to a minimum. She then asked the members to introduce themselves, which they did, and Speaker Lujan welcomed the members and guests, as did Senator Garcia.

NMFA Board Mission and Goals

Members of the NMFA board of directors in attendance introduced themselves, beginning with William Fulginiti, executive director of the New Mexico municipal league and NMFA acting chair. Next, Paul Gutierrez, executive director of the New Mexico association of counties, and David Martin, secretary of environment, introduced themselves to the committee and audience.

Mr. Fulginiti started the discussion by reminding the members that the NMFA began its work in 1992 and was the product of two pieces of legislation. He further noted that he is the only remaining original NMFA board member. He advised the committee that some NMFA board members, like him, serve on the board statutorily, while others are appointed. Mr. Fulginiti reminded members that when the first NMFA meeting convened, the NMFA had no money and no direction. As time progressed, the board began to set the foundation and vision of the NMFA. He noted that the first NMFA employee hired was Dr. Pollard, currently employed with the LCS. According to Mr. Fulginiti, Dr. Pollard was instrumental in getting several of the NMFA's initial programs off the ground. Mr. Fulginiti said that since its inception, the NMFA has successfully served the lending needs of many entities throughout New Mexico, including providing more than \$600 million in loans to local governments. He added that the NMFA is the preferred funding source for all fire equipment acquisitions in the state. Mr. Fulginiti told the members that, in the years since its inception, the NMFA has become more diverse in its funding activities.

Mr. Fulginiti recalled for the committee members that the mission of the NMFA started out small and has grown in both size and diversity. Additionally, he said that the board continues to examine whether the NMFA is still fulfilling its original mission, particularly regarding the public project revolving fund (PPRF), which, according to Mr. Fulginiti, is the NMFA's flagship program. He continued by saying that the original mission of the NMFA remains in full focus for board members and staff alike. He said they continue to ask what they can do to enhance programs and services both now and in the future. Mr. Fulginiti expressed confidence that the NMFA can be a financing mechanism that the governor and legislature can continue to depend upon. He noted that the NMFA is a triple-A accredited lender. Because there is no local government, not even Albuquerque, that has a triple-A rating, the NMFA is the

premier entity providing huge savings for borrowers that benefit from lower lending costs that are a direct result of the NMFA's superior credit rating. Mr. Fulginiti emphasized the importance and value the board places on the NMFA's credit rating, noting that it significantly reduces the cost of doing business. He added that, in his opinion, it is critical for the NMFA to maintain its high credit rating. He also pointed out that the NMFA is unique from other similar organizations in other states because the NMFA has a guaranteed and dedicated revenue stream, which is the 5% governmental gross receipts tax. Mr. Fulginiti opined that the consistent and dedicated revenue stream is the single most significant reason that the NMFA achieved and maintains its high credit rating.

Next, Mr. Fulginiti told the members that the NMFA should always seek to provide more services, particularly at the state level. He said the board is considering implementing a more structured application process for both statewide and local projects. He emphasized that the NMFA needs more "teeth" at the local level, particularly with regard to planning grants. He noted that the NMFA staff can review proposed local projects and determine if they are technically correct. However, more resources are needed to ensure that the planning grants program remains in place and is accessible to the communities that really need the grants. He further added that small municipalities often need planning assistance early on in order to put their projects together.

Next, Secretary Martin spoke briefly to the members, recalling the water trust board meeting held on June 1, 2011. He told the committee members that the water trust fund program is an essential program that provides a huge benefit to local communities, not just large cities.

Mr. Gutierrez noted that, from the counties' perspectives, the NMFA is the bond bank for low-cost capital, adding that, if it were not for the lending programs offered by the NMFA, many of New Mexico's small counties could not otherwise borrow money. He concurred with Mr. Fulginiti, saying that the planning grants are critical for smaller municipalities and local governments. He confirmed that the NMFA board is considering implementing a uniform application process, and he opined that improvements to the application process would be beneficial.

Representative Lundstrom thanked the NMFA board members for their comments and participation. She noted that it is important for the NMFA oversight committee members to know who is behind the decisions being made on behalf of the NMFA. A number of members mentioned that the work of the NMFA has been invaluable to their respective local communities. Some members remarked that they would like to see local banks more involved and perhaps better educated regarding the advantages of lending to many of the state's communities. Additionally, credit unions were mentioned as a great potential banking source.

Members inquired about the funding of state road projects. Rick Martinez, NMFA chief of client services, noted that, although the NMFA does not directly fund state road projects, it has been involved in about \$1.8 billion in road projects. He advised that local governments participated in those projects and the NMFA was able to lend the local governments the match money needed for them to access the funding.

NMFA General Update and Interim Session Goals

John Duff, acting NMFA chief executive officer, introduced himself, as did Marquita Russel, chief of programs for the NMFA, and Mr. Martinez.

Mr. Duff began by telling the members that the NMFA board recognizes that the United States is experiencing very uncertain times, and consequently, the board is concerned about the NMFA's ability to maintain its strong bond rating and about the financial strength of the NMFA. He added that the board has been careful in managing expenditures, and that by refinancing various outstanding bond issues, the NMFA has saved millions in debt service fees. He told the members that in April 2011, the NMFA board learned that the Standard & Poor's rating agency increased the rating on the NMFA's PPRF senior lien bonds to "AAA", the rating agency's highest category. He said the high bond rating is the direct result of the efforts by the NMFA staff, as well as the board's long-standing goal of achieving the triple-A bond rating. He further noted that the new rating has already achieved tangible benefits such as the all-in total interest rate of 2.1% on the NMFA's most recent bond issue. The exceptionally low interest rate was passed on to NMFA borrowers. In its rating report, Standard & Poor's indicated that a primary reason for the upgrade in the PPRF rating was the NMFA's establishment of increased cash reserves to enhance the security of the PPRF bondholders.

According to Mr. Duff, Moody's, the other agency that rates the NMFA's PPRF senior lien bonds, reaffirmed its existing rating of Aa1 (the agency's second highest rating), while upgrading its rating on the subordinate lien bonds from Aa3 to Aa2. Mr. Duff also noted that New Mexico's new governor, Susana Martinez, said that the upgrade of the NMFA's bond ratings "...is an important part of putting New Mexico back on solid financial footing and helping our economy turn a corner...".

Mr. Duff discussed the NMFA's 2011 budget performance, noting that the NMFA staff is proud of the fact that in the current challenging economic environment, the NMFA has succeeded in managing its expenditures carefully. He said that the NMFA is expected to end the year with actual expenditures totaling approximately 10% less than the budget authorized by the board. One significant contributor to the savings was a reduction in outside legal fees achieved by the NMFA's legal department's multiyear project to streamline the legal processes necessary to issue bonds and make public sector loans.

Mr. Duff continued by telling the members that the NMFA issues bonds on behalf of the New Mexico department of transportation (DOT). To date, approximately \$1.35 billion in bonds for new statewide infrastructure projects have been issued for the DOT, and an additional \$1 billion in refunding bonds have been issued to achieve cost savings. He added that the NMFA also advises the DOT regarding the management of its outstanding debt.

According to Mr. Duff, in August 2010, the NMFA identified an opportunity to save the DOT \$26.7 million in future debt service payments by refinancing \$470.3 million of its \$1.3 billion in then-outstanding transportation infrastructure fixed-rate bonds. In partnership with the DOT, the NMFA is constantly looking for new and innovative ways to save taxpayer dollars.

Mr. Duff told the members that in 2007, and in a highly competitive process, the NMFA was awarded an allocation of federal new markets tax credits totaling \$110 million. This was the first time that a New Mexico organization had received an allocation of these tax credits. The

new markets tax credit is a federal program created to provide incentives to new, expanding or relocating businesses to locate in disadvantaged areas across the country. In 2011, the NMFA was the recipient of an additional allocation in the amount of \$46 million. Mr. Duff noted that the NMFA will use the additional allocation as an investment vehicle to support the creation of quality jobs at companies located in, or expanding to, the state's rural, disadvantaged communities and to projects located in distressed census tracts.

Regarding the FY 2012 budget, Mr. Duff said that the NMFA's 2012 budget for operating expenses will remain the same, in total, as the 2011 budget. The "flat" budget reflects management's forecast that total loan and grant volume will increase from a projected actual total of \$198 million for 2011 to \$339 million for 2012. In these challenging economic conditions, Mr. Duff opined that the NMFA must manage its operations to achieve the maximum possible efficiency. Accordingly, while amounts will shift somewhat among budget categories, the NMFA will operate in 2012 with no growth in the total expenditures authorized by its board for the preceding year. He added that he expects 2012 to be a year of no change from a budget perspective, and he believes it will be a year of significant improvement in the NMFA programs. He said the improvements in operations can be attained with no increase in total operating expenses from last year's budgeted level through operating more efficiently. Mr. Duff added that he expects 2012 to be a year of important growth for the NMFA. He advised the members that the NMFA's FY 2012 budget is presented in detail in the handout provided for the meeting.

Next, Mr. Duff advised the members that, due to the economic constraints facing the state during the creation of the 2011 and 2012 budgets, the legislature included no funding for any local capital outlay projects. Typically, the capital outlay grant funds, which have ranged from several hundred million dollars to as much as \$1 billion in the last five years, have been the largest component of statewide infrastructure funding. The disappearance of these funds has left the NMFA as the only major source of funding for infrastructure projects for New Mexico's cities, counties and even state government departments. He added that he believes this funding shortfall has created an exceptional opportunity and a related responsibility for the NMFA. As the funds are the only current source of infrastructure financing available for state government, it is incumbent upon the NMFA to do everything possible to maximize the funds available for critical infrastructure needs in New Mexico's communities. Accordingly, the NMFA staff has begun initiatives designed to address this challenge.

The NMFA wants to solve the "federal funds reversion" problem. This effort addresses the fact that multiple federal grant programs for infrastructure projects find it impossible to spend the funds allocated to the state and return many millions of dollars to the federal government each year. The principal reason that these funds revert to the federal treasury is the inability of communities to come up with the local matching funds required in almost all federal grant programs. Mr. Duff noted that the NMFA has begun to work with the federal funding agencies to better understand the requirements of their programs (and to help the agencies better understand the NMFA) so that existing NMFA programs can be modified or new programs can be designed to allow communities to match the federal grant funds. Success in this effort will make millions of dollars in additional funding available annually to New Mexico's communities.

Additionally, Mr. Duff stated that the NMFA would like to increase the PPRF capacity. The PPRF is the NMFA's primary infrastructure finance program, with an annual capacity to

fund approximately \$200 million in new loans. That amount, while substantial, is not sufficient to bridge the gap created by the disappearance of the state's capital outlay budget. Accordingly, NMFA staff has begun an analysis of the program with the objective of identifying strategies to restructure the PPRF's bonding structure to increase capacity.

Next, Mr. Duff explained that the NMFA staff plans to work with others to develop new approaches, perhaps focusing on a new approach to state infrastructure financing. The NMFA will work with its partners in the executive and legislative branches to identify and implement new approaches to meeting the critical lending needs of New Mexico's communities.

Mr. Duff informed the members that the NMFA has identified several opportunities to increase efficiency and improve management controls and accountability in key areas of its operations. He noted that major opportunities identified include a project involving the SILO (system to integrate loan operations) project. NMFA staff began this project several months ago with a focus to improve the efficiency of and internal controls over its loan processing, closing and monitoring activities. The completion of the project is expected during FY 2012. The project has two major components:

- First is the creation of a new loan operations department. Previously, a majority of the procedures necessary to analyze a PPRF loan application was performed by financial advisors in the NMFA's client services department. Consolidating these activities in the loan operations department will allow the NMFA client services department personnel to spend more time in client service and outreach activities. The NMFA will also consolidate loan monitoring (surveillance of existing loans) in the new department. Mr. Duff noted that such a separation of functions is recommended by auditors as a "best practices" approach for financial services organizations.
- The second component is the implementation of software to automate the processing of loan applications. As the NMFA's PPRF loan volume has grown substantially in recent years, the NMFA has continued to rely on an almost completely manual system for analyzing and processing loan applications. The NMFA board is close to a decision regarding the acquisition of new software or the modification of existing software that will permit important improvements in the efficiency and consistency of loan processing.

Next, Mr. Duff explained that legal fees are the largest single operating expense for the NMFA. Since the position of general counsel within the NMFA was created in 2007, one of the important duties charged to the NMFA legal department has been to reduce outside legal fees. Considerable progress has been made — specifically, an annual reduction in the costs of outside legal fees. In 2012, the NMFA will add an additional lawyer to its staff. This addition will bring the department's staffing to three lawyers, including the general counsel and one paralegal. The new lawyer will work primarily in the area of loan documentation, and adding the position will reduce outside legal fees by approximately \$200,000 above the new hire's salary.

In closing, Mr. Duff commented on the important focus that he believes economic development plays in the programs of the NMFA. He noted that the NMFA has several

programs explicitly designed to enhance economic development, such as the new markets tax credits, as well as other programs created by the Statewide Economic Development Finance Act. He noted that the provisions of that act include bank loan participation, direct lending, loan guarantee programs and conduit bond issuance. He said that the NMFA is in the process of applying for \$14 million in federal state small business credit initiative funds, which will be used to expand the related programs.

Mr. Duff told the members that one aspect of the NMFA's programs that deserves more recognition as it relates to economic development impact is its flagship program, the PPRF. He added that although the PPRF is correctly thought of as a revolving infrastructure loan fund, the nearly \$2 billion in project financing already provided through the program has made possible the creation of many jobs, both construction jobs and permanent positions.

In closing, Mr. Duff expressed his gratitude at the opportunity to serve New Mexico as the chief executive officer of the NMFA.

A brief discussion regarding the criteria for the new markets tax credits program ensued with Mr. Duff explaining that median household income as measured by the United States census is used to determine eligibility. Ms. Russel added that the NMFA staff inputs a proposed project's street address into a database to determine eligibility. She noted that there is sometimes an area with pockets of eligible addresses, but all addresses in a particular area may not meet the criteria. She further noted that the database currently uses the information from the 2000 census. Ms. Russel mentioned that the Park Central hotel, located in downtown Albuquerque, qualified for the new markets tax credit.

Some committee members asked for more information regarding the NMFA's reduction in costs associated with outside legal fees. Mr. Duff explained that any outside counsel used by the NMFA is not used on a retainer basis. Rather, agreements with outside law firms are based on agreed-upon reduced rate legal fees billed at an hourly rate. Additionally, he clarified that outside legal resources are used on an "as needed" basis only.

2011 Legislative Summary

Next, Mr. Duff was joined by Ms. Faust, assistant director for drafting services for the LCS, for a discussion regarding the 2011 legislative initiatives endorsed by the NMFA oversight committee. The members' attention was directed to the NMFA legislative recap 2011 handout, which outlined the committee-endorsed legislative proposals, including authorizations, appropriations and amendments to existing laws. Ms. Faust reminded the members that the committee endorsed 12 bills. She noted that eight of those bills were relevant to the NMFA and four were unrelated. Ms. Faust noted that Senate Bill 60, which was signed into law by the governor, allows the New Mexico renewable energy transmission authority to issue bonds at, above or below the par value. House Bill 24, a bill proposed by the border authority and signed into law by the governor, provides for the overweight operation of certain commercial vehicles entering New Mexico from Mexico within a six-mile radius of a New Mexico commercial border crossing.

Ms. Faust also explained that the legislation proposed by the motor transportation division of the department of public safety relating to the field enforcement inspection of

commercial vehicles was passed and was signed into law. The new law provides the motor transportation police with the authority to conduct roadside inspections beyond the border areas that had previously been authorized.

Ms. Faust finally noted that the legislation proposed by Virgin Galactic and endorsed by the committee, which would have extended limited liability to manufacturers and suppliers providing services for the spaceport, did not pass. Members discussed the possible reasons that the legislation pertaining to the spaceport did not pass. After determining that the legislation has had difficulty getting past the judiciary committees during session, it was suggested that the legislation be recommended as an agenda item for the interim courts, corrections and justice committee so that members can become familiar with the bill prior to the legislative session.

NMFA staff recapped the 2011 legislation that related to the NMFA. The legislature passed three project authorization bills that authorized: projects for funding through the PPRF; statewide economic development loans; and water project funding. The legislation appropriated \$2 million from the PPRF to the drinking water state revolving loan fund and amended definitions for water project funding to increase eligibility for those funds. The bill to extend the sunset on the daily capital outlay tax passed, as did the bill to temporarily suspend the requirement for legislative approval of economic development projects under the Statewide Economic Development Finance Act.

Review and Discussion of Work Plan, Meeting Dates and Locations for 2011 Interim

Ms. Faust led the members in a discussion regarding the committee's interim work plan. She relayed the determinations made by the New Mexico legislative council that interim committees must come up with ways to keep committee work-related costs down. She also explained that the proposed meeting dates were determined in an effort to minimize potential conflicts for voting members. After a discussion regarding travel, the chair asked Ms. Faust to seek authorization from the legislative council to permit the committee to travel for a meeting scheduled in October 2011. Next, Representative Lundstrom noted that the NMFA's interim session goals should be added to the oversight committee's work plan. Lastly, Representative Lundstrom asked Ms. Faust to provide a list of the cities that the committee has traveled to in the past.

A motion was made and seconded to approve the work plan and schedule. The motion passed without objection. The members were advised that the NMFA would be hosting a lunch for committee members and staff immediately following the meeting. With no further business, the meeting adjourned at 1:10 p.m.

**MINUTES
of the
SECOND MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**July 11-12, 2011
Gallup-McKinley County School District Administration Building
Gallup**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, on July 11, 2011 at 9:40 a.m. in the conference room of the Gallup-McKinley County School District Administration Building in Gallup.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Rep. Roberto "Bobby" J. Gonzales
Rep. Yvette Herrell
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil (July 11)
Rep. James P. White

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Rep. Rick Little
Sen. Lynda M. Lovejoy
Sen. Richard C. Martinez
Sen. George K. Munoz
Rep. Edward C. Sandoval (July 11)

Absent

Sen. Sue Wilson Beffort
Sen. Kent L. Cravens
Sen. Tim Eichenberg
Rep. Candy Spence Ezzell
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. Howie C. Morales

Sen. William F. Burt
Rep. David L. Doyle
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Eric G. Griego
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. Andy Nuñez
Sen. William H. Payne
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor

Guest Legislator

Rep. George Dodge, Jr.

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Doris Faust, Legislative Council Service (LCS)
Tom Pollard, LCS
Lisa Sullivan, LCS
Claudia Armijo, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Monday, July 11

Representative Lundstrom welcomed the members and guests. She noted that the committee meeting was being attended by special guests, including the mayor of Gallup, Jackie McKinney, whom she introduced as the first speaker.

Overview of Local Capital Projects and Capital Needs

Mayor McKinney said that he has been the mayor of Gallup for only four months. He voiced his appreciation for the members' decision to hold the committee meeting in Gallup and noted that the city would be hosting a dinner that evening for committee members and staff. He reported that the City of Gallup continues to look for ways to partner with the Navajo Nation and others regarding the Navajo-Gallup Water Supply Project, explaining that the project has evolved over four decades as a major infrastructure initiative to identify and secure a long-term water supply for communities in the eastern portion of the Navajo Nation, the Jicarilla Apache Nation and the City of Gallup. He further noted that on March 30, 2009, President Obama signed into law the Omnibus Public Land Management Act of 2009, which authorized the secretary of the interior, acting through the U.S. commissioner of reclamation, to construct, operate and maintain the Navajo-Gallup Water Supply Project in substantial accordance with the "preferred alternative" indicated in the project's final environmental impact statement.

The water project is expected to provide a long-term sustainable water supply intended to serve a future population of nearly 250,000 people by the year 2040 and to provide a reliable municipal and industrial water supply to the eastern section of the Navajo Nation, the southwestern part of the Jicarilla Apache Nation and the City of Gallup via diversions from the San Juan River in northern New Mexico.

Mayor McKinney explained that existing ground water supplies are dwindling and of poor quality, and the existing supplies cannot meet the population's needs in the future. He noted that more than 40 percent of Navajo households haul water to meet their daily needs. Additionally, the City of Gallup's ground water levels have dropped approximately 300 feet during the past 10 years, causing serious concern that the supply will not meet water demands within the decade. He added that the lack of a water supply makes it extremely difficult for the Jicarilla Apache people to live and work on areas of the reservation located outside of Dulce.

The water project is designed to divert 37,764 acre-feet of water per year from the San Juan River, resulting in a depletion of 35,893 acre-feet, with a demand rate of 160 gallons per capita per day, based on the 2040 projected population.

Mayor McKinney explained that the water project has two branches: the eastern branch will divert 4,645 acre-feet of water per year with no return flow to the San Juan River; and the western branch will take the remaining 33,119 acre-feet of diversion water, with an average return flow to the river of 1,871 acre-feet of water.

Based on the area's projected population in 2040, the project is anticipated to serve 203,000 people in 43 chapters of the Navajo Nation, 1,300 people in the Jicarilla Apache Nation and 47,000 people in Gallup.

Mayor McKinney noted some of the challenges presented by the water supply project, including the integration of the facilities to the existing distribution systems; water rights adjudication; repayment contracts and cost share agreements; operations management and replacement responsibilities; and scheduling construction to meet the critical interim needs while using the existing wells as an interim water supply to meet critical needs.

Mayor McKinney referred the members to two handouts containing information regarding infrastructure project needs for Gallup. One lists various projects and their respective costs, funding sources and the status of projects, including the Navajo-Gallup Water Supply Project, the master plan for the City of Gallup transmission and storage facilities and the Gallup Rural Navajo Water Supply Project.

The second handout lists Gallup's capital projects and needs. Mayor McKinney noted that the 11 most important project needs will cost \$14,936,890. He also noted that Gallup has several other capital project needs. He told the committee members that the City of Gallup has what he referred to as "mega needs", meaning projects beyond the city's funding capacity, including the Navajo-Gallup water pipeline construction, construction of underpasses at 2nd and 3rd streets, the Allison Corridor reconstruction and infrastructure improvements for the new Gallup Indian medical center. According to Mayor McKinney, the cost for the mega-needs projects is \$144,300,000.

Discussions ensued regarding the Navajo-Gallup Water Supply Project. Mayor McKinney gave special recognition to Representative Lundstrom, saying that she has worked diligently during the past 25 years and was instrumental in the project reaching fruition. Some members inquired as to the status of the water rights adjudications involved with the project. Mayor McKinney said that, to the best of his knowledge, Navajo water rights have been settled. He added that the City of Gallup has a contract regarding water rights with the Jicarilla Apache Nation. Representative Strickler noted that there are water rights still in litigation and that the settlement referred to by Mayor McKinney is still being challenged.

Mayor McKinney thanked the committee members for their time and for holding the meeting in Gallup.

Raymond R. Arsenault, superintendent of the Gallup-McKinley County School District, greeted the committee members. He gave a brief history of his three-year tenure as superintendent and provided background on his past professional experience. He noted that under his leadership, the school district has completed six new schools, and he thanked the legislators for their support in the school district's construction efforts. He explained that the school district is burdened by having a "virtually nonexistent" tax base. Regardless, he said, the district's five-year plan for construction of new schools would not include a tax increase.

Mr. Arsenault was joined by Leonard Haskie, assistant superintendent for the Gallup-McKinley County School District, who described a typical school in the district. He noted that most of the elementary schools have about 38,000 square feet of space. He said that in the City of Gallup, there are two middle schools, each with about 2,000 enrolled students, and two high schools, each with about 1,200 enrolled students, and 10 elementary schools. He said that many of the schools in the district have health and fire concerns related to the federal Occupational Safety and Health Administration (OSHA) and that it is critical that the school district address the OSHA issues as quickly as possible. He said that most of the schools are on public lands, and nearly all of the schools need safety renovations.

Sources for Local Matching Funds to Maximize Federal Grant Funding

Rick Martinez, chief of client services for the NMFA, said that he has concerns involving New Mexico's ability to use federal dollars to the maximum benefit of the state. Each year hundreds of thousands of federal dollars go unused by the state, he said, and as a consequence, the money reverts back to the federal government. He wants to find a means to tap into those federal dollars, which can help meet the challenges of local infrastructure financing throughout the state.

Mr. Martinez directed the members' attention to the *Quick Program Reference Guide for USDA Rural Development Funding Programs*, which he provided to the committee as a handout. The handout outlines numerous rural development, business and cooperative programs administered through the United States Department of Agriculture (USDA). There are similar federal programs that can become sources of funding for New Mexico's local government project needs through various types of grants and loans, Mr. Martinez said. He noted that the last two pages of the handout contain contact information for USDA program specialists and field offices in New Mexico.

Members asked Mr. Martinez whether there is a guarantee of the federal dollars. He said that there is no guarantee, but some of the program money has been appropriated by the federal government and the administrators of the programs so that it does not revert. He explained that the local governments in each state can apply for the federal dollars through federal agencies like the USDA. He said that the application process is so overwhelming that many of the local governments are unable to identify and then apply for the funds available to them. Mr. Martinez explained that both local and state government agencies need to be educated about the federal programs available. He said that the NMFA has invited representatives from federal agencies to meet with the NMFA staff to provide in-depth information and guidance about the agencies' programs and application processes.

Committee members discussed how state agencies and local governments can tap into available federal dollars. Representative Powdrell-Culbert said that she is familiar with a for-profit grant writing group based in Baltimore that specializes in assisting public sector agencies and local governments in identifying and applying for grants and loans pursuant to federal programs. She said that the organization charges a fee tied to the amount of the grant requests.

Mr. Martinez said that a good source of matching funds in applications for federal dollars is the state's capital outlay money. Mr. Martinez said that the New Mexico Legislature, the executive branches and the appropriate federal agencies can work together to develop a process for applying for federal matching funds using the state's capital outlay dollars for leverage.

Many members voiced concerns about using capital outlay money as a means of matching federal dollars. Members said that the state already has difficulties finding money to fund projects throughout the state. Because capital outlay money typically funds specific projects in a legislator's district, many legislators worry about the funds becoming unavailable for those projects.

Mr. Martinez updated the members on the NMFA's plans for community outreach targeting local governments. He said that the NMFA hosted the first Federal Funders Summit on May 17, 2011. Numerous federal agencies attended, including the Small Business Administration, the USDA, the Department of Housing and Urban Development, the USDA's Natural Resources Conservation Service, the Army Corps of Engineers and the Border Environment Cooperation Commission. Many state agencies were also represented, including the Department of Finance and Administration (DFA), the Department of Environment, the Energy, Minerals and Natural Resources Department, the Economic Development Department, the Office of the State Engineer and the Legislative Finance Committee. Additional attendees included representatives from the Mid-Region Council of Governments, the New Mexico Municipal League and the New Mexico Association of Counties. Representatives from New Mexico's congressional delegation also attended the summit. Mr. Martinez said that the summit was a huge success. He added that the NMFA has taken the lead in leveraging federal and state dollars to serve all of New Mexico's communities.

The NMFA has defined specific goals, including:

- (1) getting federal program representatives to work collectively to fund projects;
- (2) using state and local dollars to match federal dollars and using NMFA programs for further leveraging of dollars;
- (3) requiring the use of the Infrastructure Capital Improvement Plan (ICIP) as a tool to leverage federal funds;
- (4) working with local governments to help them restructure their debts and build capacity to address critical community needs;
- (5) using the NMFA's triple-A rating to save local governments money and shorten the length of their debt obligations; and

(6) financing capital outlay needs for all of New Mexico's communities and special districts.

Mr. Martinez said that the NMFA is taking a proactive approach to assisting the state's communities by working with the DFA at statewide ICIP training meetings, promoting NMFA programs to assist local governments with infrastructure and other high-priority capital needs, working with multiple state agencies to combine funds and fully finance projects and working with federal agencies to learn about available funding and matching fund requirements. Mr. Martinez noted that helping local governments leverage their dollars with federal matching funds will save state taxpayers money.

Mr. Martinez said that a Quick Program Reference Guide contains a sampling of the federal programs available to states and local governments. He noted that the NMFA plans to put together similar guides and that he hopes to develop tools to educate small city and county governments about the programs offered by the federal government. He said that the NMFA plans to partner with the Council of State Governments and some of the federal agencies to find ways to cut some of the red tape associated with applying for program dollars.

John Duff, chief executive officer for the NMFA, said that the NMFA has redefined the role of its financial advisors, who educate smaller governments about ways to plan for their needs. The training focuses on how local governments can identify potential federal programs and dollars that are well-suited for their needed projects.

Mr. Martinez said that there are about nine states that are good at identifying and obtaining federal dollars through federal agency programs. Committee members asked Mr. Martinez if he were aware of model legislation to help states get access to federal dollars that could be reviewed by the committee. He responded that the NMFA staff is looking into possible legislative ideas.

Examples of a Rural Economic Development Project

Representative Dodge, a business owner in Santa Rosa and a representative of Aquatic Consultants, Inc. (ACI), gave a presentation on economic development in rural areas and described a proposed joint venture for fish production in Santa Rosa. Representative Dodge explained the "Branding Santa Rosa" concept to develop a public-private fish hatchery business in Santa Rosa. Santa Rosa is known as the "City of Lakes" because of its spring-fed lakes and the man-made Santa Rosa Lake. He described the city as "truly an oasis in an otherwise dry region", noting that even the Pecos River and El Rito Creek flow perennially through Santa Rosa. Representative Dodge noted that Santa Rosa is probably best known for the Blue Hole, an 81-foot-deep "lake" created by a limestone sink hole, and its associated springs. Divers from all over the world visit Santa Rosa for the opportunity to dive in this unique setting.

Representative Dodge said that, because of the popularity of the Blue Hole, city officials are searching for ways to "brand" Santa Rosa and its abundant water supply. They feel that a positive branding could create a destination opportunity for visitors and create an economic boost to the city resulting in employment opportunities for its residents. Due to the abundance of water rights, Santa Rosa city officials have begun exploring the idea of using the water for fish production.

Representative Dodge said that there is currently a cold water and warm water fish production facility in Santa Rosa operated by the Department of Game and Fish. However, fish bred in that facility are for public waters only. There was a cold water facility operated by the federal government that was closed and dismantled in the 1960s. An estimated 3,000 gallons per minute (gpm) of spring water flows out of the Blue Hole and into El Rito Creek. This water was used by the federal hatchery to produce trout, but now it is essentially "lost". More than 4,000 gpm of water is unused in various other locations around Santa Rosa that could be used for fish production.

Providing an overview of fish production and imports in New Mexico, Representative Dodge told members that, currently, more than 800,000 trout are imported into New Mexico to meet the demands of private and tribal water resource managers. He added that only five commercial hatcheries are approved to import trout into New Mexico. As a result, clients' needs are not fully met in terms of species availability, size and timing of stock. In addition, the fish commodity is subject to approval by the Department of Game and Fish in the form of importation permits. An in-state source for these fish would ensure that clients receive quality fish in a timely manner without the burden of importation permits. Additional demands from out-of-state clients could also be met with a new fish production facility in Santa Rosa.

Representative Dodge explained that ACI is the largest construction and management company of private lakes and streams in the Southwest. ACI has expressed a strong desire to partner with the city to operate the Santa Rosa fish hatchery. This partnership will provide technical expertise and a built-in large internal market. City officials have been working with ACI to help explore the possibility of starting a cold water fish production facility in Santa Rosa. ACI employs aquatic and fisheries biologists, as well as construction personnel that specialize in program and project development for aquatic resources and fish production. ACI has designed and built a number of lakes and streams throughout the Southwest, as well as fish-holding and production facilities for several private clients.

ACI manages a variety of fishing lakes, purchasing and transporting large quantities of trout from Idaho and Louisiana to stock the lakes. In New Mexico, ACI manages lakes at the Pueblo of Sandia, the Pueblo of Isleta, Angel Fire, Chama, Pecos and Ute Park. Additionally, the company manages private lakes on ranches across the Southwest. ACI has expressed an interest in providing a substantial amount of investment capital to help build the proposed Santa Rosa fish hatchery. ACI has agreed not only to purchase all of the fish that a new Santa Rosa hatchery can produce but also to partner with the city in the business venture. Representative Dodge believes that the commitment by ACI to partner with the City of Santa Rosa adds greatly to the viability and sustainability of the project over the long term. The private-public hatchery will have state-of-the art equipment and operational efficiencies. The hatchery will also have the capacity to sell fish to the state.

Representative Dodge said that the City of Santa Rosa and ACI are working together to secure a USDA grant for an initial design of the fish-producing facility and a feasibility study to determine if an existing nine acres are suitable for the hatchery. The study will also determine potential revenues from the hatchery. Representative Dodge said that they expect that the study will show that the resources are suitable for hatching and growing trout and that such a venture would also prove to be profitable. Representative Dodge said that once the feasibility of the

project is determined, the city would like to secure funding to pay for ACI to design and build the fish hatchery using various opportunities such as capital improvement bonds, state funding through the Statewide Economic Development Finance Act (SWEDFA) or private investment. ACI would hire local employees. Revenues from the facility would be used to pay back the funding source.

Representative Dodge said that, in addition to private capital, the city can provide the land. He said that there is potential capital through the USDA's rural enterprise grant and rural business opportunity grants programs for planning, design, development and capital costs, depending upon the ownership structure. An Economic Development Administration grant could also be pursued if the project is included in the regional Comprehensive Economic Development Strategic Plan and is supported by the local Council of Governments. Because this project is also listed as part of the ICIP, it may be possible to help fund it through state capital outlay and the legislative process. Representative Dodge noted that an innovative way to help fund this project may be through a new markets tax credit (NMTC) strategy.

Emphasizing the importance of branding the city's fish hatchery venture, as well as the fish it will produce, Representative Dodge stressed that Santa Rosa wants to be declared as the home of New Mexico's first and only public-private fish hatchery that is locally owned and operated. He said that Santa Rosa could become the "fish production capital of the Southwest". Proponents of the hatchery are reviewing branding terms for the fish produced by the hatchery such as "natural" or "Santa Rosa Rainbow", then pushing the brand so consumers will specifically ask for the fish by name.

There are also plans to stock local lakes and ponds with the "Santa Rosa Rainbow" and create trophy ponds, game fish tournaments and other fishing events to promote the brand. One possible event name is "Santa Rosa's Over-the-Rainbow Festival". Ideally, each restaurant in Santa Rosa would offer some form of the Santa Rosa Rainbow on its menu. People could catch the fish in one of Santa Rosa's lakes and take them into one of the city's restaurants, and the restaurant would cook the fish for them. There could also be a small business entity that would filet and package the fish.

Representative Dodge likened the Santa Rosa fish hatchery proposal to the Anderson's Split Pea Soup in central California, where people drive for hundreds of miles to eat the famous soup. He compared it to a big steak house in Amarillo, Texas, where, if a customer can eat the 72-ounce steak served at the restaurant, the steak is free of charge. He also compared the venture to the existing Salman's Raspberry Ranch in Mora, where people drive out of their way for the "hands-on" experience of picking raspberries.

Representative Dodge said there is significant community support for the endeavor, noting that the people of Santa Rosa are familiar with the fish production industry and want to work with the state and private sectors to make the vision of a private fish production facility a reality. He added that for years, Santa Rosa has been home to fish hatcheries and a trout rearing station, which supply New Mexico's residents with cold water fishing opportunities. In 1965, Rock Lake Trout Rearing Station opened. In 2008, a warm water hatchery, the only one in New Mexico, opened, and the first warm water stock was delivered in July 2008.

Representative Dodge said that the Santa Rosa economic development strategic plan contains a roadmap for the future overall development of the community of Santa Rosa and that economic development is the backbone for additional strategies, including downtown development and beautification, increased tourism, new housing and community growth and recreational activities. All elements must move forward in a "synergistic" fashion for the community to realize its development goals. Saying that economic development is primarily dependent upon market forces, Representative Dodge suggested that those forces can be substantially influenced by the actions of a progressive community in which city government, the not-for-profit sector, the private sector, outside strategic partners and community members work together to achieve the same goals.

Representative Dodge noted that economic development encompasses business development, particularly business start-ups; business retention, by fostering the growth of existing businesses; and business recruitment, by encouraging businesses to locate to Santa Rosa. He said that the fish hatchery business plan addresses all of these strategies and resulted from interviews with community leaders, developers, business owners and committed citizens. Information from similar communities was researched, including best practices, and showed that the incentives that matter most to companies considering locating in New Mexico are payments to help train employees, tax credits that reward hiring of high-wage workers, public funds that help pay for infrastructure or construction of a company's facilities, industrial revenue bonds and tax credits for investment manufacturers.

Representative Dodge explained that the development of Santa Rosa's lakes is an important catalytic project that will serve to differentiate Santa Rosa and transform it into a destination city. So far, Santa Rosa's resources have been minimally developed. The Blue Hole Dive and Training Center will serve to put Santa Rosa on the "national convention circuit", albeit in a niche area. The development of Santa Rosa's lakes for recreational activities, including swimming, boating, fishing and diving, will establish Santa Rosa as a regional tourist destination for water sports.

Committee members sought clarification of who will own the hatchery. Representative Dodge said that the City of Santa Rosa would be the owner, and ACI would operate and maintain the facility. Overall, members seemed genuinely pleased about the proposed business venture.

ACI has been working with Santa Rosa city officials for quite some time on the fish hatchery concept. Ninety-nine percent of rainbow trout from cold water stock are imported into New Mexico, and Missouri, Arkansas and Louisiana provide 100 percent of warm water fish imports. The proposed fish hatchery would be well-poised to compete on the production level, as well as on the transportation side of the market, particularly in selling fish to a large market like Phoenix. The Arizona Game and Fish Department has drafted a letter in support of the proposed hatchery.

ACI anticipates producing 250,000 pounds of fish annually. Representative Dodge estimated that the hatchery would employ five to 15 full-time employees, noting that for a small city like Santa Rosa, 15 jobs are significant.

Representative Lundstrom said that the fish hatchery project is a prime example of a smaller community trying to get funds from a variety of sources for a local project. She asked Mr. Duff if the NMFA is interested in the proposed project. Mr. Duff replied that the fish hatchery is an excellent example of the types of business ventures with which the NMFA is dedicated to work. Representative Lundstrom asked Representative Dodge and ACI to work closely with the NMFA on the project, and she asked Mr. Duff to report back to the committee on the progress of the fish hatchery and other projects with which the NMFA assists.

Public Project Revolving Fund Reporting

Mr. Duff reminded committee members that for the last two legislative sessions, the NMFA has recommended the elimination of the statutory requirement for legislative authorization of Public Project Revolving Fund (PPRF) loans. He said that the NMFA has abandoned its pursuit of changes to the statute and views the statutory restriction as a disadvantage because a more effective process could be created. A few of the significant defects that the NMFA identifies in the current process are that:

(1) many potential borrowers submit letters of interest (the basis for the authorization list) based on the possibility that they will want to borrow during the next fiscal year, but there is no guarantee that the borrower will submit an application. If the borrower submits an application, there is no guarantee that the borrower or the project will meet the PPRF's criteria for approval. Consequently, the authorization list contains projects that will never be funded or considered by the NMFA's board;

(2) the one-time authorization mandated in the statute does not address the possibility that a borrower will develop an unforeseeable need at the authorization date. The \$1 million emergency exception permits the NMFA to address some such situations but not all; and

(3) the one-time authorization does not address the possibility that adverse information concerning a project may not be available at the time of the authorization, but it could become available at a later date. While the NMFA would consult with the NMFA Oversight Committee on an application, there is no systematic process assuring that an application about which the committee has concerns is being actively considered by the NMFA.

Mr. Duff said that the NMFA believes that a process that provides a regular monthly communication with committee members will contribute significantly to the oversight process. As such, the NMFA plans to begin the following reporting activities on July 1, 2011:

(1) the NMFA will provide a "loan activity report" early each month for the preceding month. A report for June 2011 is in the handouts and allows committee members to see the flow of the loan application process, including new applications and applications approved by the NMFA board;

(2) when an application is received by the NMFA, NMFA staff will notify via email the legislators in whose districts the project is located;

(3) upon approval of a project by the NMFA board, the NMFA will issue a press release describing the project and its approval and will contact the appropriate legislators to ask if they would like to add comments to the press release; and

(4) the NMFA will provide a quarterly report on total financing by county on a per capita basis, as well as other pertinent data.

Members asked Mr. Duff if he thinks the NMFA is competing with private lenders in New Mexico. Mr. Duff said that in his five-year tenure with the NMFA, he has never received a complaint from anyone at a bank about the work of the NMFA. He attributed that to the fact that banks have little interest in tax-exempt lending. Mr. Duff then asked committee members to notify him at once if they are aware of a private lender that has issues with the NMFA's programs.

There was a brief discussion regarding the NMFA's authority to market bonds for the Department of Transportation. Staff was asked to provide copies of the legislation that authorized the NMFA to market the bonds.

New Mexico Renewable Energy Transmission Authority (RETA)

Jeremy Turner, executive director, RETA, and Angela Gonzales-Rodarte, project coordinator, RETA, provided an overview and update of the RETA. The RETA was statutorily created in 2007 for the purpose of addressing energy transmission issues in New Mexico and is tasked with planning for and financing transmission lines within the state. Pursuant to the RETA's statutory mandate, 30 percent of the power it plans for must be from renewable sources.

Referring to the RETA's organizational chart, Ms. Gonzales-Rodarte noted that the RETA is a small organization, with only three full-time employees.

The RETA's primary function is to finance transmission and storage projects by issuing revenue bonds payable from the revenues generated by the projects. The first project for which the RETA issued revenue bonds was the High Lonesome Mesa project, for which it issued \$50 million in development bonds in November 2010.

She said that the RETA has entered into three memoranda of understanding (MOUs) and one letter of support (LOS) with potential projects. The MOUs are with Clean Line Energy; Lucky Corridor, LLC; and GS Global Infrastructure Partners, II. The LOS is with Blue Mesa Energy, LLC.

Ms. Gonzales-Rodarte said that the RETA has the power of eminent domain and is currently making rules for exercising its eminent domain powers. The RETA expects to have the final rules by August 2011.

Mr. Turner directed members to a handout that provides a breakdown of the projected FY 2011 through FY 2013 budget. He said that the RETA reduced its budget by \$100,000 for FY 2011 and that with the closing of the High Lonesome Mesa bonds sale, the RETA is fully funded for the next two years.

Ms. Gonzales-Rodarte explained the effects of the passage of Senate Bill 60 (Laws 2011, Chapter 33), sponsored by Senator Harden and Representative Stapleton, which provides that the RETA's bonding and operational funds be moved from the state treasurer to the RETA, noting that this is how quasi-agency funds are typically handled. The legislation also allows for the creation of separate accounts within the RETA's bonding fund and allows bonds to be issued above, below or at par. It also allows the RETA to hold proprietary, technical or business information confidential and not subject to the Inspection of Public Records Act.

Ms. Gonzales-Rodarte summarized other legislation that was passed during the 2011 session, including Senate Bill 82 (Laws 2011, Chapter 51), which removed the state investment officer from several boards, including the RETA board. Senate Joint Memorial 8 requires the RETA and the Energy, Minerals and Natural Resources Department to collaborate with White Sands Missile Range and other military installations when developing renewable energy programs and corridors for transmission lines in New Mexico and to create a report on this collaboration for the interim Military and Veterans' Affairs Committee, the NMFA Oversight Committee and the chair of the RETA board. Another senate memorial provides additional responsibilities for the RETA, including developing a map and supporting documents to identify existing generation and transmission lines and renewable energy resource zones to support development, coordinating with other agencies to prioritize regions with low or minimal land development conflicts and identifying and prioritizing the best options for potential transmission corridors.

Ms. Gonzales-Rodarte said that the RETA does not have statutory authority to obligate any developer to build a transmission line within an identified corridor. The intent of the RETA is to help mitigate potential environmental, wildlife, military and cultural damage through the identification of corridors, with the help of various stakeholders, to determine areas best suited for development. Several independent transmission projects are currently in various stages of development and routing. To provide future developers with available resources, the RETA provides links to known transmission line projects in its report but omits the exact routing of the transmission lines. Consequently, the transmission lines of these projects are not included in the corridor map.

Ms. Gonzales-Rodarte directed members' attention to a time line reflecting the work that the RETA has accomplished from October 2009 to July 2011, when the corridor map was completed and presented to Senator Timothy M. Keller.

Ms. Gonzales-Rodarte said that the RETA is studying the following projects:

- (1) Centennial West — the line from New Mexico to California;
- (2) Lucky Corridor — a line in northern New Mexico;
- (3) Southline — a line from New Mexico to Arizona;
- (4) the SunZia — a line from New Mexico to Arizona;
- (5) High Plains Express — a line from Wyoming to New Mexico; and
- (6) Tres Amigas Superstation — the interconnection of three grids.

Depictions of lines and grids are located on pages 13 through 19 of the handout.

Mr. Turner said that the purpose of a study that the RETA commissioned, which was completed by the Los Alamos National Laboratory, was to evaluate transmission concepts, economic benefits and cost allocation methodologies. The study analyzed two potential systems — looped versus radial line upgrades — necessary to export 5,200 megawatts of generation. The study looked at upgrades on a five-year, 10-year and 20-year planning cycle. Economic benefits and cost recovery options were analyzed, including direct and indirect job creation, the potential tax implications of each plan and the energy tax required to support each potential plan. The RETA has entered into two MOUs that advance the build-out of the system identified by the study for the Lucky Corridor, LLC, and the GS Global Infrastructure Partnership, II, L.P. (GSIP). Mr. Turner further said that the RETA entered into an MOU with GSIP on March 30, 2011. The MOU provides for a partnership for jointly developing a collector system in central New Mexico, with GSIP acting as an equity partner in the project.

Mr. Turner explained that the project will involve a 345-kilovolt line approximately 200 miles long, with an initial carrying capacity of 1,200 megawatts to 1,400 megawatts. The RETA anticipates a two-year construction period, with approximately 200 construction jobs created. The project is estimated to cost between \$350 million to \$400 million for the line. Financing will be secured through transmission agreements. The RETA estimates that the renewable development has the potential to exceed \$1.8 billion. In phase two of the project, the RETA hopes to transport 2,300 megawatts out of the state.

Mr. Turner stressed that the RETA hopes not to exercise its eminent domain powers, but it is in the process of determining how it would exercise those powers should it become necessary. A draft of the procedures was released for a 45-day public comment period on March 30, 2011. On May 25, 2011, the public comment period was extended for an additional 30 days, and on June 21, 2011, the public comment period was extended for an additional 21 days, to July 12, 2011 at 5:00 p.m. M.S.T. Mr. Turner expects the RETA general counsel to respond to the individuals who submitted comments by July 19, 2011. Included in the general counsel's response will be an allowance for additional comments, to end on July 29, 2011. The RETA general counsel will prepare a final proposal for consideration by the RETA Projects Committee and a hearing will be scheduled at a RETA board meeting, when the eminent domain rules will be officially adopted.

Some members asked if input from the NMFA Oversight Committee would be considered. Committee staff was asked to provide copies of the proposed rules to committee members. Mr. Turner explained that input from the committee members would be gladly accepted for consideration.

When asked what types of public concerns materialized through the public comment period, Mr. Turner said that a number of landowners asked if the RETA could enter into long-term leases to avoid exercising its eminent domain powers. Mr. Turner explained that the RETA's authority pursuant to statute does not provide for long-term leases. He also noted that the attorney general and the Public Regulation Commission will provide comments to the RETA regarding its eminent domain powers.

Approval of Minutes

Upon a motion made and seconded, the minutes of the June meeting were approved. With no further business for the day, the meeting recessed at 4:00 p.m.

Tuesday, July 12

Representative Lundstrom welcomed the committee members and guests back for the second meeting day. She noted that Mr. Arsenault and John Presto, the facilities director for the Gallup-McKinley County School District, had additional information they wished to share with the members. Mr. Presto provided a brief update of schools that are being refurbished and updated. He reminded the members that, despite the work proceeding at numerous schools within the district, no tax increases have been imposed on taxpayers.

New Market Tax Credits Update

Marquita Russel, chief of programs for the NMFA, spoke to the committee members regarding the NMTC program, explaining that the NMTC was created in 2000, during the Clinton administration and implemented during the George W. Bush administration. The program is managed by the U.S. Department of the Treasury. She explained that the NMTC program awards federal tax credits for economic development in low-income communities nationwide. The program is administered through a Community Development Financial Institution Fund, an arm of the U.S. Department of the Treasury, in an annual competitive process. Only certified community development entities (CDEs) may compete for the available tax credits. Award-winning CDEs can invest the NMTC credit in qualifying projects, ranging from business creation and expansion of community facilities to commercial real estate. Credits are not awarded to "sin" businesses or projects that earn more than 80 percent of their annual income from residential rentals. Allocation of funds is directed to areas considered "highly depressed".

Ms. Russel said that an allocation of tax credits does not equal cash. Rather, selling the tax credit will turn the credits into a cash asset. An allocation of credit to a project provides for \$.39 for each dollar of investment tax credits. The credit is taken over a seven-year period at five percent in the first three years and six percent in the remaining years. The tax credits are amortized to bring additional capital to the project in order to fund business expansion or debt refinancing. Flexible, low-cost capital provides the critical final pieces of financing a project, along with longer amortization and higher loan-to-value ratios than those permitted with traditional debt. Ms. Russel explained that at the end of the seven-year compliance period, the debt may be acquired for cents on the dollar, depending on the structure of the transaction.

Ms. Russel said that Finance New Mexico is the for-profit entity created by the NMFA in 2007, specifically to function as a CDE to participate in the NMTC program. She noted that Finance New Mexico focuses on projects that will create jobs, such as projects involving historic real estate renovations. Finance New Mexico is required to use 75 percent of its tax credits in highly distressed areas designated as such by the 2000 census. She emphasized that no state money goes toward these projects; the allocations are strictly federal tax credits.

Ms. Russel directed the members attention to a handout depicting the flow of a typical NMTC transaction. She noted that the NMFA has worked with several banks in New Mexico, including Los Alamos National Bank, U.S. Bank and Bank of Albuquerque. Because NMTCs

are fairly new to New Mexico, there are not yet a lot of banks participating in the program. However, she pointed out that once a bank has participated in a project, it tends to remain interested in further participation.

Ms. Russel provided an overview of the basic borrower eligibility requirements for the NMTC program, including that the project must be located in a highly distressed, low-income community as determined by the census tract and that projects involving "sin" businesses — e.g., race tracks, golf courses, gambling facilities, liquor stores, certain farming businesses and massage businesses — are not permitted.

The proposed project must provide a tangible community benefit. An ideal project would be part of an existing economic revitalization plan coupled with a "but for" component; i.e., but for the NMTC program, the project would not otherwise come to fruition.

Lastly, the project must be ready to go. The leverage lender must be committed and prepared for the NMTC documentation process, and necessary approvals must be in place.

Some members asked for clarification regarding whether the state is losing money because of the NMTC program. Mr. Duff said that the credit is lost tax revenue to the federal government only.

Members inquired as to what types of companies are eligible for the NMTC, specifically whether start-up businesses are eligible. Ms. Russel explained that, typically, companies awarded the tax credits are existing companies that are capable of leveraging capital, a requirement not often attainable by a start-up business. She also mentioned that potential companies need capital and collateral to meet the requirements of the NMTC.

Members also asked about the time frame for the NMTC award. John Brooks, director of commercial lending for the NMFA, said that the process can average from six to nine months, but if a company is ready to move forward quickly, the process can be completed in as little as three months.

Economic Development Revolving Fund Update

Mr. Brooks provided an update on the Economic Development Revolving Fund (EDRF), reminding committee members that the SWEDFA was enacted in 2003 to help stimulate the state's economy, particularly in rural and underserved areas, by creating financing tools that, prior to the act's enactment, New Mexico lacked but that neighboring states, like Colorado and Texas, offered.

Mr. Brooks further reminded the members that the EDRF was created pursuant to the SWEDFA. The EDRF is connected to four of the five SWEDFA-authorized programs:

- (1) loan participations purchased with smart money funds held in the EDRF;
- (2) direct loans made with funds in the EDRF;

- (3) conduit bonds, which could be purchased using funds in the EDRF; and
- (4) loan bond guarantees, which could be made from the EDRF.

Mr. Brooks noted that the NMTC program does not use funds from the EDRF.

Mr. Brooks told members that, to date, the EDRF has received two appropriations. It was initially seeded in 2005, with \$10 million from the state's general fund, and then it received a \$2 million appropriation in 2007. He added that \$1.9 million from the fund reverted to the general fund in 2011. Consequently, the fund's portfolio stands at \$5.1 million, with approximately \$1.9 million available for projects.

Mr. Brooks noted that, to date, the EDRF has been used solely for the Smart Money Loan Participation (SMLP) program. Since the SMLP program's inception in 2006, the NMFA board has approved \$16.9 million in loans, which would have leveraged about \$43 million in bank funds, for a total of \$59 million in expansion capital. An added benefit has been the creation or retention of nearly 1,100 jobs.

Mr. Brooks next directed the members' attention to a handout with an overview of SMLP board-approved loans and noted that the following pages of the handout contained more in-depth information regarding the approved loans, including loans that failed to close.

Ms. Russel said that in June 2011, the NMFA signed an MOU with the Economic Development Department to administer the \$13.2 million state small business credit initiative (SSBCI) funds that the state is expected to receive over the next two years. The SSBCI money comes pursuant to the federal Small Business Jobs Act of 2010, created to help increase the availability of credit for small businesses. The program is operated by the U.S. Department of the Treasury and provides that funds may be used for capital access programs (CAPs) and other collateral support programs, such as loan participations, state-sponsored venture capital programs and loan programs. The SSBCI program requires that by 2016, each state must leverage \$10.00 of private capital for each dollar of federal funds provided. Ms. Russel said that the NMFA intends to use the money for loan participations.

Ms. Russel explained that CAPs provide participating banks with separate loan loss reserves that act as portfolio insurance for "enrolled" business loans. To enroll a loan, the participating bank, the borrower and the state each pay an insurance premium into the participating bank's CAP reserve. The reserve is used to fund losses incurred by the participating bank for each enrolled loan. The U.S. Department of the Treasury strongly encourages each state to use some of its SSBCI funds for the CAP program because the program provides the greatest leverage of the SSBCI funds.

Ms. Russel told the members that 100 percent of the state's SSBCI funding will go to a new loan participation program called the Collateral Support Loan Participation program. The program will be directed exclusively to businesses that create quality full-time jobs. Additionally, the NMFA will continue to emphasize lending to rural and underserved businesses by providing greater participation percentages to rural businesses and providing revolving lines of credit, a much needed product, particularly in metropolitan areas of the state.

Ms. Russel spoke to the members regarding Senate Bill 454 (Laws 2011, Chapter 150), the provisions of which took effect on July 1, 2011. The provisions provide a two-year suspension of the legislative authorization requirement provisions added to the SWEDFA in 2005. Consequently, the NMFA will be able to meet the rigorous time demands of the SSBCI funding process. During the two-year period, the NMFA will report to the legislature regarding projects that have been approved and closed.

There was a general discussion regarding the NMFA's programs, with interest by members about applicants that have been denied funding. Mr. Brooks noted that applicants turned down by the NMFA are typically referred to other appropriate agencies or resources. Members asked for a list of applicants turned down by the NMFA.

NMFA Systems to Integrate Loan Operations

Mr. Duff briefly explained that the chief objective of the systems to integrate loan operations (SILO) is to connect numerous manual processes primarily associated with the PPRF programs to improve consistency and accuracy. The SILO software is modeled on similar software used by major banking institutions. Mr. Duff anticipates that SILO will help the NMFA staff generate reports quickly and efficiently. The goal is for an overall improvement in efficiency and control. He advised the members that the NMFA has issued a request for proposals seeking firms that specialize in banking software.

Representative Lundstrom noted that the NMFA Oversight Committee will likely tour the NMFA during the committee's October or November meeting. With no further business, the meeting adjourned at 11:10 a.m.

MINUTES
of the
THIRD MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

August 22-23, 2011
Ralph Edwards Auditorium, Truth or Consequences Civic Center
400 West Fourth Street
Truth or Consequences, New Mexico

The third meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, vice chair, on August 22, 2011 at 9:38 a.m. in the Ralph Edwards Auditorium at the Truth or Consequences Civic Center in Truth or Consequences, New Mexico.

Present

Rep. Patricia A. Lundstrom, Chair (Aug. 23)
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Rep. Candy Spence Ezzell
Sen. Stephen H. Fischmann
Rep. Yvette Herrell
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. Richard D. Vigil (Aug. 22)
Rep. James P. White

Advisory Members

Sen. William F. Burt
Rep. Ernest H. Chavez
Rep. Mary Helen Garcia
Rep. Rick Little
Sen. Lynda M. Lovejoy
Rep. Andy Nuñez
Rep. Edward C. Sandoval (Aug. 23)
Rep. Sheryl Williams Stapleton

Absent

Sen. Sue Wilson Beffort
Sen. Kent L. Cravens
Sen. Tim Eichenberg
Rep. Roberto "Bobby" J. Gonzales
Sen. Clinton D. Harden, Jr.
Sen. Howie C. Morales
Rep. James R.J. Strickler
Sen. David Ulibarri

Rep. Anna M. Crook
Rep. David L. Doyle
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Eric G. Griego
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. George K. Munoz
Sen. Steven P. Neville
Sen. William H. Payne
Rep. Thomas C. Taylor

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Doris Faust, Legislative Council Service (LCS)

Lisa Sullivan, LCS
Claudia Armijo, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Monday, August 22

Senator Papen welcomed the members and guests. She asked committee members to introduce themselves, which they did. She then asked the panel of guest speakers to introduce themselves and begin their presentations.

Overview of Local Capital Projects and Capital Needs

Janet Porter Carrejo, Sierra County manager, reported that the Sierra County administrative offices are housed in two different buildings approximately one mile apart. The county commission chambers and the administration offices are housed in a metal building, refurbished in 2009, and the county clerk, treasurer, assessor and probate judge are housed in an old schoolhouse constructed in the early 1930s. The old schoolhouse offices are in serious need of replacement. The schoolhouse has inadequate wiring and an outdated heating and cooling system. Ms. Porter Carrejo said that to remedy this situation, the county has purchased a piece of property in hopes of constructing a multistory building to house all county departments under one roof. She estimated the square footage of the proposed building to be between 9,000 and 10,000 square feet. She noted that the new building would better serve the constituents of Sierra County by locating all of the administrative offices in one location. She added that the new building would also increase the visibility of Sierra County and its tourism-focused services for visitors. She also anticipates improved employee morale if the departments are located in one newly constructed building.

Ms. Porter Carrejo told members that another huge challenge faced by Sierra County is the need for a transfer station to transport waste to Las Cruces in Dona Ana County or to some other place in Sierra County. She explained that, pursuant to Department of Environment (NMED) rules, the Sierra County landfill was closed on January 1, 2011. Since that time, Sierra County has been working with the City of Truth or Consequences, the Village of Williamsburg, the City of Elephant Butte and the NMED to plan and construct a transfer station that will handle all of Sierra County's solid waste. Once the transfer station is constructed, the county will begin transporting solid waste to Las Cruces or Socorro for final disposal. Sierra County needs to find an appropriate site for a transfer facility and needs to construct a modern, energy-efficient transfer station with the capacity to handle all current waste as well as future waste. The construction of a transfer facility will benefit the residents of Sierra County and eliminate potential illegal dumping of waste in Sierra County's arroyos. It will also provide Sierra County with an opportunity to collaborate with all entities located within its boundaries, as well as to build upon its established working relationship with the NMED.

Walter Armijo, chair, Sierra County Commission, also spoke to the members regarding issues of concern for the county. He stressed that the old schoolhouse was built in 1932 and is in serious need of renovation. He noted that the county has put a lot of money in the schoolhouse project already and needs financial assistance for further renovations.

Juan Fuentes, director of projects and acquisitions for the City of Truth or Consequences, told members that the city applied for and received a loan from the Water Trust Fund at 0% interest, with 20% funded by the NMFA. He said that the landfill project is among the top five needs for the county, adding that the county's wastewater systems also need improvement.

Committee members inquired as to why the NMED closed the Sierra County landfill. Ms. Porter Carrejo said that about 15 years ago, the NMED decided to have regional landfills in New Mexico, thus eliminating local landfills. The decision was implemented through rule. Members asked how far apart geographically the NMED regulations require landfills to be located. Ms. Porter Carrejo was not certain regarding the distance required between landfills in the state. She noted that high costs are associated with transferring waste out of the county to regional landfills. When members asked if the Sierra County landfill had been cited for environmental violations prior to its closing, Ms. Porter Carrejo said no. In fact, she said, the Sierra County landfill had at one time received an excellent rating. However, she noted that possible problems could have arisen if the landfill remained open because it was located close to the airport. This was seen as a potential issue if the airport needs to expand. Lastly, some members asked if the county had sought a waiver to keep the landfill open. Ms. Porter Carrejo noted that the county had discussed seeking a waiver but decided against it, and a permit to move the landfill could take up to five years at a cost of up to \$1.5 million. Mr. Armijo noted that one of the reasons the landfill was closed is that it had only 20 acres of land. According to Mr. Fuentes, the ideal solution for the county is the construction of a transfer station.

Committee members discussed the possible need to look into the regulations regarding landfills within the state. Additionally, members noted that there may be ways to expedite requests for landfill permits.

Members inquired as to whether the old schoolhouse has a historic designation. Ms. Porter Carrejo said that it does not. When asked if the county will pursue financing through the NMFA, Ms. Porter Carrejo said that because Sierra County does not have the ability to repay a loan, there are no plans to apply for financing through the NMFA.

Spaceport Authority Update

Christine Anderson, executive director for the Spaceport Authority, began her presentation by reminding members that Spaceport America's vision is to become the world's premier commercial launch facility, providing first-class service to customers and delighting and inspiring visitors. The mission is to provide safe, efficient and effective service for commercial space launch customers, she said. Additionally, the spaceport seeks to provide safe, efficient and effective service for aerospace research and development customers. Lastly, its mission is to provide an educational, inspirational and fun experience for all visitors.

Referring to a handout dated August 22, 2011, Ms. Anderson advised committee members that the United States is committed to encouraging and facilitating the growth of a U.S.

commercial space sector that supports the needs of the U.S., is globally competitive and advances U.S. leadership in the generation of new markets and innovation-driven entrepreneurship. She said that market demand in the commercial space sector is strong and growing. Spaceport America's location is ideal due to its close proximity to the White Sands Missile Range, as well as its easy access from Interstate 25. It is located on approximately 18,000 acres, is in a sparsely populated area and is 4,600 feet above sea level, making it the ideal setting for using less fuel with higher payloads. The area experiences excellent year-round weather with no threat from earthquakes and tornadoes.

Ms. Anderson told committee members that typical Spaceport America customers include horizontal-launch customers, vertical-launch customers, students and tourists.

Ms. Anderson noted that Armadillo Aerospace conducted its first launch on May 14 and its second on June 11. The Boeing Corporation has been conducting flight testing of a helicopter avionics system since May 2011, and on May 20, 2011, 800 students were involved in the student launch. There have been 12 vertical launches to date, and the spaceport has hosted more than 600 tourists.

Future plans for Spaceport America include two welcome centers located off of Interstate 25 near Truth or Consequences and Hatch. Additional plans include an on-site visitor center, a guard station at the entrance and a 4,000-square-foot Virgin Galactic (VG) building. A typical visitor day at Spaceport America will include interactive and immersive exhibits, educational activities, launch viewing, shopping and dining.

Ms. Anderson said Spaceport America has hired "IDEAS — The Innovation Studio", a company founded in 2001. The company has worked on every major theme park and on attractions for the Walt Disney Company and Universal Studios, providing a special focus on storytelling learning systems. The company offers in-house marketing, branding and technology development, as well as market-based decision-making.

Ms. Anderson presented a video, created by IDEAS — The Innovation Studio, depicting a young girl talking about her family's trip to the spaceport and illustrating the process involved in visiting Spaceport America and the interactive features available during a visit.

Ms. Anderson provided an update on Spaceport America's transition from a state-funded agency to a self-sustaining enterprise, telling committee members that the spaceport's phase 1 construction is 90% complete. Phase 2 construction and pre-operations start-up is 18% complete. The bonds for these expire in June 2012 and December 2013. Ms. Anderson noted that the spaceport continues to seek additional launch customers, private investors and partnerships.

Ms. Anderson told members that the Bureau of Land Management and the State Land Office are providing permits and rights of way for the construction of the Southern Spaceport Road access. The road will use existing Sierra County and Dona Ana County road alignments, with minor adjustments for safety. The current bladed dirt road will be replaced by a continuous asphalt road with two 12-foot lanes and eight-foot shoulders. The new road will provide improved erosion control and low-water drainage crossings.

The hangar at Spaceport America, formerly called the "Terminal Hanger Facility", has been renamed "Virgin Galactic Gateway to Space". Ms. Anderson pointed out several photos of the hangar in the handout.

Ms. Anderson said that Spaceport America's construction respects the local environment. The plan is for the spaceport to co-exist with the surrounding working ranches, not to disturb the year-round wildlife's water supply and to continue cultural and archaeological mitigation efforts.

Ms. Anderson spoke to members about the spaceport's budget, describing plans to move from revenues generated through gross receipts tax bonds and severance tax bonds to operations funded by spaceport revenues.

Ms. Anderson told the committee that the spaceport hopes to create 564 jobs between 2013 and 2014. She provided a list of New Mexico companies benefiting from work at the spaceport.

Ms. Anderson closed her presentation by explaining the strategic goals for Spaceport America, which include reaching a self-sustaining and profitable status, as well as becoming a robust economic engine for the local area and the State of New Mexico.

George Whitesides, chief executive officer, VG, echoed Ms. Anderson's comments, saying that VG is committed to the success of Spaceport America and to the State of New Mexico. He stressed that New Mexico's informed consent laws need to be expanded in order for the spaceport to remain competitive with other spaceport entities operating in other states. He also noted that infrastructure projects need to be completed, as they are key to VG ramping up its operations for the start of commercial services.

Providing background about VG, Mr. Whitesides noted that VG operates two companies: the VG Operating Company, which handles the base operations at Spaceport America, and The Spaceship Company, a joint venture between VG and Scaled Composites, which manufactures the space vehicles comprising VG's fleet.

Mr. Whitesides said that VG has taken more than 450 reservations for space flights and has received more than \$60 million in deposits for those flights.

Mr. Whitesides apprised members that four states, including New Mexico, have passed limited liability legislation. The other states are Texas, Virginia and Florida. Texas and Virginia initially passed laws that protect both spaceport operators and manufacturers, and since it originally passed legislation, Florida has amended its law so that it protects manufacturers. According to Mr. Whitesides, in order to remain competitive, New Mexico needs to amend its law to extend limited liability to manufacturers. He opined that amending the law would help generate manufacturing jobs in New Mexico. He said that Texas has already experienced the creation of manufacturing jobs. Stressing the need to reform the legislation, Mr. Whitesides said that New Mexico needs to remove legal barriers in order for Spaceport America to compete with the spaceports in Texas, Virginia and Florida.

A discussion regarding the potential for job creation ensued with members voicing concerns regarding the types of jobs that might be created, which will likely not be high-paying jobs. Some members relayed a desire for spaceships to be manufactured in New Mexico, particularly since the state invested so heavily in the building of the spaceport. Mr. Whitesides noted that those manufacturing companies would be more likely to locate in New Mexico if the tort liability bill were amended. The discussion continued with members expressing a need for the state to experience economic development benefits from the spaceport's operations.

There was a brief discussion about the Federal Aviation Administration (FAA) and its involvement with flights in and out of Spaceport America. It was noted that the FAA's main focus is on general aviation aircraft, which are not slated to operate at the spaceport. According to Mr. Whitesides, Spaceport America intends to operate as a "prior permission required" airport, meaning prior permission to land or take off is required for aircraft to operate at the spaceport.

The discussion closed with members requesting a detailed list, including the dollar amounts involved, of all contractors located in Sierra County or Dona Ana County that are working with Spaceport America.

A motion was made and seconded to approve the minutes from the July 2011 committee meeting held in Gallup, New Mexico. The motion passed without objection.

Spaceport America Tour

The committee members and staff toured the facilities at Spaceport America. Aaron Prescott, Spaceport Authority business operations manager, provided interesting facts about the facility during the tour. Members were driven onto the nearly two-mile-long and 42-inch-thick runway, providing them with a nearby view of the massive VG Gateway to Space hangar. Members donned hard hats as they entered the area surrounding the hangar. The interior construction progress of the hangar was visible as workers on forklifts were modifying the structure during the tour. Members were advised that the hangar could hold up to four spaceships. Members were photographed standing outside the hangar prior to returning to the bus at the close of the tour.

Upon return from the spaceport tour, and with no further business for the day, the meeting recessed at 4:00 p.m.

Tuesday, August 23

Senator Papen welcomed committee members and guests back for the second meeting day.

Border Authority Update

Jim Creek, executive director for the Border Authority, and Mario Herrera, logistics manager for the Border Authority, addressed the committee.

Mr. Creek provided an update regarding New Mexico's ports of entry, saying that most of them have avoided experiencing a downturn in crossings. He added that New Mexico's border economy is moving toward its potential.

New Mexico's ports of entry are located at Antelope Wells in Hidalgo County, Columbus in Luna County and Santa Teresa in Dona Ana County. Antelope Wells is the smallest of the ports, providing sub-commercial border crossing for 11,000 vehicles in 2010. The port building was replaced using federal stimulus funds.

The Columbus port of entry is used for the majority of imports of Mexican-grown chile into New Mexico, as well as imported cattle. The area has experienced severe flooding problems in the past, and flooding continues to be problematic at the port and in the surrounding area. A new three-and-one-half-mile commercial bypass project is underway at the port. Mr. Creek said that the Border Authority is hoping to get federal dollars from the FY 2012 budget to rebuild the port building at Columbus.

The Santa Teresa port of entry is no longer considered a small port, as it has become the seventh-largest port on the Mexico/U.S. border. Larger ports located outside of New Mexico include Brownsville, Laredo and El Paso in Texas; Nogales in Arizona; and San Diego in California. Santa Teresa crossings yield a variety of imports and exports with a total combined value in 2006 of \$1.2 billion. In June 2011, the amount was in excess of \$1.7 billion. Among items passing through the port in high volume are Dell computers, with more than 40,000 passing through the port on a daily basis. The value of all exports through the Santa Teresa port of entry in 2010 was \$4.6 billion. Among the items exported were consumer electronics, computer components, used vehicles, motorized equipment, vehicle fuel system components, wiring and lighting devices and components, pinto beans, black beans and corn syrup.

The port has seen a dramatic increase in all types of traffic. Last year, the port occasionally experienced wait times of up to four hours. As a consequence, the Border Authority put together a team of people to look into ways to come up with about \$11 million in federal dollars for port expansion projects.

There was a brief discussion about the need for federal dollars to improve the ports of entry. Members also talked about items like computer parts, which are exported into Mexico for assembly, as well as items like chile, consumer electronics, wind turbine blades, cement and related products and wiring and lighting devices. Members also inquired as to the procedures for livestock inspection. Livestock are inspected by the United States Department of Agriculture immediately upon entering the U.S.

After a discussion in which committee members determined that the governor likely has the authority to resolve water issues related to Sunland Park, a motion was made to send Governor Martinez a letter asking her to take action to resolve water issues in the Sunland Park area. The motion was seconded and passed without objection.

Union Pacific Railroad Project at Santa Teresa and Its Binational Impact

Zoe Richmond, representing Union Pacific Railroad, said that Union Pacific is working with Governor Martinez and the legislature to construct a state-of-the-art rail facility in the

southern part of the state. Union Pacific's investment in the project totals more than \$400 million.

Ms. Richmond estimates that the facility will create 3,000 jobs during the construction phase from 2011 to 2015 and will eventually be the headquarters for more than 600 permanent jobs. For the first time ever, southern New Mexico will have a key inland port, positioning the Santa Teresa area as a strategic focal point for the movement of goods in the southwestern United States.

First proposed and supported by the New Mexico governor and state legislature in 2006 with a locomotive fuel tax exemption, the site for the proposed facility is located just west of the Santa Teresa Airport and will incorporate:

- fueling facilities located along the busy "Sunset Route" between El Paso and Los Angeles. The fueling facility will enhance commerce and goods movement in New Mexico;
- crew change buildings similar to those in the airline industry. This facility will eventually serve as home base for Union Pacific employees operating long-haul trains out of the area;
- an intermodal block swap switching yard to enhance capacity and efficiency. The new switching yard will incorporate the latest engineering techniques for improved efficiency; and
- an intermodal ramp, which will permit both local and regional businesses more immediate access to the efficiencies of freight trains.

Ms. Richmond opined that upon completion, the project will have generated \$500 million in economic impact in New Mexico, creating thousands of jobs and fostering a new economic base for the southern region of the state. With construction anticipated to begin in the fourth quarter of 2011 and continue through 2014, the region will see an impact as soon as this year and will benefit for many years to come.

The construction of the Santa Teresa facility will permanently position southern New Mexico as a crucial component of the historic "Sunset Route", one of the oldest and most critical rail corridors in American history, securing New Mexico's future as a leader in the goods-movement industry. Union Pacific's initial plan for capital spending in 2011 totals \$3.2 billion in support of America's freight transportation needs, and the company will continue enhancing the safety and efficiency of its 32,000-mile network. The resulting improved rail capacity benefits everyone. It allows freight rail service to grow while helping to build a cleaner environment. According to the U.S. Environmental Protection Agency, freight trains are nearly four times more fuel efficient than trucks. Ms. Richmond noted that the legislature needs to pass legislation providing for a locomotive fuel tax exemption, which will help make the project a reality.

Transportation Bond Update

John Duff, chief executive officer for the NMFA, spoke to the members regarding Governor Richardson's Investment Partnership (GRIP) bond program. He was joined by Alvin C. Dominguez, secretary of transportation, and Tom Church, deputy secretary for business

support, Department of Transportation (DOT), as well as Marcos Trujillo, bond and debt service manager of the Financial Control Bureau, DOT.

Mr. Duff reminded members that the NMFA was created by the legislature in 1978. The NMFA has its own governing board and assists qualified governmental entities to gain affordable financing for capital equipment and infrastructure projects. The Public Project Revolving Fund (PPRF) remains the NMFA's flagship program. The NMFA was directed by the governor in 2004 to issue and manage the GRIP program debt as the DOT's agent.

When asked about efforts to refinance the debt, Mr. Duff referred to page 28 of the handout, which outlines the risks associated with the current and proposed debt structure for the GRIP bonds. According to Mr. Duff, the current status of the program is "reasonably stable", and it conforms to the standards initially set by the legislature in 2003. However, he cautioned, another major market meltdown could make the program problematic because of the variable rate associated with the GRIP bonds.

Mr. Duff reminded members that about a year ago, the NMFA had a brief window of opportunity to replace the fixed rate bonds reducing the total debt service amount. The market opportunity requires low tax rates along with high treasury rates. Unfortunately, the window of opportunity did not last long enough to allow the NMFA to complete the swap. Mr. Duff added that the cost to exit the variable rate debt has three elements:

- 1) writing a check to the swap counterparties for \$115 million;
- 2) saving money by issuing fixed-rate debt at lower than 5%, which is what is currently being paid; and
- 3) paying underwriting and legal fees that could amount to \$2 million.

Members discussed the steps leading to the GRIP bond deals in 2003 and 2004. Mr. Duff said that the GRIP deals were not unlike similar funding deals at the time, but the NMFA has a much more conservative view now. Members voiced concern regarding how the deals were made and which individuals played a role in the decisions at the time.

Mr. Church said that it was the DOT staff that recommended fixed rates. The decision to go with the variable rate bonds was made at a higher level. Consequently, the DOT is maxed out on its debt, and its ability to repay the debt is compromised.

Members discussed what resources the NMFA might have to deal with these types of economic issues. Mr. Duff said that the NMFA is looking at its operation in terms of job creation, noting that for every million dollars in infrastructure funded by the NMFA, six and one-half permanent jobs are generated. Members asked that the discussion be continued as an agenda item at a future NMFA Oversight Committee meeting.

Committee members inquired about projected new road projects for the next few years and expressed serious concerns regarding the state's ability to repay debt financing for new roads while funding road rehabilitation and repaying existing debt obligations. Committee members asserted that politics should be removed from highway projects, and the State Transportation Commission should not constantly be changing. Secretary Dominguez responded that in the

past, some road projects were politically motivated and not based on the best interests of the state, but now the DOT, rather than the commission, approves road projects. Approval is based on priority and absolute need.

Federal Transportation Funding Update

Secretary Dominguez stated that current federal funding for the DOT is approximately \$400 million. There are currently several federal House of Representatives bills proposing varying amounts in cuts to the federal budget that would result in reduced revenue for state transportation budgets, the most popular of which would reduce the DOT's funding to approximately \$250 million. Secretary Dominguez stated that federal funding cuts would force the DOT to go into a strict preservation mode — major reconstruction could not happen. Despite the federal funding cuts, the DOT remains obligated to continue to pay off the GRIP bonds.

State Transportation Issues

Mr. Church discussed the tables of data in the "July 2011 Road Fund Outlook" handout he distributed for the committee members' review, directing committee members' attention to the federal and state debt service amounts.

Mr. Church said that the State Road Fund has experienced some growth and that by 2014, the DOT will get back to the 2007 level in the fund. New Mexico's primary source of revenue for the fund is from the gasoline tax, which is set at \$.17 per gallon, of which \$.13 per gallon goes to the DOT. There has been a \$3 million decline due to people driving less. However, special fuel tax and weight distance tax revenues have increased, which indicates that the economy may be improving and that there are more carrier trucks on the road. Vehicle registration tax has increased slightly (about 3%). There has been a \$17.5 million, or 4.7%, growth in ordinary income. Extraordinary income has increased by \$18.08 million.

The DOT receives about \$2.5 million per year in revenue from Burlington Northern Santa Fe (BNSF) and Amtrak agreements, which also require that the revenue be used to maintain railroad tracks in New Mexico. This revenue is about half of what it was in FY 2010. Committee members asked why the revenues were down and were informed that Amtrak pays for usage by the mile and BNSF pays for usage by weight. The numbers suggest that the trucking industry did less shipping in FY 2010 (based on reduced special use tax that year), whereas FY 2010 shipping by rail increased.

Committee members asked about commercial trucking overweight vehicle permits and why it takes so long to get a permit. Secretary Dominguez said that the Motor Transportation Division of the Department of Public Safety deals with approval of oversize permits and he does not know why it takes three months to get an oversize permit. Members talked about whether there should be a commercial driver's license required for farmers to get their crops from the fields to a central office. Mr. Church said he would defer to the Taxation and Revenue Department on that question. Committee members said that it would likely be a major point of contention, noting it would be one more hurdle for farmers and ranchers to get crops to their destinations. Secretary Dominguez reminded members that the Motor Transportation Division, not the DOT, enforces licensing requirements on the roads.

Secretary Dominguez said that New Mexico must maintain expansion projects already started in the last few years. Committee members noted that the State Transportation Commission is the policymaking body for transportation issues and asked that representatives from the commission be present for the October meeting. They noted that any legislation coming from the commission would need to be reviewed by the committee before the 2012 legislative session. Members stressed their disappointment that the six commission members did not show up to the current NMFA Oversight Committee meeting.

Committee members discussed bringing the motor vehicle excise fee revenue back to the DOT, noting that the state's infrastructure is critically important to improved economic development in the state. Secretary Dominguez told the committee that any capital outlay dollars would be welcomed, but that it would be a one-time fix, not a revenue stream. Committee members said capital outlay could be applied to highway projects but that it would also be a good idea to get permanent and increased revenue stream for highway projects.

With no further business, the meeting was adjourned at 11:30 a.m.

**MINUTES
of the
FOURTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**October 3-4, 2011
Room 322, State Capitol
Santa Fe**

The fourth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, on October 3, 2011 at 9:12 a.m. at the State Capitol in Santa Fe.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Sen. Sue Wilson Beffort (10/4)
Rep. Candy Spence Ezzell
Sen. Stephen H. Fischmann
Rep. Roberto "Bobby" J. Gonzales
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez (10/3)
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil (10/4)
Rep. James P. White

Absent

Sen. Tim Eichenberg
Rep. Yvette Herrell
Sen. Howie C. Morales

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia (10/3)
Sen. Lynda M. Lovejoy (10/4)
Rep. Ben Lujan (10/3)
Sen. Richard C. Martinez
Sen. Steven P. Neville
Rep. Andy Nuñez
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton (10/4)

Sen. William F. Burt
Rep. David L. Doyle
Sen. Eric G. Griego
Rep. Rick Little
Rep. W. Ken Martinez
Sen. George K. Munoz
Sen. William H. Payne
Rep. Thomas C. Taylor

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Doris Faust, Staff Attorney, Legislative Council Service (LCS)

Lisa Sullivan, Staff Attorney, LCS

Claudia Armijo, Staff Attorney, LCS

Tom Pollard, Economist, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Monday, October 3

Representative Lundstrom welcomed the members and guests. She asked committee members to introduce themselves, which they did. She then asked the panel of guest speakers to introduce themselves and begin their presentations.

New Mexico Renewable Energy Transmission Authority (RETA) Budget and Proposed Rules

Jeremy Turner, executive director of the RETA, presented the RETA's operating budget. In 2011, the RETA closed on its first bond issue, the proceeds of which will provide the next two years' worth of operating expenses without supplementation from the general fund. The current annual operating budget is \$462,000. Mr. Turner stated that RETA staff members work with no insurance or retirement benefits and have had no salary increases in two years.

Mr. Turner provided a handout containing the RETA's budget for fiscal year 2011 and projected budgets for fiscal years 2012 and 2013. The handout also included an August 26, 2011 draft of proposed rules governing RETA projects and condemnation procedures.

Next, Mr. Turner discussed the RETA's current development project. On March 30, 2011, the RETA entered into a memorandum of understanding whereby Goldman Sachs agreed to fully finance the \$380 million to \$400 million construction cost of energy transmission lines, which the RETA will own and Goldman Sachs will lease. The RETA and Goldman Sachs have sought agreements with wind and solar developers to create new companies in New Mexico that will harness renewable energy and use the RETA's transmission lines.

While there may be competition from other developers of transmission lines, Mr. Turner suggested that the RETA's power of eminent domain may encourage competitors to work with the RETA.

Committee members expressed concerns about above-ground transmission lines, including the unsightliness and the impact to animals, particularly those on the federal endangered species list. Mr. Turner stated that underground transmission lines cost 10 times as

much as above-ground lines, and he doubted that investors such as Goldman Sachs would commit to fund underground lines.

There was discussion about how it would be ideal for wind turbine manufacturers to locate in New Mexico, which would provide manufacturing jobs and reduce the time and cost of transporting turbines from another state. The 400 wind turbines located in Clovis were manufactured by a company in Amarillo, Texas.

Approval of Minutes

The minutes from the committee's August 2011 meeting were approved.

Border Authority Budget

James Creek, executive director of the Border Authority, informed the committee that he will request the same amount for the Border Authority's operational budget for fiscal year 2012 as was requested for fiscal year 2011. He also stated that approximately \$80,000, or 20%, of its operating budget comes from parking lot revenues and rental income.

Mr. Creek stated that Santa Teresa is currently the seventh largest port of entry along the U.S.-Mexico border and is projected to become the sixth largest port next year. He anticipates that the Union Pacific development will increase business and traffic in the border region. Moreover, Mr. Creek was informed that one international shipper will add 50 trucks to its Mexico-to-New Mexico route.

Jon Barela, secretary-designate of economic development, stated that the Border Authority must develop plans to accommodate and manage the increase in border traffic. It is anticipated that the Union Pacific development will create 3,000 construction jobs and 650 permanent jobs and will serve as an anchor business leading to further establishment of businesses such as distribution centers. He stated that his office has urged Union Pacific to hire local individuals and businesses to fill its positions. Union Pacific is working with Dona Ana Community College to train employees for the development. The political turmoil preventing the development of infrastructure and impeding the establishment of businesses in the Sunland Park area must be addressed, according to Secretary Barela. The committee members received a copy of a letter from the chair and vice chair to the governor describing the steps that must be taken to create a water and wastewater company in the Sunland Park area.

Mr. Creek was asked to return to the next interim committee meeting with a full report and handouts describing:

- (1) the Border Authority's base budget;
- (2) the Border Authority's two-year projected budget;
- (3) the development opportunities in the border region;
- (4) the potential job opportunities in the border region; and
- (5) a map of the border region for purposes of discussing his presentation, including an overlay and location of the railroad line coming from Juarez, Mexico.

NMFA — Mission and Goals

Denise Baker, chair, NMFA board of directors, informed the committee that she was just appointed by the governor. She informed the committee that the NMFA will focus on tax credit programs. She also stated that NMFA staff members have traveled throughout the state to inform businesses about the NMFA programs.

NMFA Budget

Greg Campbell, controller, NMFA, presented a handout that included the NMFA's consolidated budgets for fiscal years 2012 and 2013; the projected five-year budget; a general program activity summary; budget detail by program for fiscal year 2012; a Water Project Fund program activity summary; and an analysis of Water Trust Fund loan repayments, whose details are listed in a handout that was distributed to the committee. Also included in the handout is a memorandum Mr. Campbell wrote to the Water Trust Board about NMFA proposals to recover its costs from administering projects funded from the Water Project Fund, as follows:

- (1) seeking approval for the NMFA to receive the full amount of severance tax bond proceeds when the bonds are sold;
- (2) amending the severance tax bond statute to allow for the NMFA's collection of indirect project costs;
- (3) obtaining the NMFA's administrative costs from the annual repayments on the loan portion of the water projects funded; or
- (4) recovering the NMFA's administrative costs from the annual distribution from the Water Trust Fund.

Richard May, chief executive officer, NMFA, was asked to prepare illustrations of how each option would work based on last year's costs.

Mr. May and Mr. Campbell reported that more loan applicants and more projects have increased the NMFA's overall administrative costs. Mr. May was asked to share with the committee his October 7, 2011 presentation to the Colonias Infrastructure Board and to provide an update to the budget report that includes the expenses that the NMFA incurs from administering the Colonias Infrastructure Project Fund.

Mr. Campbell stated that the NMFA is looking to add 10 to 15 basis points to each loan over the life of the loan to collect additional administrative costs.

In response to a committee member's request, Mr. Campbell said that he would provide the NMFA's current balance sheet.

Mr. Campbell stated that the NMFA would be adding seven staff members in anticipation of increased loan administration.

Tuesday, October 4

Proposed Spaceport Authority Legislation

Christine Anderson, executive director, Spaceport Authority, presented a handout and discussed the Space Flight Informed Consent Act (Laws 2010, Chapter 8), which relieves operators, but not manufacturers or suppliers, from liability for injury to passengers. Ms. Anderson, as well as Robert Desiderio of Sanchez Mowrer & Desiderio, P.C., and Tom Horan, a registered lobbyist for Virgin Galactic, discussed the need for an amendment to the act to include manufacturers and suppliers in the liability exclusion, as Texas, Florida and Virginia have done to their space flight laws. Under the proposed amendment to the act, a space flight participant would be required to sign an informed consent agreement that would limit the ability to recover damages against operators, manufacturers and suppliers for anything other than omissions that constitute: (1) gross negligence; and (2) intentional injuries. Also, under the proposed amendment to the act, the current sunset date of 2018 would be extended.

Proposed Collateral Loan Program Rules

Marquita D. Russel, chief of programs, NMFA, distributed a handout and described the NMFA's plan to implement a co-lending program to increase the availability of credit for small businesses. Under a co-lending program, half of the loan would be owed to a commercial bank and the other half would be owed to the NMFA. In contrast, under the alternative bank purchase model ("Collateral Support Loan Program") currently in place, the total amount of the loan is owed to a commercial bank, despite the NMFA's partial investment in the loan. While both lending programs would be available to borrowers, the co-lending program could expand the pool of small businesses that qualify for financing by lowering the amount of the commercial bank's portion of the loan and the concomitant risk to the bank.

NMFA Proposed Legislation

Matthew Jaramillo, director of government affairs, NMFA, discussed the NMFA's proposed legislation for the 2012 regular session, as follows:

(1) a bill authorizing the NMFA to make loans from the Public Project Revolving Fund to more than 60 qualified entities for public projects;

(2) a bill that would authorize the NMFA to make loans from the Water Project Fund and Acequia Project Fund to community water organizations, acequias, cities and counties for water system improvements;

(3) a bill that would appropriate \$2 million from the Public Project Revolving Fund to the Drinking Water State Revolving Loan Fund to carry out the purposes of the Drinking Water State Revolving Loan Fund Act;

(4) a bill that would appropriate \$1 million from the Public Project Revolving Fund to the Local Government Planning Fund for local governments to plan vital public projects;

(5) a bill that would allow the NMFA to transfer one-half of the annual administrative fee from the Local Transportation Infrastructure Fund to the Department of Transportation;

(6) a bill that would allow the NMFA to become a community development financial institution;

(7) a bill that would change the name of the Local Government Planning Fund to the "Rural Infrastructure Planning Fund" and would expand its purposes;

(8) a bill that would suspend for two years the requirement for specific legislative authorization of projects funded by the NMFA from the Public Project Revolving Fund; and

(9) a bill that would allow the NMFA to collect its indirect costs of administering those funds from severance tax bond proceeds.

The NMFA's proposed legislation is outlined in a handout that was distributed at the meeting.

Adjournment

There being no further business before the committee, it adjourned at 11:58 a.m.

MINUTES
of the
FIFTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

November 30-December 1, 2011
Room 322, State Capitol
Santa Fe

The fifth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, on November 30, 2011 at 9:19 a.m. at the State Capitol in Santa Fe.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Sen. Sue Wilson Beffort (12/1)
Sen. Stephen H. Fischmann
Sen. Howie C. Morales (11/30)
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Rep. Richard D. Vigil
Rep. James P. White

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Rep. David L. Doyle (11/30)
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia (11/30)
Rep. Rick Little
Sen. Richard C. Martinez
Rep. Andy Nuñez
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton (12/1)

Absent

Sen. Tim Eichenberg
Rep. Candy Spence Ezzell
Rep. Roberto "Bobby" J. Gonzales
Sen. Clinton D. Harden, Jr.
Rep. Yvette Herrell
Rep. Dona G. Irwin
Sen. David Ulibarri

Sen. William F. Burt
Sen. Lynda M. Lovejoy
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. George K. Munoz
Sen. Steven P. Neville
Sen. William H. Payne
Rep. Thomas C. Taylor

(Attendance dates are noted for members not present for the entire meeting.)

Approval of Minutes

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Staff

Doris Faust, Staff Attorney, Legislative Council Service (LCS)
Lisa Sullivan, Staff Attorney, LCS
Tom Pollard, Economist, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Wednesday, November 30

Representative Lundstrom called the meeting to order and welcomed the members and guests. In order to establish a voting quorum, Representatives Crook and Mary Helen Garcia were designated as voting members for the fifth meeting of the NMFA Oversight Committee.

Transportation Infrastructure Needs and Funding

Alvin C. Dominguez, secretary of transportation, informed the committee that the State Transportation Commission chair regrettably could not attend.

Secretary Dominguez distributed a handout and discussed the budget of the Department of Transportation (DOT). He said that for fiscal year 2013, the projected revenue estimates are almost \$19 million, or 4.5 percent, higher than the previous fiscal year's revenue estimates. He also said that the federal government will reduce its funding of transportation in the state in fiscal year 2013.

Secretary Dominguez stated that he would inform the committee at a later date about why the estimated revenues from vehicle registration and transaction fees would be lower in fiscal year 2013 than the previous year. In response to a committee member's question about why vehicle registration and transaction fees are listed as separate fees, Secretary Dominguez replied that the vehicle excise tax proceeds are paid to the general fund. Secretary Dominguez stated that he would support legislation for vehicle excise tax proceeds to go directly to the State Road Fund.

Committee members discussed with Secretary Dominguez the ways that road user revenues could be boosted. Secretary Dominguez stated that the State Transportation Commission is examining how to collect road user revenues in a better and more comprehensive way. The committee discussed the necessity of improving the collection of road user taxes and

fees, including weight distance fees from commercial vehicles. Secretary Dominguez agreed that much more revenue could be gained from weight distance fees that currently are not collected.

In response to the proposition that more fuel-efficient cars would lead to decreased gas tax revenues, committee members discussed with Secretary Dominguez the possibility that the gasoline tax in the state could be calculated as a percentage of the price of gas so that gasoline tax revenues could rise as the price of gas rises instead of remaining at the flat \$.18 per gallon tax that currently is collected.

Deputy Secretary of Transportation Paul Gray discussed the costs of maintenance activities, as listed on page 7 of the handout. Deputy Secretary Gray informed the committee that the DOT needs an estimated \$200 million to cover all maintenance gaps, which are listed on page 8 of the handout, including routine pavement, roadway and sign maintenance, pavement striping, pavement preservation, the chip seal program, emergency response, equipment replacement and repair and bridge maintenance. Deputy Secretary Gray also said that the DOT needs approximately \$314 million for construction gaps, which are listed on page 9 of the handout, to cover the costs of highway and bridge reconstruction and replacement.

Secretary Dominguez informed the committee about the major unfunded mega-projects and highway interchanges that are deemed necessary, including sections of Interstate 25; Interstate 40; Interstate 10; and U.S. Highways 491, 180 and 54, as listed on page 10 of the handout. He also pointed out the critical unfunded pavement preservation projects in Districts 1 through 6, as listed on page 11 of the handout.

A committee member noted that, in general, New Mexico's highways are in better shape than in other states. Another member asked about instituting toll roads, as there are in other states. Secretary Dominguez responded that the DOT has analyzed the costs and benefits of toll roads, but that estimates for New Mexico's largest city, Albuquerque, show that the state would lose money from converting to toll roads. Toll roads work only in cities with significantly larger populations, such as Houston and Dallas.

Secretary Dominguez stated that road projects are prioritized based on safety concerns. However, if a municipality offers to contribute toward a proposed road project, then the project could rise in priority.

Committee members discussed the possibility of using recycled tires for road construction projects. While the DOT does use a spray-on asphalt made from liquefied rubber to cover roads as part of maintenance, the facility in Phoenix that liquefies the rubber charges more for the small quantity that the DOT receives.

Border Authority — Job Creation Program; Budget; Public-Private Partnerships

William Mattiace, executive director, Border Authority, introduced fellow staff members Marco Herrera and Laura Shapiro.

Mr. Mattiace asserted that the Border Authority will not request an appropriation other than the annual agency budget request. His goal is to make the Border Authority self-sustaining in three years. A committee member suggested that it may be prudent for the Border Authority to request an additional appropriation for recurring costs that are on the books, of which Mr. Mattiace might be unaware, having served as the executive director for only a month.

Mr. Mattiace distributed a handout containing the Border Authority's budget. The Border Authority receives 31 percent of its operating income from parking lot fees. The Border Authority also receives \$500 per month in rent from the U.S. Department of Homeland Security.

Mr. Mattiace stated that while the state collects \$18.00 from cars entering the state from Mexico with Mexican products, the Border Authority does not receive any of that revenue.

Mr. Mattiace agreed with a committee member that it might be a good idea to consider collecting a fee for cattle crossings because approximately 350,000 to 400,000 cattle cross into the state from Mexico each year.

Presently, the Border Authority employs three staff members. The Border Authority is looking to employ a fourth staff member who is fluent in Spanish and has an engineering background.

Approval of Rules Governing the Administration of NMFA Co-Lending Activities Under the State Small Business Credit Initiative

Marquita Russel, chief of programs, NMFA, presented the NMFA's proposed co-lending rules. A motion for the NMFA Oversight Committee to approve the rules was made and seconded. The motion passed unanimously.

NMFA Options to Increase Economic Development

Rick May, chief executive officer, NMFA, distributed a handout dated November 20, 2011. He began his presentation by asserting that the lack of planning dollars is a fundamental flaw in how the state deals with infrastructure improvements. While the NMFA provides some planning dollars, it is not enough to guarantee the success of infrastructure improvements.

Mr. May stated that the two core initiatives of the NMFA are: (1) infrastructure programs; and (2) economic development programs. Ms. Russel stated that the NMFA offers advice about bonds and tax credits to help businesses navigate the finance system. Mr. May stated that, so far, no businesses have defaulted on loans provided by the NMFA.

Mr. May stated that the NMFA tries to have a flat budget, consistent with state agencies. Accordingly, three employees were laid off and two other positions remain unfilled. In a further effort to protect against deficits, the NMFA is looking to trim travel budgets.

Mr. May predicted that economic growth will be spurred by manufacturers and businesses that are eligible for certain tax-exempt bonds.

Mr. May said that the NMFA has done an analysis showing that more per capita dollars from the Public Project Revolving Fund go to rural counties. He added that the NMFA staff has worked hard on outreach in rural areas. In a couple of months, the NMFA will implement a new approach to improve outreach. A committee member expressed concern about the NMFA's ability to reach the most rural areas of the state. Mr. May stated that, by law, the NMFA may provide funding to qualified entities, which are defined as those political subdivisions recognized by the state. For frontier communities that are not defined as political subdivisions, the NMFA cannot provide loans. However, if regional areas could be combined into a larger entity to be recognized by the state, then the NMFA could reach those areas with funding. Representative Lundstrom directed the NMFA to coordinate with concerned committee members about improving outreach to rural areas before implementing the new approach.

Representative Lundstrom asked Mr. May to provide data on how many jobs have been created by NMFA-funded loans. Ms. Russel said more than 700 jobs have been created to date. When Representative Lundstrom asked for the methodology, Ms. Russel stated that the NMFA relied on a regression analysis by Rutgers University.

Water Project Fund Status Update and Project Approval Criteria, Process and Time Line

Jana Amacher, senior program administrator, NMFA, distributed two handouts. First, she covered a handout titled "Water Trust Board projects", showing that since 2002, 108 entities have received approval for 221 funding awards totaling \$228,145,667. The second handout, titled "Water Project Fund", described the Water Project Fund and the Water Trust Board and its processes. January 11, 2012 is when the Water Trust Board will meet to review the compiled list of water projects. The chair and co-chair inquired about whether the Water Trust Board could begin its cycle earlier so that the NMFA Oversight Committee could review the list of water projects by the last interim committee meeting. Representative Lundstrom suggested a motion to direct the Water Trust Board to provide the list of water projects to the NMFA Oversight Committee before the end of the interim. William Fulginiti, chair, Water Trust Board, stated that the Water Trust Board could try to make it a priority.

A motion was made and seconded for the NMFA to investigate appropriating \$200,000 from the Water Trust Fund to the Acequias Project Fund. The motion passed without opposition.

Minutes

A motion was made and seconded to approve the minutes from the October 2011 meeting. The motion passed unanimously.

NMFA Loan Activity Report

Matthew Jaramillo, director of government affairs, NMFA, distributed a handout titled "New Mexico Finance Authority Public Project Revolving Fund ("PPRF") Detail Listing of Projects — FY 2011-2012". Mr. Jaramillo stated that the interest rate received by a community depends on the state's median household income as found in census data. The handout shows that the interest rate varied from 0.031 percent on a \$152,250 loan in Otero County, of which \$135,000 consisted of "disadvantage funding", to 4.372 percent on a \$1,637,195 loan in Santa Fe

County. Representative Lundstrom suggested an additional column showing how much money NMFA financing saved the community.

Mr. Jaramillo stated that the NMFA tries to close on loans within 90 days of NMFA board approval. Closing sometimes involves legal work.

The committee recessed at 3:18 p.m.

Thursday, December 1

The meeting reconvened at 9:10 a.m.

Colonias Infrastructure Project Fund Update

Doug Moore, chair, Colonias Infrastructure Board, made a joint presentation with Mr. Jaramillo.

Mr. Jaramillo said that the NMFA is taking over the administration of the colonias infrastructure program from the Department of Finance and Administration (DFA). The DFA implemented procedures for administering the program, which the NMFA will adapt for its purposes.

Mr. Jaramillo stated that the NMFA estimates that \$12.2 million will be available to use on colonias infrastructure projects in fiscal year 2012. Applicants for Colonias Infrastructure Project Fund money must fall within the federal definition of "colonias", which Mr. Jaramillo described as communities within 150 miles of the U.S.-Mexico border with 25,000 or fewer residents and that lack vital infrastructure such as running water, wastewater treatment and electricity. In addition, a community must have received a colonias designation prior to 1990 in order to qualify as an applicant. Mr. Moore estimated that, under those terms, there are about 150 colonias in the state.

Mr. Moore stated that no applications from colonias have yet been received. The Colonias Infrastructure Board seeks to approve applications for projects that are shovel-ready so that funded projects do not drag on or are not completed. While the board seeks to implement procedures for accepting or rejecting applications, it wants to stay flexible and help communities that lack organization to seek help but that need help the most. Some communities that are not organized may only consist of 30 families. Such communities may need organizational help from the counties in which they are located. In response to a committee member's question, Mr. Moore stated that the board at its organizational meeting decided to help as many people as possible.

The Colonias Infrastructure Board is still developing the application process and procedures. Mr. Moore anticipates the following time line:

(1) on December 3, 2011, the application committee will meet to discuss the application procedures and policy;

- (2) December 7, 2011 will be the close of the comment period on policy;
- (3) shortly thereafter, copies of the policy and application will be provided to the NMFA Oversight Committee;
- (4) on December 14, 2011, the policy committee will meet to review the draft language of the application;
- (5) on December 16, 2011, the policy committee should have a draft for the full Colonias Infrastructure Board to review;
- (6) on January 10, 2012, the last policy review committee meeting will take place;
- (7) on January 12, 2012, there will be an application workshop;
- (8) on January 13, 2012, there will be a full board meeting;
- (9) on January 30, 2012, the policy will be filed;
- (10) hopefully, shortly thereafter, applications will be taken;
- (11) ideally, the application round will close in March; and
- (12) hopefully, shortly thereafter, the Colonias Infrastructure Board will start selecting projects that are worthy and shovel-ready and that meet all of the statutory and procedural requirements.

Mr. Moore is concerned about being inundated with applications for projects that are not shovel-ready. One criterion for applicants is a commitment of 20 percent matching funds. Representative Lundstrom agreed that there needs to be comprehensive infrastructure planning by the community so that the funding can be used to build projects immediately and to completion, rather than being long-term construction projects. Representative Lundstrom requested that Mr. Moore provide a funding flow chart, which is particularly important if federal funds are to be leveraged. Representative Lundstrom also directed Mr. Jaramillo and Mr. Moore to provide the committee with a full report listing the state funds given to colonias, and the names of their recipients, from the time state funding for colonias began. Mr. Moore agreed to provide the committee with the list of applicants and awards and a description of the rationale for each award. Representative Lundstrom also requested that Mr. Moore and Mr. Jaramillo present to the House Appropriations and Finance Committee during the 2012 regular session.

Following a discussion about the existence of different colonias around the state, some of which are farther than 150 miles from the border, Senator Garcia informed the committee of two types of colonias: (1) colonias established in the 1840s in remote locations lacking infrastructure, such as utilities and roads; and (2) colonias developed more recently in border areas by unethical developers who sold lots with no available infrastructure. Some of the unethical developers did pay for some infrastructure following a lawsuit by then-Attorney General Tom Udall. However, many of the colonias continue to lack infrastructure. According to Mr. Jaramillo, there is no further recourse against unethical developers who failed to provide infrastructure.

A committee member asked about helping the northern New Mexico community of Lumberton, which has 50 or fewer people, and has no potable water or electricity. Mr. Moore said that the purpose of the colonias infrastructure funds is to help extremely impoverished communities that cannot help themselves, balanced with the idea that it is not the role of government to solve everybody's problems and poor planning.

A motion was made and seconded for a letter to be sent to the state's congressional delegation to change the federal definition of "colonias" to include severely impoverished communities that are not within 150 miles of the border. The motion passed, with the opposition of Senators Papen, Fischmann and Rodriguez and Representatives Strickler and Mary Helen Garcia.

The committee discussed the diversion from the Severance Tax Permanent Fund of five percent of severance tax proceeds to the Colonias Infrastructure Project Fund and five percent of severance tax proceeds to the Tribal Infrastructure Project Fund. Some committee members were concerned about the solvency of the Severance Tax Permanent Fund. Senator Beffort said she wants to introduce a memorial to study the solvency of the Severance Tax Permanent Fund and the land grant permanent funds. She stated that those permanent funds are supposed to be there for residents' grandchildren and their grandchildren. Representative Lundstrom indicated that she would sign off on that memorial.

Spaceport Authority Legislation

Christine Anderson, executive director, Spaceport Authority, and Robert Desiderio, Sanchez, Mowrer & Desiderio, P.C., presented a discussion draft of the proposed changes to the Space Flight Informed Consent Act. Ms. Anderson indicated that the discussion draft was presented to the interim Courts, Corrections and Justice Committee and that all of its requirements were met. A motion was made and seconded to endorse the discussion draft of the bill, titled "Relating to Tort Claims; Expanding the Application of the Space Flight Informed Consent Act; Amending the Circumstances Under Which a Space Flight Entity is Liable Under the Space Flight Informed Consent Act". The motion passed without opposition, and the bill will be sponsored by Senator Papen.

NMFA Legislation

Senator Timothy M. Keller presented, along with Michelle Heff, founder and chief executive officer of the High Desert Discovery District, a discussion draft of proposed legislation that would allow the NMFA to apply to be designated by the federal government as a community development financial institution for lending purposes. Currently, the NMFA provides pre-seed money for businesses. Under Senator Keller's proposed legislation, the NMFA would provide funding in the form of equity or equity-with-debt features to businesses such as Ms. Heff's to commercialize research and development. Ms. Heff indicated that Mr. May agreed with the concepts in the bill, but the NMFA board had not yet approved it. A motion was made and seconded to endorse the discussion draft of the bill, titled "Relating to Statewide Economic Development; Authorizing the New Mexico Finance Authority to Seek Certification to be a Community Development Financial Institution; Authorizing the New Mexico Finance Authority to Determine Eligibility for Certain Economic Development Funding". The motion passed with opposition from Representative Lundstrom and Senator Papen. Senator Keller will sponsor the bill.

Mr. May and Mr. Jaramillo presented the remaining NMFA bills.

A motion was made and seconded to endorse the discussion draft of the Public Project Revolving Fund bill, to which six school districts will be added as recipients. The motion passed and the bill, titled "Relating to Finance; Authorizing the New Mexico Finance Authority to Make Loans for Public Projects from the Public Project Revolving Fund; Declaring an Emergency", will be sponsored by Representative Lundstrom.

A motion was made and seconded to endorse the discussion draft of the Water Project Fund bill. The motion passed, and the bill, titled "Relating to Finance; Authorizing the New Mexico Finance Authority to Make Loans or Grants from the Water Project Fund for Certain Water Projects; Declaring an Emergency", will be sponsored by Representative Nuñez.

A motion was made and seconded to endorse the discussion draft of the Drinking Water State Revolving Loan Fund appropriation bill. The motion passed, and the bill, titled "Making an Appropriation for Drinking Water System Financing; Declaring an Emergency", will be sponsored by Representative White.

A motion was made and seconded to endorse the discussion draft of the Local Government Planning Fund appropriation bill. The motion passed, and the bill, titled "Making an Appropriation to the Local Government Planning Fund; Declaring an Emergency", will be sponsored by Representative Crook.

A motion was made and seconded to endorse the discussion draft of the bill that expands the purposes of the Local Government Planning Fund and removes the requirement that certain grants be repaid. The motion passed, and the bill, titled "Relating to the New Mexico Finance Authority; Expanding the Purpose of the Local Government Planning Fund to Include Infrastructure and Energy Audits; Removing the Requirement That Certain Grants be Repaid", will be sponsored by Representative Vigil.

Mr. May and Mr. Jaramillo also presented a discussion draft of proposed legislation that would allow the NMFA to receive a regular funding stream for indirect costs, in addition to the administrative costs it currently collects. The funding for the indirect costs would come from the five percent diverted from the Severance Tax Permanent Fund to the Water Trust Fund and the five percent diverted from the Severance Tax Permanent Fund to the Colonias Infrastructure Project Fund. Mr. May stated that the Water Trust Board incurs costs of \$750,000 per year, and that the Colonias Infrastructure Board is estimated to incur costs of \$300,000 per year. Those costs will not be covered by the current funding for administrative costs. Committee members expressed concerns about permanently transferring funds to the NMFA, a quasi-governmental entity, without legislative oversight over such a funding stream. A committee member suggested charging governmental entities, such as the counties in which recipient communities are located, for the boards' costs. A motion was made and seconded to table the bill, titled "Relating to Severance Tax Bonding; Authorizing the New Mexico Finance Authority to Recover Indirect Expenses of Administering the Water Project Fund and the Colonias Infrastructure Project Fund from Severance Tax Bond Proceeds; Providing for the Immediate Transfer of Severance Tax Bond Proceeds from the State Board of Finance to the Water Project Fund; Providing That Unexpended Proceeds of Bonds Issued for Water Projects Shall Not Revert". The motion to

table the bill passed. Representative Lundstrom and Senator Papen requested that Mr. May and Mr. Jaramillo present the discussion draft, along with analyses from the DFA and the Legislative Finance Committee, to the House Appropriations and Finance Committee and the Senate Finance Committee during the 2012 regular session.

Adjournment

There being no further business before the committee, the fifth meeting of the NMFA Oversight Committee for the 2011 interim adjourned at 12:17 p.m.

ENDORSED LEGISLATION

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50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING;
DECLARING AN EMERGENCY.

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

SECTION 1. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2012 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance at the end of a fiscal year shall not revert to the public project revolving fund.

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO FINANCE; AUTHORIZING THE NEW MEXICO FINANCE
AUTHORITY TO MAKE LOANS FOR PUBLIC PROJECTS FROM THE PUBLIC
PROJECT REVOLVING FUND; DECLARING AN EMERGENCY.

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

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund for public projects as defined in Section 6-21-3 NMSA 1978. Pursuant to Section 6-21-6 NMSA 1978, loans of less than one million dollars (\$1,000,000) do not require specific authorization and need not be identified in this act. Authorization is given to the New Mexico finance authority to make loans to the following qualified entities on terms and conditions established by the

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1 authority:

2 1. the Albuquerque-Bernalillo county water utility
3 authority in Bernalillo county for building, equipment,
4 infrastructure, debt refinance, road, land acquisition, water,
5 wastewater, water rights and solid waste projects;

6 2. the city of Albuquerque in Bernalillo county for
7 rail spur, water rights, road, public improvement district,
8 building, equipment, infrastructure, debt refinance, land
9 acquisition, water, wastewater and solid waste projects;

10 3. the Alto lakes water and sanitation district in
11 Lincoln county for building, equipment, infrastructure, debt
12 refinance, land acquisition, water, wastewater, water rights,
13 solid waste and road projects;

14 4. the Angel Fire improvement district in Colfax
15 county for building, equipment, infrastructure, land
16 acquisition, water, wastewater, water rights, solid waste and
17 road projects;

18 5. the village of Angel Fire in Colfax county for
19 water, wastewater, water rights, solid waste, building,
20 equipment, infrastructure, debt refinance, land acquisition and
21 special assessment district projects;

22 6. the city of Aztec in San Juan county for
23 building, equipment, infrastructure, debt refinance, land
24 acquisition, water, wastewater, water rights, solid waste and
25 road projects;

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1 7. the town of Bernalillo in Sandoval county for
2 building, equipment, infrastructure, debt refinance, land
3 acquisition, water, wastewater, water rights, road and solid
4 waste projects;

5 8. the city of Bloomfield in San Juan county for
6 building, equipment, infrastructure, debt refinance, road, land
7 acquisition, water, wastewater, water rights and solid waste
8 projects;

9 9. the board of regents of New Mexico highlands
10 university in San Miguel and Santa Fe counties for building,
11 equipment, infrastructure, debt refinance, land acquisition,
12 road, water, wastewater, water rights and solid waste projects;

13 10. the board of regents of New Mexico state
14 university for the Arrowhead center in Dona Ana county for
15 building, equipment, infrastructure, debt refinance, land
16 acquisition, road, water, wastewater, water rights and solid
17 waste projects;

18 11. the board of regents of New Mexico state
19 university in Dona Ana county for building, equipment,
20 infrastructure, debt refinance, road, land acquisition, water,
21 wastewater, water rights and solid waste projects;

22 12. the board of regents of New Mexico institute of
23 mining and technology for the research park corporation in
24 Bernalillo and Socorro counties for building, equipment,
25 infrastructure, debt refinance, land acquisition, road, water,

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1 wastewater, water rights and solid waste projects;

2 13. the governing board of San Juan college in San
3 Juan county for building, equipment, infrastructure, debt
4 refinance, land acquisition, road, water, wastewater, water
5 rights and solid waste projects;

6 14. the board of regents of the New Mexico school
7 for the blind and visually impaired in Otero county for
8 building, equipment, infrastructure, debt refinance, land
9 acquisition, road, water, wastewater, water rights and solid
10 waste projects;

11 15. the Canones mutual domestic water consumers
12 association in Rio Arriba county for building, equipment,
13 infrastructure, debt refinance, water, wastewater, water
14 rights, land acquisition, road and solid waste projects;

15 16. the Carrizozo municipal school district in
16 Lincoln county for building, equipment, infrastructure, debt
17 refinance, water, wastewater, water rights, land acquisition,
18 road and solid waste projects;

19 17. the Cottonwood valley charter school in Socorro
20 county for building, equipment, infrastructure, land
21 acquisition, debt refinance, water, wastewater, water rights,
22 road and solid waste projects;

23 18. the Dexter consolidated school district in
24 Chaves county for building, equipment, infrastructure, debt
25 refinance, land acquisition, water, wastewater, water rights,

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1 road and solid waste projects;

2 19. the digital arts and technology academy charter
3 school in Bernalillo county for building, equipment,
4 infrastructure, debt refinance, land acquisition, water,
5 wastewater, water rights, road and solid waste projects;

6 20. the east mountain charter high school in
7 Bernalillo county for building, equipment, infrastructure, debt
8 refinance, land acquisition, water, wastewater, water rights,
9 road and solid waste projects;

10 21. the eastern Sandoval county arroyo flood
11 control authority in Sandoval county for building, equipment,
12 infrastructure, debt refinance, water, wastewater, water
13 rights, land acquisition, road and solid waste projects;

14 22. the town of Edgewood in Santa Fe county for
15 building, equipment, infrastructure, debt refinance, land
16 acquisition, water, wastewater, water rights, road and solid
17 waste projects;

18 23. the Estancia Moriarty Willard gas cooperative
19 in Torrance county for building, equipment, infrastructure,
20 debt refinance, land acquisition, water, wastewater, water
21 rights, road and solid waste projects;

22 24. the city of Eunice in Lea county for building,
23 equipment, infrastructure, debt refinance, land acquisition,
24 water, wastewater, water rights, road and solid waste projects;

25 25. the village of Folsom in Union county for

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1 building, equipment, infrastructure, debt refinance, land
2 acquisition, water, wastewater, water rights, road and solid
3 waste projects;

4 26. the governing board of Luna community college
5 in San Miguel county for building, equipment, infrastructure,
6 debt refinance, land acquisition, water, wastewater, water
7 rights, road and solid waste projects;

8 27. Guadalupe county for building, equipment,
9 infrastructure, debt refinance, land acquisition, water,
10 wastewater, water rights, road and solid waste projects;

11 28. the Hagerman municipal school district in
12 Chaves county for building, equipment, infrastructure, debt
13 refinance, land acquisition, water, wastewater, water rights,
14 road and solid waste projects;

15 29. Harding county for building, equipment,
16 infrastructure, debt refinance, land acquisition, water,
17 wastewater, water rights, road and solid waste projects;

18 30. the Hatch valley public school district in Dona
19 Ana county for building, equipment, infrastructure, debt
20 refinance, land acquisition, water, wastewater, water rights,
21 road and solid waste projects;

22 31. the Hobbs homestead estates public improvement
23 district in Lea county for building, equipment, infrastructure,
24 debt refinance, water, wastewater, water rights, road and solid
25 waste projects;

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1 32. the Las Vegas city public school district in
2 San Miguel county for building, equipment, infrastructure, debt
3 refinance, land acquisition, water, wastewater, water rights,
4 road and solid waste projects;

5 33. the city of Las Vegas in San Miguel county for
6 building, equipment, infrastructure, debt refinance, land
7 acquisition, water, wastewater, water rights, road and solid
8 waste projects;

9 34. Los Alamos county for building, equipment,
10 infrastructure, debt refinance, land acquisition, water,
11 wastewater, water rights, road, solid waste, public improvement
12 district and special assessment district projects;

13 35. the Mescalero Apache housing authority in Otero
14 county for building, equipment, infrastructure, debt refinance,
15 land acquisition, water, wastewater, water rights, road and
16 solid waste projects;

17 36. the mid-region council of governments in
18 Bernalillo county for building, equipment, infrastructure, debt
19 refinance, land acquisition, rail spur, water, wastewater,
20 water rights, road and solid waste projects;

21 37. the village of Milan in Cibola county for
22 building, equipment, infrastructure, debt refinance, land
23 acquisition, water, wastewater, water rights, road and solid
24 waste projects;

25 38. the Monte del Sol charter school in Santa Fe

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1 county for building, equipment, infrastructure, debt refinance,
2 land acquisition, facilities acquisition, water, wastewater,
3 water rights, road and solid waste projects;

4 39. the Montessori of the Rio Grande charter school
5 in Bernalillo county for building, equipment, infrastructure,
6 debt refinance, land acquisition, facilities acquisition,
7 water, wastewater, water rights, road and solid waste projects;

8 40. Mora county for building, equipment,
9 infrastructure, debt refinance, land acquisition, water,
10 wastewater, water rights, road, solid waste, public improvement
11 district and special assessment district projects;

12 41. the Mora independent school district in Mora
13 county for building, equipment, infrastructure, debt refinance,
14 land acquisition, water, wastewater, water rights, road and
15 solid waste projects;

16 42. the village of Mosquero in Harding county for
17 building, equipment, infrastructure, debt refinance, land
18 acquisition, water, wastewater, water rights, road and solid
19 waste projects;

20 43. the Navajo agricultural products industry in
21 McKinley and San Juan counties for building, equipment,
22 infrastructure, debt refinance, land acquisition, water,
23 wastewater, water rights, road and solid waste projects;

24 44. the New Mexico school for the arts in Santa Fe
25 county for building, equipment, infrastructure, debt refinance,

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1 land acquisition, water, wastewater, water rights, road and
2 solid waste projects;

3 45. the Nor-Lea hospital district in Lea county for
4 building, equipment, infrastructure, debt refinance, land
5 acquisition, water, wastewater, water rights, road and solid
6 waste projects;

7 46. the north central regional transit district in
8 Santa Fe, Rio Arriba and Taos counties for building, equipment,
9 infrastructure, debt refinance, land acquisition, water,
10 wastewater, water rights, road and solid waste projects;

11 47. the northern New Mexico regional transit
12 district in Santa Fe, Rio Arriba and Taos counties for railroad
13 infrastructure projects;

14 48. the northwest New Mexico council of governments
15 in Santa Fe county for building, equipment, infrastructure,
16 debt refinance, land acquisition, water, wastewater, water
17 rights, road and solid waste projects;

18 49. the northwest New Mexico regional solid waste
19 authority in Cibola county for building, equipment,
20 infrastructure, land acquisition, water, wastewater, water
21 rights, road and solid waste projects;

22 50. Ohkay Owingeh in Rio Arriba county for
23 building, equipment, infrastructure, debt refinance, land
24 acquisition, water, wastewater, water rights, road and solid
25 waste projects;

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1 51. the village of Pecos in San Miguel county for
2 building, equipment, infrastructure, debt refinance, land
3 acquisition, water, wastewater, water rights, road and solid
4 waste projects;

5 52. the city of Portales in Roosevelt county for
6 building, equipment, infrastructure, debt refinance, land
7 acquisition, water, wastewater, water rights, road and solid
8 waste projects;

9 53. the Pueblo of Pojoaque in Santa Fe county for
10 building, equipment, infrastructure, road, debt refinance, land
11 acquisition, water, wastewater, water rights and solid waste
12 projects;

13 54. the city of Raton in Colfax county for
14 building, equipment, infrastructure, debt refinance, land
15 acquisition, water, wastewater, water rights, road and solid
16 waste projects;

17 55. the Rio metro regional transit district in
18 Bernalillo, Torraine, Sandoval and Valencia counties for
19 railroad infrastructure and building projects;

20 56. the Robert F. Kennedy charter school in
21 Bernalillo county for building, equipment, infrastructure, debt
22 refinance, land acquisition, facilities acquisition, water,
23 wastewater, water rights, road and solid waste projects;

24 57. the village of Roy in Harding county for
25 building, equipment, infrastructure, debt refinance, land

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1 acquisition, water, wastewater, water rights, road and solid
2 waste projects;

3 58. San Miguel county for building, equipment,
4 infrastructure, debt refinance, land acquisition, water,
5 wastewater, water rights, road and solid waste projects;

6 59. the south valley academy in Bernalillo county
7 for building, equipment, infrastructure, debt refinance, land
8 acquisition, facilities acquisition, water, wastewater, water
9 rights, road and solid waste projects;

10 60. the southern Sandoval county arroyo flood
11 control authority in Sandoval county for building, equipment,
12 infrastructure, debt refinance, land acquisition, water,
13 wastewater, water rights, road and solid waste projects;

14 61. the southwest secondary learning center in
15 Bernalillo county for building, equipment, infrastructure, debt
16 refinance, land acquisition, facilities acquisition, water,
17 wastewater, water rights, road and solid waste projects;

18 62. the state fair commission in Bernalillo county
19 for building, equipment, infrastructure, debt refinance, land
20 acquisition, water, wastewater, water rights, road and solid
21 waste projects;

22 63. the Taos ski valley in the village of Taos in
23 Taos county for building, equipment, infrastructure, debt
24 refinance, land acquisition, water, wastewater, water rights,
25 road and solid waste projects;

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1 64. the twenty-first century public academy in
2 Bernalillo county for building, equipment, infrastructure, debt
3 refinance, land acquisition, facilities acquisition, water,
4 wastewater, water rights, road and solid waste projects;

5 65. the university of New Mexico medical group in
6 Bernalillo and Sandoval counties for building, equipment,
7 infrastructure, debt refinance, land acquisition, water,
8 wastewater, water rights, road and solid waste projects; and

9 66. the Vaughn municipal school district in
10 Guadalupe county for building, equipment, infrastructure, debt
11 refinance, land acquisition, water, wastewater, water rights,
12 road and solid waste projects.

13 **SECTION 2. VOIDING OF AUTHORIZATION.**--If a qualified
14 entity listed in Section 1 of this act has not certified to the
15 New Mexico finance authority by the end of fiscal year 2015 its
16 desire to continue to pursue a loan from the public project
17 revolving fund for a public project listed in that section, the
18 legislative authorization granted to the New Mexico finance
19 authority by Section 1 of this act to make a loan from the
20 public project revolving fund to that qualified entity for that
21 public project is void.

22 **SECTION 3. EMERGENCY.**--It is necessary for the public
23 peace, health and safety that this act take effect immediately.

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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO FINANCE; AUTHORIZING THE NEW MEXICO FINANCE
AUTHORITY TO MAKE LOANS OR GRANTS FROM THE WATER PROJECT FUND
FOR CERTAIN WATER PROJECTS; DECLARING AN EMERGENCY.

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

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to the
provisions of Section 72-4A-9 NMSA 1978, the legislature
authorizes the New Mexico finance authority to make loans or
grants from the water project fund to the following qualified
entities for the following qualifying water projects on terms
and conditions established by the water trust board and the New
Mexico finance authority:

[INSERT PROJECTS HERE]

SECTION 2. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.

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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; EXPANDING THE
PURPOSE OF THE LOCAL GOVERNMENT PLANNING FUND TO INCLUDE
INFRASTRUCTURE AND ENERGY AUDITS; REMOVING THE REQUIREMENT THAT
CERTAIN GRANTS BE REPAID.

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

SECTION 1. Section 6-21-6.4 NMSA 1978 (being Laws 2002,
Chapter 26, Section 2, as amended) is amended to read:

"6-21-6.4. LOCAL GOVERNMENT PLANNING FUND--CREATION--
ADMINISTRATION--PURPOSES.--

A. The "local government planning fund" is created
within the authority ~~[which]~~ and shall be administered by the
authority. The authority shall adopt rules necessary to
administer the fund.

B. The following shall be deposited directly into
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1 the local government planning fund:

2 (1) the net proceeds from the sale of bonds
3 issued pursuant to the provisions of Section 6-21-6.1 NMSA 1978
4 for the purposes of the local government planning fund and
5 payable from the public project revolving fund;

6 (2) money appropriated by the legislature to
7 implement the provisions of this section; and

8 (3) any other public or private money
9 dedicated to the fund.

10 C. Money in the local government planning fund is
11 appropriated to the authority to make grants to qualified
12 entities; to evaluate and to estimate the costs of implementing
13 the most feasible alternatives for ~~[meeting]~~ infrastructure,
14 water and wastewater public project needs or to develop water
15 conservation plans, long-term master plans, ~~[or]~~ economic
16 development plans or energy audits; and to pay the
17 administrative costs of the local government planning program.

18 D. The authority shall adopt rules governing the
19 terms and conditions of grants made from the local government
20 planning fund. ~~[Grants may be made from the fund only with the
21 agreement of the qualified entity to reimburse the fund for the
22 amount of the grant when financing from any source other than
23 the authority is subsequently received by the qualified entity
24 for the public project.]~~

25 E. The authority may make grants from the local

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1 government planning fund to qualified entities without specific
2 authorization by law for each grant."

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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

MAKING AN APPROPRIATION TO THE LOCAL GOVERNMENT PLANNING FUND;
DECLARING AN EMERGENCY.

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

SECTION 1. APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2012 and subsequent fiscal years to fund local government planning for water or wastewater system development, economic development or long-term water management and water conservation strategies. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

SECTION 2. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect immediately.

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

ENDORSED BY THE NEW MEXICO FINANCE AUTHORITY
OVERSIGHT COMMITTEE

AN ACT

RELATING TO STATEWIDE ECONOMIC DEVELOPMENT; AUTHORIZING THE NEW
MEXICO FINANCE AUTHORITY TO SEEK CERTIFICATION TO BE A
COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION; AUTHORIZING THE
NEW MEXICO FINANCE AUTHORITY TO DETERMINE ELIGIBILITY FOR
CERTAIN ECONOMIC DEVELOPMENT FUNDING.

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

SECTION 1. A new section of the Statewide Economic
Development Finance Act is enacted to read:

"~~[NEW MATERIAL]~~ ADDITIONAL POWERS--FEDERAL COMMUNITY
DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAMS.--In addition
to other powers granted to the authority, the authority may
form one or more nonprofit or for-profit financing entities for
the purpose of participation in the federal community
development financial institutions fund programs and, pursuant

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1 to participation in the federal community development financial
2 institutions fund programs, may:

3 A. apply for and obtain one or more certifications
4 for community development financial institutions fund status;

5 B. provide financial products to one or more target
6 markets;

7 C. provide development services to one or more
8 target markets; and

9 D. take all actions necessary or convenient to
10 carry out the purposes of a certified community development
11 financial institution or to participate in the federal
12 community development financial institutions fund programs."

13 SECTION 2. Section 6-25-3 NMSA 1978 (being Laws 2003,
14 Chapter 349, Section 3, as amended) is amended to read:

15 "6-25-3. DEFINITIONS.--As used in the Statewide Economic
16 Development Finance Act:

17 A. "authority" means the New Mexico finance
18 authority;

19 B. "department" means the economic development
20 department;

21 C. "community development entity" means an entity
22 designed to take advantage of the federal new markets tax
23 credit program;

24 D. "economic development assistance provisions"
25 means the economic development assistance provisions of

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1 Subsection D of Article 9, Section 14 of the constitution of
2 New Mexico;

3 E. "project revenue bonds" means bonds, notes or
4 other instruments authorized in Section 6-25-7 NMSA 1978 and
5 issued by the authority pursuant to the Statewide Economic
6 Development Finance Act on behalf of eligible entities;

7 F. "economic development goal" means:

8 (1) assistance to rural and underserved areas
9 designed to increase business activity;

10 (2) retention and expansion of existing
11 business enterprises;

12 (3) attraction of new business enterprises; or

13 (4) creation and promotion of an environment
14 suitable for the support of start-up and emerging business
15 enterprises within the state;

16 G. "economic development revolving fund bonds"
17 means bonds, notes or other instruments payable from the fund
18 and issued by the authority pursuant to the Statewide Economic
19 Development Finance Act;

20 H. "eligible entity" means a for-profit or not-for-
21 profit business enterprise, including a corporation, limited
22 liability company, partnership or other entity, determined by
23 the ~~[department]~~ authority to be engaged in an enterprise that
24 serves an economic development goal and is suitable for
25 financing assistance;

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1 I. "federal new markets tax credit program" means
2 the tax credit program codified as Section 45D of the Internal
3 Revenue Code, as that section may be amended or renumbered, and
4 regulations issued pursuant to that section;

5 J. "financing assistance" means project revenue
6 bonds, loans, loan participations or loan guarantees provided
7 by the authority to or for eligible entities pursuant to the
8 Statewide Economic Development Finance Act;

9 K. "fund" means the economic development revolving
10 fund;

11 L. "mortgage" means a mortgage, deed of trust or
12 pledge of any assets as a collateral security;

13 M. "opt-in agreement" means an agreement entered
14 into between the department and a qualifying county, a school
15 district and, if applicable, a qualifying municipality that
16 provides for county, school district and, if applicable,
17 municipal approval of a project, subject to compliance with all
18 local zoning, permitting and other land use rules, and for
19 payments in lieu of taxes to the qualifying county, school
20 district and, if applicable, qualifying municipality as
21 provided by the Statewide Economic Development Finance Act;

22 N. "payment in lieu of taxes" means the total
23 annual payment, including any state in-lieu payment, paid as
24 compensation for the tax impact of a project, in an amount
25 negotiated and determined in the opt-in agreement between the

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1 department and the qualifying county, the school district and,
2 if applicable, the qualifying municipality, which payment shall
3 be distributed to the county, municipality and school district
4 in the same proportion as property tax revenues are normally
5 distributed to those recipients;

6 O. "standard project" means land, buildings,
7 improvements, machinery and equipment, operating capital and
8 other personal property for which financing assistance is
9 provided for adequate consideration, taking into account the
10 anticipated quantifiable benefits of the standard project, for
11 use by an eligible entity as:

12 (1) industrial or manufacturing facilities;

13 (2) commercial facilities, including
14 facilities for wholesale sales and services;

15 (3) health care facilities, including
16 hospitals, clinics, laboratory facilities and related office
17 facilities;

18 (4) educational facilities, including schools;

19 (5) arts, entertainment or cultural
20 facilities, including museums, theaters, arenas or assembly
21 halls; and

22 (6) recreational and tourism facilities,
23 including parks, pools, trails, open space and equestrian
24 facilities;

25 P. "project" means a standard project or a state

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1 project;

2 Q. "qualifying municipality or county" means a
3 municipality or county that enters into an opt-in agreement;

4 R. "quantifiable benefits" means a project's
5 advancement of an economic development goal as measured by a
6 variety of factors, including:

7 (1) the benefits an eligible entity contracts
8 to provide, such as local hiring quotas, job training
9 commitments and installation of public facilities or
10 infrastructure; and

11 (2) other benefits such as the total number of
12 direct and indirect jobs created by the project, total amount
13 of annual salaries to be paid as a result of the project, total
14 gross receipts and occupancy tax collections, total property
15 tax collections, total state corporate and personal income tax
16 collections and other fee and revenue collections resulting
17 from the project;

18 S. "school district" means a school district where
19 a project is located that is exempt from property taxes
20 pursuant to the Statewide Economic Development Finance Act;

21 T. "state in-lieu payment" means an annual payment,
22 in an amount determined by the department, that will be
23 distributed to a qualifying county, a school district and, if
24 applicable, a qualifying municipality in the same proportion as
25 property tax revenues are normally distributed to those

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1 recipients;

2 U. "state project" means land, buildings or
3 infrastructure for facilities to support new or expanding
4 eligible entities for which financing assistance is provided
5 pursuant to the economic development assistance provisions; and

6 V. "tax impact of a project" means the annual
7 reduction in property tax revenue to affected property tax
8 revenue recipients directly resulting from the conveyance of a
9 project to the department."

10 SECTION 3. Section 6-25-5 NMSA 1978 (being Laws 2003,
11 Chapter 349, Section 5, as amended) is amended to read:

12 "6-25-5. ADDITIONAL DUTIES OF THE ECONOMIC DEVELOPMENT
13 DEPARTMENT AND THE NEW MEXICO FINANCE AUTHORITY--OPT-IN
14 AGREEMENTS.--

15 A. ~~[For the purpose of recommending projects to the~~
16 ~~authority for financing assistance]~~ The department and the
17 authority shall coordinate to:

18 (1) survey potential eligible entities and
19 projects and provide outreach services to local governments and
20 eligible entities, for the purpose of identifying and
21 recommending projects to the authority for financing
22 assistance;

23 (2) evaluate potential projects for
24 suitability for financing assistance;

25 (3) formulate recommendations of projects that

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1 are suitable for financing assistance; and

2 (4) obtain input and information relevant to
3 the establishment and implementation of criteria for evaluating
4 potential projects.

5 B. The department, with such staffing and other
6 assistance from the authority as the department may request,
7 shall propose to enter into opt-in agreements with counties,
8 school districts and municipalities for the purpose of
9 facilitating local government approvals necessary to permit
10 projects to proceed. Opt-in agreements shall provide:

11 (1) for project compliance with all applicable
12 local land use regulations;

13 (2) for payments in lieu of taxes to
14 qualifying counties, school districts and, if applicable,
15 qualifying municipalities to mitigate the tax impact of a
16 project;

17 (3) that financing assistance is conditioned
18 upon compliance with:

19 (a) all applicable ordinances,
20 regulations and codes of a local government concerning
21 planning, zoning and development permitting; and

22 (b) such other requirements as the
23 department and the county, school district and municipality may
24 agree to include;

25 (4) that the payments in lieu of taxes shall

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1 be distributed in a manner and in amounts calculated in
2 accordance with the provisions of Section 6-25-14 NMSA 1978;
3 and

4 (5) that the county, school district or
5 municipality reserves the right to withdraw from the agreement
6 if it determines that the project subject to the agreement does
7 not satisfy the requirements enumerated in the opt-in
8 agreement.

9 C. The department shall adopt rules for the
10 exercise of its powers and responsibilities pursuant to the
11 Statewide Economic Development Finance Act."

12 SECTION 4. Section 6-25-27 NMSA 1978 (being Laws 2005,
13 Chapter 103, Section 24) is amended to read:

14 "6-25-27. PROPRIETARY INFORMATION--CONFIDENTIALITY--
15 PENALTY.--

16 A. Information obtained by the department or the
17 authority that is proprietary technical or business information
18 or related to the possible relocation or expansion of an
19 eligible entity or that is of a business enterprise applying
20 for eligible entity status shall be confidential and not
21 subject to inspection pursuant to the Inspection of Public
22 Records Act.

23 B. It is unlawful for any employee of the
24 department or the authority, or any former employee of the
25 department or the authority, to reveal to any person other than

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1 another employee of the department or the authority any
2 confidential information obtained by the department or the
3 authority that is proprietary technical or business information
4 or related to the possible relocation or expansion of an
5 eligible entity or that is of a business enterprise applying
6 for eligible entity status, and not available from public
7 sources, except in response to an order of a district court, an
8 appellate court or a federal court.

9 C. Any employee or former employee of the
10 department or the authority who reveals to another person any
11 information that ~~[he]~~ the employee or former employee is
12 prohibited from lawfully revealing is guilty of a misdemeanor
13 and shall be sentenced in accordance with the provisions of
14 Section 31-19-1 NMSA 1978."

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO TORT CLAIMS; EXPANDING THE APPLICATION OF THE SPACE
FLIGHT INFORMED CONSENT ACT; AMENDING THE CIRCUMSTANCES UNDER
WHICH A SPACE FLIGHT ENTITY IS LIABLE UNDER THE SPACE FLIGHT
INFORMED CONSENT ACT.

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

SECTION 1. Section 41-14-1 NMSA 1978 (being Laws 2010,
Chapter 8, Section 1) is amended to read:

"41-14-1. SHORT TITLE.--~~[This act]~~ Chapter 41, Article 14
NMSA 1978 may be cited as the "Space Flight Informed Consent
Act"."

SECTION 2. Section 41-14-2 NMSA 1978 (being Laws 2010,
Chapter 8, Section 2) is amended to read:

"41-14-2. DEFINITIONS.--As used in the Space Flight
Informed Consent Act:

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1 A. "crew" means an employee of a space flight
2 entity who performs activities in the course of that employment
3 directly relating to the launch, reentry or other operation of
4 or in a launch vehicle or reentry vehicle that carries human
5 beings;

6 B. "launch" means placing or trying to place a
7 launch vehicle or reentry vehicle and any payload, crew or
8 participant in a suborbital trajectory, in earth orbit in outer
9 space or otherwise in outer space. "Launch" includes
10 activities involved in the preparation of a launch vehicle or
11 payload for launch when those activities take place at a launch
12 site in New Mexico;

13 C. "launch vehicle" means:

14 (1) a vehicle built to operate in, or place a
15 payload or human beings in, outer space; or

16 (2) a suborbital rocket;

17 ~~[A.]~~ D. "participant" means [a space flight
18 participant as that term is defined in 49 U.S.C. Section 70102]
19 an individual who is not crew and who is carried within a
20 launch vehicle or reentry vehicle;

21 E. "participant injury" means an injury sustained
22 by a participant, including bodily injury, emotional distress,
23 death, property damage or any other loss arising from the
24 participant's participation in space flight activities;

25 F. "payload" means an object that a person

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1 undertakes to place in outer space by means of a launch vehicle
2 or reentry vehicle, including components of the vehicle
3 specifically designed or adapted for that object;

4 G. "reenter" or "reentry" means to purposefully
5 return or attempt to return a reentry vehicle and its payload,
6 crew or participants from earth orbit or from outer space to
7 earth;

8 H. "reentry vehicle" means a vehicle, including a
9 reusable launch vehicle, designed to return from earth orbit or
10 outer space to earth substantially intact;

11 ~~[B.] I. "space flight activities" means [launch~~
12 ~~services or reentry services as those terms are defined in 49~~
13 ~~U.S.C. Section 70102; and]:~~

14 (1) activities, including crew training,
15 involved in the preparation of a launch vehicle, payload, crew
16 or participant for launch;

17 (2) the conduct of a launch;

18 (3) activities, including crew training,
19 involved in the preparation of a reentry vehicle and payload,
20 crew or participant; and

21 (4) the conduct of a reentry; and

22 ~~[G.] J. "space flight entity" means:~~

23 (1) a public or private entity holding [a],
24 either directly or through a corporate subsidiary or parent, a
25 license, permit or other authorization issued by the United

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1 States federal aviation administration [~~launch, reentry,~~
2 ~~operator or launch site license for space flight activities~~]
3 pursuant to the federal Commercial Space Launch Amendments Act
4 of 2004, including, but not limited to, a safety approval and a
5 payload determination;

6 (2) a manufacturer or supplier of components,
7 services or vehicles used by the space flight entity and, if
8 applicable, reviewed by the United States federal aviation
9 administration as part of issuing the license or other
10 authorization; or

11 (3) an employee, officer, director, owner,
12 stockholder, member, manager or partner of the entity,
13 manufacturer or supplier."

14 SECTION 3. Section 41-14-3 NMSA 1978 (being Laws 2010,
15 Chapter 8, Section 3) is amended to read:

16 "41-14-3. [~~CIVIL IMMUNITY FOR SPACE FLIGHT ENTITIES~~]
17 LIMITED LIABILITY.--

18 A. Except as provided in Subsection B of this
19 section, a space flight entity is not liable [~~for injury to or~~
20 ~~death of a participant resulting from the inherent risks of~~
21 ~~space flight activities so long as the warning contained in~~
22 ~~Section 4 of the Space Flight Informed Consent Act is~~
23 ~~distributed and signed as required. Except as provided in~~
24 ~~Subsection B of this section, a participant or participant's~~
25 ~~representative may not maintain an action against or recover~~

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1 ~~from a space flight entity for the loss, damage or death of the~~
2 ~~participant resulting exclusively from any of the inherent~~
3 ~~risks of space flight activities]~~ to any person for a
4 participant injury or damages arising out of the participant
5 injury if the participant has signed the warning and agreement
6 required by Section 41-14-4 NMSA 1978.

7 B. Subsection A of this section does not prevent or
8 limit the liability of a space flight entity if the space
9 flight entity:

10 (1) commits an act or omission that
11 constitutes gross negligence [~~or~~] evidencing willful or wanton
12 disregard for the safety of the participant and that act or
13 omission proximately causes injury, damage or death to the
14 participant; or

15 (2) [~~has actual knowledge or reasonably should~~
16 ~~have known of a dangerous condition on the land or in the~~
17 ~~facilities or equipment used in the space flight activities and~~
18 ~~the danger proximately causes injury, damage or death to the~~
19 ~~participant; or~~

20 ~~(3)]~~ intentionally injures the participant.

21 C. The limitation on legal liability provided to a
22 space flight entity by the Space Flight Informed Consent Act is
23 in addition to any other limitation of legal liability
24 otherwise provided by law."

25 SECTION 4. Section 41-14-4 NMSA 1978 (being Laws 2010,

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1 Chapter 8, Section 4) is amended to read:

2 "41-14-4. AGREEMENT AND WARNING [~~AND ACKNOWLEDGMENT~~
3 ~~REQUIRED]~~.--

4 A. A space flight entity providing space flight
5 activities to a participant, whether the activities occur on or
6 off the site of a facility capable of launching a suborbital
7 flight, shall have each participant sign a warning statement.
8 The warning statement shall contain, at a minimum, the
9 following: [~~statement:~~

10 "~~WARNING AND ACKNOWLEDGMENT~~

11 ~~I understand and acknowledge that under New Mexico law,~~
12 ~~there is no liability for injury to or death sustained by a~~
13 ~~participant in a space flight activity provided by a space~~
14 ~~flight entity if the injury or death results from the inherent~~
15 ~~risks of the space flight activity. Injuries caused by the~~
16 ~~inherent risks of space flight activities may include, among~~
17 ~~others, death, bodily injury, emotional injury or property~~
18 ~~damage. I assume all risk of participating in this space~~
19 ~~flight activity."~~

20 ~~B. Failure to provide the warning statement~~
21 ~~requirements in this section to a participant shall prevent a~~
22 ~~space flight entity from invoking the immunity provided by this~~
23 ~~section with regard to that participant]~~

24 "AGREEMENT AND WARNING

25 I UNDERSTAND AND ACKNOWLEDGE THAT UNDER NEW MEXICO LAW, A SPACE

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1 FLIGHT ENTITY IS NOT LIABLE FOR ANY INJURY TO, OR DEATH OF, A
2 PARTICIPANT RESULTING FROM SPACE FLIGHT ACTIVITIES EXCEPT FOR
3 INJURY OR DEATH CAUSED BY THE SPACE FLIGHT ENTITY'S GROSS
4 NEGLIGENCE EVIDENCING WILLFUL OR WANTON DISREGARD FOR THE
5 SAFETY OF THE PARTICIPANT OR CAUSED INTENTIONALLY BY THE SPACE
6 FLIGHT ENTITY. THOSE INJURIES MAY INCLUDE BODILY INJURY,
7 EMOTIONAL DISTRESS, DEATH OR PROPERTY DAMAGE. I UNDERSTAND
8 THAT I HAVE ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE
9 AND OTHER LOSS THAT MAY RESULT FROM SPACE FLIGHT ACTIVITIES
10 EXCEPT FOR THE RISK OF INJURY, DEATH, PROPERTY DAMAGE AND OTHER
11 LOSS THAT MAY RESULT FROM THE SPACE FLIGHT ENTITY'S GROSS
12 NEGLIGENCE EVIDENCING WILLFUL OR WANTON DISREGARD FOR THE
13 SAFETY OF THE PARTICIPANT OR FROM AN INTENTIONAL ACT OR
14 OMISSION OF THE SPACE FLIGHT ENTITY."

15 B. An agreement under Subsection A of this section
16 is effective and enforceable and is not unconscionable or
17 against public policy if it is:

18 (1) in writing;

19 (2) in a document separate from any other
20 agreement between the participant and the space flight entity
21 other than a different warning, consent or assumption of risk
22 statement;

23 (3) printed in not less than ten-point bold
24 type; and

25 (4) signed by the participant."

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