MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

2012 INTERIM

Prepared by the Legislative Council Service
Staff
Claudia Armijo

MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

2012 Interim

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WORK PLAN

2012 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

Members
Sen. Nancy Rodriguez, Chair
Rep. Joni Marie Gutierrez, Vice Chair
Rep. Alonzo Baldonado
Sen. Mark Boitano
Rep. Ernest H. Chavez
Rep. Nate Gentry
Sen. Cisco McSorley
Sen. Gerald Ortiz y Pino

Advisory Members
Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff
Rep. Rick Little
Sen. Lynda M. Lovejoy
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Dennis J. Roch
Sen. Sander Rue
Sen. David Ulibarri

Work Plan

The Mortgage Finance Authority (MFA) Act Oversight Committee was created pursuant to the provisions of Section 58-18-5 NMSA 1978, which provides in part:

> The [mortgage finance] authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Mortgage Finance Authority Act, including but without limiting the generality of the foregoing, the power:
> * * *
> W. subject to any agreement with bondholders and noteholders, to make, alter or repeal, **subject to prior approval by the Mortgage Finance Authority Act oversight committee, hereby created, to be composed of four members appointed by the president pro tempore of the senate and four members appointed by the speaker of the house of representatives**, such rules and regulations with respect to its operations, properties and facilities as are necessary to carry out its functions and duties in the administration of the Mortgage Finance Authority Act; . . .

Pursuant to the provisions of Section 2-12-5 NMSA 1978, the committee is further authorized to:

> A. determine and monitor the actual distribution of funds derived by the [New Mexico mortgage finance] authority from bond issues and other activities of the authority under the provisions of the Mortgage Finance Authority Act, both on a geographical basis and

on the basis of the actual distribution to participants in its programs;

B. monitor the authority in its control of the issuance of mortgage commitments;

C. meet on a regular basis to receive and evaluate periodic reports from the authority as to its enforcement of the provisions of the Mortgage Finance Authority Act and the regulations adopted pursuant thereto; and

D. require the authority to document the need to the oversight committee regarding the issuance of any bonds.

In addition to carrying out its statutory responsibilities, the committee proposes to focus on the following areas of legislative concern during the 2012 interim:

(1) regional housing policy and budget trends;

(2) changes to existing and proposed rules promulgated by the MFA;

(3) neighborhood stabilization program update;

(4) 2012 state of housing report overview;

(5) MFA funding source and program overview;

(6) federal budget and housing finance reform — impacts for the MFA and affordable housing;

(7) tour of downtown Albuquerque, including 700 2nd Street and Silver Gardens;

(8) federal American Recovery and Reinvestment Act of 2009 (ARRA) funding update and post-ARRA projections;

(9) federal housing policy and budget trends;

(10) a review of the MFA budget and 2012-2013 strategic plan;

(11) Affordable Housing Act rule changes;

(12) New Mexico Housing Trust Fund report and funding source overview;

(13) New Mexico foreclosure update; and

(14) proposed legislation for the 2013 session.

The committee will coordinate, as needed, with other committees regarding presentations of subject matter of common concern.

Mortgage Finance Authority Act Oversight Committee
2012 Approved Meeting Schedule

Date	Location
June 11	Albuquerque
July 11	Albuquerque
August 10	Albuquerque
October 2	Albuquerque
November 20	Albuquerque

SUMMARY

MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

2012 INTERIM SUMMARY

The Mortgage Finance Authority (MFA) Act Oversight Committee held five meetings during the 2012 interim, all of which were held in Albuquerque at the MFA Office.

At its organizational meeting, Jay Czar, executive director for the MFA, announced that Mr. Angel Reyes, president, Centinel Bank in Taos, is the governor's newest appointee to the MFA Board. The board currently has one vacancy that may be filled by the governor during the 2013 legislative session.

Mr. Czar re-familiarized committee members with the MFA by summarizing its 2011 work. Among other things, the MFA provided more than $275 million in low-interest financing and grants, as well as nonfinancial support for affordable housing and related services throughout the state. Using tax-exempt single-family mortgage bonds, the MFA provided loans of more than $120 million to 1,032 first-time New Mexico homebuyers.

Also at the organizational meeting, members were provided with the MFA 2012 Reference Guide, a useful guide to the agency, its work, contacts and resources. Members were also advised as to the 2012 MFA legislative proposals, including three items in the General Appropriation Act of 2012 (HB 2, et al., Laws 2012, Chapter 19, p.v.) that will have an impact on the MFA:

1. the governor's veto of language in the bill to require that "[n]o less than fifteen percent and no more than twenty-five percent of the federal funds for the low income home energy assistance program [LIHEAP] shall be used for weatherization programs" (Laws 2012, Chapter 19, p. 116, ll. 6-7, p.v.);

2. a $3 million appropriation to the Department of Finance and Administration (DFA) for the New Mexico Housing Trust Fund (Laws 2012, Chapter 19, p. 204, ll. 23-25, p.v.); and

3. a $250,000 appropriation to the DFA for regional housing authority oversight (Laws 2012, Chapter 19, p. 205, ll.1-4, p.v.).

Additionally, there was an appropriation to the Office of the Attorney General for $3.5 million "to provide foreclosure prevention and mortgage counseling services to New Mexico residents" (Laws 2012, Chapter 19, p. 204, ll. 17-18, p.v.). The appropriation is a budget authorization for a portion of the $11.7 million in discretionary funds allocated to the state under the National Mortgage Settlement, and the MFA may be asked to administer some of the funding.

House Taxation and Revenue Committee Substitute for House Bills 184 and 256 (Laws 2012, Chapter 5) clarifies a gross receipts tax deduction for construction-related expenditures and enacts a deduction from gross receipts for the lease of construction equipment.

Lastly, two items, the reauthorization bill and the capital outlay bill, may have an effect on the MFA because of federal and state pass-through funding.

Members approved the 2012 interim work plan and proposed meeting dates and reviewed the statutory duties of the MFA.

At the committee's second meeting, the members heard an update on the 2012 state of housing. Members expressed an interest in unemployment numbers because there is a strong link between employment and the ability to own a home. In January 2011, the Workforce Solutions Department reported New Mexico's unemployment rate at 8.7 percent, but by May 2012, the seasonally adjusted unemployment rate was 6.7 percent. At the same time, the national unemployment rate increased to 8.2 percent. The state's over-the-year job growth rate, comparing May 2012 with May 2011, was -0.2 percent, representing a loss of 1,500 jobs.

Much of the committee's discussions this interim focused on residential foreclosures. Members were informed that, according to RealtyTrac, as of May 2012, the six-month trend in foreclosures in New Mexico fell, with 700 total foreclosures in June 2011, a high of 1,195 foreclosures in August 2011 and 749 foreclosures in May 2012. In terms of national foreclosure rates, filings were down two percent for the first quarter of 2012 and down 16 percent from the first quarter of 2011. At the final committee meeting, the members heard an in-depth presentation on New Mexico residential foreclosure statistics from Nomalanga Nefertari and Srini Vasan, researchers with the Institute of Applied Research Services at the University of New Mexico, which is home to Geospatial and Population Studies and the Bureau of Business and Economic Research.

Periodically throughout the interim, the MFA staff advised the committee of the progress in the MFA's expenditure of the federal American Recovery and Reinvestment Act of 2009 (ARRA) funding, all of which was projected to be expended by September 2012. In 2009, the MFA received $27 million of ARRA funds for the weatherization assistance program. Since then, MFA staff reported that the MFA's partners have successfully weatherized more than 4,000 New Mexico homes.

At its fifth and final 2012 interim committee meeting, the MFA staff presented the agency's legislative proposals for the committee's consideration. Among the legislative initiatives was a bill that would transfer the oversight of the regional housing authority from the MFA to the DFA. A bill with the same provisions was proposed by the MFA and endorsed by the committee for both the 2011 and 2012 legislative sessions. However, those bills did not pass. The MFA proposed the bill again for the 2013 legislative session because the agency currently does not receive any funding to support its statutorily mandated oversight of the regional housing authority. Additional legislative proposals included:

1. a $5 million appropriation to the New Mexico Housing Trust Fund;

2. a $1 million appropriation to the NM Energy$mart program;

3. a $250,000 appropriation for the oversight of the regional housing authority;

4. legislation to transfer the regional housing authority oversight duties to the DFA;

5. a $100,000 appropriation for oversight duties related to the Affordable Housing Act;

6. legislation to make changes to the Affordable Housing Act, including penalties for violations and relief from long-term affordability restrictions for foreclosed properties;

7. a $500,000 appropriation for rapid rehousing services; and

8. a $500,000 appropriation for permanent supportive housing services.

AGENDAS

Revised: June 7, 2012

TENTATIVE AGENDA
for the
FIRST MEETING IN 2012
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

June 11, 2012
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico

Monday, June 11

10:00 a.m. **Call to Order**
—Senator Nancy Rodriguez, Chair

Welcome and Introduction of the New Mexico Mortgage Finance Authority (MFA) Staff
—Jay Czar, Executive Director, MFA

MFA 2012 Reference Guide — Overview
—Erin Quinn, Senior Policy and Program Advisor, MFA
—Joseph Montoya, Deputy Director of Programs, MFA

Review of 2012 Legislative Session
—Erin Quinn, Senior Policy and Program Advisor, MFA

2012 Interim Work Plan and Meeting Schedule Development
—Jay Czar, Executive Director, MFA
—Claudia Armijo, Staff Attorney, Legislative Council Service

Adjourn

TENTATIVE AGENDA
for the
SECOND MEETING IN 2012
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

July 11, 2012
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico

<u>Wednesday, July 11</u>

10:00 a.m. **Call to Order**
—Senator Nancy Rodriguez, Chair, Mortgage Finance Authority Act Oversight Committee

10:05 a.m. **Approval of the Minutes**

10:10 a.m. **2012 State of Housing Update**
—Joseph Montoya, Deputy Director of Programs, New Mexico Mortgage Finance Authority (MFA)

10:20 a.m. **Update of 2012 Legislative Agenda**
—Joseph Montoya, Deputy Director of Programs, MFA

10:30 a.m. **New Mexico Housing Trust Fund Update**
—Linda Bridge, Director of Housing Development, MFA

10:45 a.m. **Tour of Downtown at 700 2nd Street and Silver Gardens**
(Lunch will be provided at Silver Gardens)

1:15 p.m. **Adjourn**

TENTATIVE AGENDA
for the
THIRD MEETING IN 2012
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

August 10, 2012
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico

<u>Friday, August 10</u>

10:00 a.m. **Call to Order**
—Senator Nancy Rodriguez, Chair

10:05 a.m. **Approval of the July 11, 2012 Meeting Minutes**

10:10 a.m. **New Mexico Mortgage Finance Authority (MFA) Update**
—Jay Czar, Executive Director, MFA

10:15 a.m. **MFA Audit Process**
—John Kennedy, KPMG

10:30 a.m. **Neighborhood Stabilization Program Update**
—Joseph Montoya, Deputy Director of Programs, MFA
—Holly Barela and Michelle DenBleyker, YES Housing
—Irene Serna, Bernalillo County Housing Department

10:50 a.m. **Federal Housing Policy and Budget Trends**
—Joseph Montoya, Deputy Director of Programs, MFA
—Frank Padilla, Director, Office of Community Planning and Development, U.S. Department of Housing and Urban Development

11:15 a.m. **Housing Finance and GSE Reform**
Bond Markets and Financing Alternatives
—Gina Hickman, Deputy Director of Finance and Administration, MFA
—Paul Cassidy, RBC Capital Markets

12:00 noon **Adjourn**

Revised: September 26, 2012

TENTATIVE AGENDA
for the
FOURTH MEETING IN 2012
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

October 2, 2012
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico

Tuesday, October 2

10:00 a.m. **Call to Order**
—Senator Nancy Rodriguez, Chair

10:05 a.m. **Approval of the August 10, 2012 Meeting Minutes**

10:10 a.m. **New Mexico Mortgage Finance Authority (MFA) Update**
—Jay Czar, Executive Director, MFA

10:20 a.m. **Municipal Housing Revenue Bonds**
—Paul Cassidy, RBC Capital Markets

10:40 a.m. **Federal Housing and Economic Stimulus Update: American Reinvestment and Recovery Act of 2009 (ARRA) Update and Post-ARRA Projections**
—Joseph Montoya, Deputy Director of Programs, MFA

11:00 a.m. **MFA Budget for FY 2012-FY 2013**
—Gina Hickman, Deputy Director of Finance and Administration, MFA

11:20 a.m. **MFA's Proposed Legislative Agenda**
—Jay Czar, Executive Director, MFA
—Joseph Montoya, Deputy Director of Programs, MFA

11:45 a.m. **MFA 2012-2013 Strategic Plan**
—Gina Hickman, Deputy Director of Finance and Administration, MFA

12:15 p.m. **New Mexico Statutes — Current Mortgage Industry: Update and Issues**

—Jack Thompson, President, New Mexico Mortgage Lenders Association (NMMLA)

—Angela Muxworthy, Treasurer and Past President, NMMLA

—Matt Teskey, Past President, NMMLA; Correspondent Lending, Weststar Mortgage

12:45 p.m. **Adjourn**

Revised: November 16, 2012

TENTATIVE AGENDA
for the
FIFTH MEETING IN 2012
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

November 20, 2012
New Mexico Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico

Tuesday, November 20

10:00 a.m.	**Call to Order** —Senator Nancy Rodriguez, Chair
10:05 a.m.	**Approval of the August 10 and October 2, 2012 Meetings Minutes**
10:10 a.m.	**New Mexico Mortgage Finance Authority (MFA) Update** —Jay Czar, Executive Director, MFA
10:20 a.m.	**Final Review and Endorsement of Proposed Legislation — 2013** —Joseph Montoya, Deputy Director of Programs, MFA —Hank Hughes and Lisa Huval, New Mexico Coalition to End Homelessness
10:55 a.m.	**Changes to MFA Rules and Regulations** —Marjorie Martin, Attorney, MFA
11:10 a.m.	**Indian Housing Initiatives** —Eric Schmieder, Tribal Land Specialist, MFA
11:40 a.m.	**Regional Housing Authority Updates** —Joseph Montoya, Deputy Director of Programs, MFA
11:50 a.m.	**University of New Mexico (UNM) Institute for Applied Research Services — Mortgage Foreclosure Mitigation** —Normalanga Nefertari, Researcher, UNM Institute for Applied Research Services —Srini Vasan, Researcher, UNM Institute for Applied Research Services
12:35 p.m.	**Homeownership Preservation Program** —Erik Nore, Director, Homeownership Department, MFA —Kenneth Casares Owens, Assistant Attorney General, Program Manager
12:50 p.m.	**Adjourn**

MINUTES

MINUTES
of the
FIRST MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

June 11, 2012
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico

The first meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Senator Nancy Rodriguez, chair, at 10:10 a.m. on June 11, 2012 at the office of the MFA in Albuquerque, New Mexico.

Present	**Absent**
Sen. Nancy Rodriguez, Chair	Rep. Nate Gentry
Rep. Joni Marie Gutierrez, Vice Chair	
Rep. Alonzo Baldonado	
Sen. Mark Boitano	
Rep. Ernest H. Chavez	
Sen. Cisco McSorley	
Sen. Gerald Ortiz y Pino	
Advisory Members	
Rep. Thomas A. Anderson	Sen. Rod Adair
Rep. Roberto "Bobby" J. Gonzales	Rep. Rick Little
Rep. Sandra D. Jeff	Rep. Dennis J. Roch
Sen. Lynda M. Lovejoy	
Rep. James Roger Madalena	
Sen. Richard C. Martinez	
Sen. Sander Rue	
Sen. David Ulibarri	

Staff
Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

Monday, June 11

Call to Order

Senator Rodriguez welcomed members of the committee, staff and guests to the meeting. She advised members that the meeting would be video webcast and reminded them to keep sidebar conversations to a minimum to avoid noise interference with the webcast. She then thanked Representative Gutierrez for her service as chair during the 2011 interim. She also introduced Ms. Armijo, Ms. Ball and Greg Geisler, principal analyst, Legislative Finance Committee (LFC). The chair then recognized Jay Czar, executive director, MFA, to begin his presentations.

Welcome and Introduction of the MFA Staff

Mr. Czar also welcomed committee members, staff and guests. He introduced members of the MFA staff, including Joseph Montoya, deputy director of programs, and Erin Quinn, senior policy and program advisor.

By way of background, Mr. Czar reminded committee members that the MFA is a government instrumentality and that its staff members are not state employees. He noted that the MFA implements several state housing programs and deals with federal dollars through federal programs associated with the U.S. Department of Housing and Urban Development and the federal Department of Energy. Noting that the MFA board's composition is provided for in statute, he announced that Mr. Angel Reyes, president, Centinel Bank in Taos, is the governor's newest appointee. He indicated that the board currently has one vacancy and expressed his hope that the governor will submit her nomination for board membership to the senate for consideration in the 2013 legislative session.

Summarizing the MFA's 2011 work, Mr. Czar stated that last year, the MFA provided more than $275 million in low-interest financing, grants and nonfinancial support for affordable housing and related services throughout the state. In terms of homeownership programs, Mr. Czar said that using tax-exempt single-family mortgage bonds, the MFA provided loans of more than $120 million to 1,032 homebuyers to acquire their first homes. In addition, he discussed the following other homeownership programs and amounts:

- nearly $4 million in down payment assistance loans and grants;
- $8.2 million in loans for new construction and acquisition, rehabilitation and/or resale of 204 affordable for-sale homes, including 26 foreclosed properties and four Habitat for Humanity homes; and
- funding for the rehabilitation and energy efficiency improvement of roughly 3,750 owner-occupied homes.

In terms of rental housing programs, Mr. Czar noted that the MFA has provided approximately $49 million in financing for the new construction, as well as acquisition and rehabilitation, of 849 affordable rental homes, has financed the preservation of 358 aging affordable rental homes and has processed $25.8 million in project-based Section 8 rental assistance payments for 5,318 apartments occupied by persons in low-income households throughout the state.

He reported that targeted initiatives included the provision of $2.5 million for rehabilitation and energy efficiency improvement of 93 homes in tribal communities, the funding for housing activities targeted to persons with disabilities, the provision of $1.3 million in shelter and operating costs for approximately 8,700 homeless individuals and the provision of $2.9 million in homelessness prevention measures for more than 600 persons at risk of becoming homeless.

Mr. Czar reminded members that in 2009, the federal government awarded more than $95 million in stimulus funds to the MFA, and he announced that the MFA has awarded 100 percent of these program dollars to developers and service providers. He said that, using every dollar effectively, the MFA-administered stimulus fund benefits the state in the following ways:

- approximately 4,000 homes will be weatherized, with 3,400 of those households already enjoying warmer, more energy-efficient homes;
- almost 2,000 households at risk of becoming homeless or already homeless have been assisted;
- more than 300 affordable rental homes have been preserved;
- almost 700 new affordable rental homes have been built;
- approximately 3,100 individuals have already been provided work through these programs;
- an estimated 126 full-time jobs have been created or retained; and
- 18 stalled affordable housing construction projects have been restarted.

Mr. Czar then explained that by next fiscal year, all of the stimulus money will be spent. He said that the MFA has successfully incorporated four programs into its program operations: Weatherization/ARRA, Homeless Prevention and Rapid Re-Housing, Tax Credit Assistance and Tax Credit Exchange. He pointed out, however, that New Mexico's need for quality affordable housing is greater than ever. In response to committee members' questions and comments, Mr. Czar explained that state funds are leveraged many times over to maximize the investment fully.

He continued by saying that since 2009, except for small appropriations, the MFA has not requested any legislative appropriations to fund the program.

MFA 2012 Reference Guide

Ms. Quinn directed committee members' attention to the MFA 2012 Reference Guide included in their meeting folders. Ms. Quinn gave members an overview of each section of the guide, highlighting specific sections and explaining where valuable information can be found in the guide, including descriptions of MFA programs and staff and board members' contact information and a section entitled "Top Ten MFA Myths . . . Debunked!". Committee members expressed their appreciation for the updated guide and indicated that they have found all of the previous versions to be extremely useful. Some committee members expressed particular appreciation for the "Glossary of Terms" and the "Commonly Used Housing and Finance Acronyms" and had some clarification questions.

Mr. Czar then directed members' attention to an information packet provided with their meeting materials in an MFA-branded folder. He pointed out a "save-the-date" announcement for the "2012 NM Housing Summit: Dwelling in the Future" on August 22-24 at the Hyatt Regency in Albuquerque. He encouraged members to attend any of the 50-plus sessions covering every aspect of affordable housing and training sessions in new federal rules, regulations and guidelines. He also pointed out several news articles in the folder that recognize several MFA projects as well as the just-published summer 2012 MFA "News & Views" newsletter, which includes coverage of the completion of phase two of Silver Gardens, a low-income housing development in downtown Albuquerque and the winners of the 2012 MFA Tax Credit Design competition.

Review of 2012 Legislative Session

Mr. Montoya directed members' attention to the information behind Tab 2 of the reference guide, "2012 Passed Legislation Impacting MFA". To begin with, he noted three items in the General Appropriation Act of 2012 (HB 2, et al., Laws 2012, Chapter 19) that will have an effect on the MFA:

1. the governor's veto of language in the bill to require that "[n]o less than fifteen percent and no more than twenty-five percent of the federal funds for the low income home energy assistance program [LIHEAP] shall be used for weatherization programs" (Laws 2012, Chapter 19, p. 116, ll. 6-7);
2. a $3 million appropriation to the Department of Finance and Administration (DFA) for the New Mexico Housing Trust Fund (Laws 2012, Chapter 19, p. 204, ll. 23-25); and
3. a $250,000 appropriation to the DFA for regional housing authority oversight (Laws 2012, Chapter 19, p. 205, ll.1-4).

Ms. Quinn noted an additional appropriation in the General Appropriation Act of 2012 to the Office of the Attorney General for $3.5 million "[t]o provide foreclosure prevention and mortgage counseling services to New Mexico residents" (Laws 2012, Chapter 19, p. 204, ll. 17-18). She explained that this appropriation is a budget authorization for $3.5 million of the $11.7 million in discretionary funds allocated to the state under the national mortgage settlement and that the MFA may be asked to administer some of this funding.

Mr. Montoya told committee members that House Taxation and Revenue Committee Substitute for House Bills 184 and 256 (Laws 2012, Chapter 5) clarifies a gross receipts deduction for construction-related expenditures and enacts a deduction from gross receipts for the lease of construction equipment. He explained that passage of this bill allows for reduction of construction costs, enabling limited affordable housing resources to stretch further.

Ms. Quinn noted that two items, the reauthorization bill and the capital outlay bill may have an effect on the MFA because of federal and state pass-through funding.

Mr. Czar and committee members expressed a number of concerns regarding the governor's veto of language in the General Appropriation Act of 2012 that would have required a minimum of 15 percent of LIHEAP funds to be used for weatherization programs. The committee members wanted to know if the governor had indicated in her veto message her reasons for vetoing the language. Ms. Quinn stated that, in general, the governor expressed a concern that sometimes the legislature tends to "intrude into the executive managerial function" regarding expenditure of federal funds. In response to committee questions and discussion, Mr. Montoya said that the MFA can receive a maximum of 15 percent of LIHEAP funds without getting a waiver. He said that while he feels confident that the MFA will receive a percentage of the LIHEAP funds, not knowing how much the agency will receive makes the execution of contracts for the coming year difficult. He also pointed out the difference between the state's fiscal year (July 1 through June 30) and the federal fiscal year (October 1 through September 30). In response to a committee member's question, Ms. Quinn said she expects the amount of available LIHEAP funds to be approximately $10 million, whereas in the past, the MFA was generally guaranteed a share of those funds through legislative language.

In response to a committee member's question about the $3 million appropriation for the New Mexico Housing Trust Fund, Ms. Quinn said that these funds are "highly leveraged", generating at least 10 times the original appropriation.

Mr. Montoya also noted that cutbacks in federal funds have severely impacted the availability of weatherization funds. He said that in addition, the New Mexico Gas Company is now issuing a request for proposals (RFP) for its weatherization funds, and the MFA will have to apply just as any other vendor would. In response to committee discussion and questions about this change, Mr. Montoya said that he appreciates the gas company's efforts to hold vendors more accountable for funding and is certain that the MFA will continue to receive gas company grants and will be accountable to any performance measures associated with gas company funding.

Committee members had an extensive discussion and a number of questions about a northern New Mexico weatherization vendor, Los Amigos, that did not receive a contract for the coming fiscal year to serve weatherization needs in 17 northern New Mexico counties. Mr. Montoya assured members that the amount of funding that would go to these 17 counties would not be reduced; it would simply be administered by different organizations. Committee members expressed concern about the potential number of jobs that might be lost by Los Amigos employees and about whether the fact that Los Amigos representatives had gone directly to legislators with their concerns about the contract had negatively affected the evaluation process. Mr. Czar assured the committee that requests for information from legislators on behalf of Los Amigos had, in fact, had the opposite effect. He then detailed the timetable and the steps that the MFA had taken to try to help Los Amigos meet the minimum requirements of the RFP. Mr. Montoya explained that MFA staff had worked diligently with Los Amigos staff and provided them an unprecedented level of help to provide what was lacking in the response to the RFP.

Committee members expressed concern that an entity that had served 17 counties so well over the past few years could not meet minimum requirements of the MFA's RFP. Mr. Czar explained that the MFA would be closely reviewing the performance of the current contractor. He said that even though the contract is for three years, the MFA has the opportunity to review the contractor's performance each year in order for the contract to be renewed for a subsequent year. Some committee members expressed concern about discrepancies between what they had heard from Los Amigos staff and MFA staff and noted that the issue would be discussed in depth at a future LFC meeting. Mr. Czar also noted that the process allows for appeal of the MFA board's decision but that Los Amigos chose not to appeal, and he expressed his regret about the way things had turned out.

2012 Interim Work Plan and Meeting Schedule Development

MFA staff directed committee members' attention to copies of the 2012 Proposed Work Plan and Meeting Schedule in their committee folders. MFA staff noted the following statutory provisions that authorize the committee to create rules regarding its operations, properties and facilities that are necessary to carry out the functions and duties involved with administration of the MFA Act (Section 58-18-5 NMSA 1978) and, further, to:

- determine and monitor the distribution of funds from bond issues and other activities of the authority under provisions of the act, both on a geographical basis and on the basis of actual distribution to participants in its programs;
- monitor the authority in its control of issuance of mortgage commitments;
- meet on a regular basis to hear and evaluate periodic reports from the authority regarding enforcement of the provisions of the act and any rules promulgated to implement the act; and
- require the authority to document the need for the issuance of any bonds (Section 2-12-5 NMSA 1978).

In addition to explaining the MFA's statutory responsibilities, MFA staff also proposed that the committee focus on the following areas of legislative concern during the 2012 interim:

1. regional housing policy and budget trends;
2. changes to existing and proposed rules promulgated by the MFA;
3. updates on the neighborhood stabilization program;
4. a 2012 state-of-housing report overview;
5. an MFA funding source and program overview;
6. impacts of federal budget and housing finance reform for the MFA and affordable housing;
7. a tour of downtown Albuquerque projects, including 700 Second Street and Silver Gardens;
8. a funding update of federal American Recovery and Reinvestment Act of 2009 (ARRA) funding and post-ARRA projections;
9. federal housing policy and budget trends;
10. a review of the MFA budget and 2012-2013 strategic plan;
11. federal Affordable Housing Act rule changes; and
12. proposed legislation for the 2013 session.

Committee members and staff discussed the proposed work plan subjects. In response to committee discussion and a request, Ms. Quinn indicated that staff would prepare an accounting of all MFA-related legislation introduced during the 2012 session for the July meeting. Committee members also suggested that the work plan include a presentation on the New Mexico Housing Trust Fund report and funding source overview and an update on New Mexico foreclosures.

Regarding the proposed schedule, some committee members indicated a meeting date conflict on August 29 with the Military and Veterans' Affairs Committee and asked that the MFA meeting be changed to August 10, a date that has no other committee meeting scheduled. In response, Ms. Armijo explained that establishing meeting dates for the more than 20 interim committees without creating conflicts among voting members is quite complicated and is now done, in part, using a computer program developed especially for this task. She indicated that she would check with Doris Faust, assistant director for drafting services, LCS, who oversees the task, and Raúl E. Burciaga, director, LCS, and if the change does not create any additional conflicts, it may be made.

Without objection, committee members approved the proposed work plan and meeting dates with the suggested additions and changes.

With no further business to come before the committee, the meeting adjourned at 12:25 p.m.

MINUTES
of the
SECOND MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

July 11, 2012
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico

The second meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee was called to order by Senator Nancy Rodriguez, chair, at 10:19 a.m. on July 11, 2012 at the office of the MFA in Albuquerque, New Mexico.

Present	**Absent**
Sen. Nancy Rodriguez, Chair	Rep. Joni Marie Gutierrez, Vice Chair
Rep. Alonzo Baldonado	
Sen. Mark Boitano	
Rep. Ernest H. Chavez	
Rep. Nate Gentry	
Sen. Cisco McSorley	
Sen. Gerald Ortiz y Pino	

Advisory Members	
Sen. Rod Adair	Rep. Dennis J. Roch
Rep. Thomas A. Anderson	
Rep. Roberto "Bobby" J. Gonzales	
Rep. Sandra D. Jeff	
Rep. Rick Little	
Sen. Lynda M. Lovejoy	
Rep. James Roger Madalena	
Sen. Richard C. Martinez	
Sen. Sander Rue	
Sen. David Ulibarri	

Staff
Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Guests
The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, July 11

Call to Order

Senator Rodriguez welcomed members of the committee, staff and guests to the meeting. She advised members that the meeting would be video webcast and reminded them to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Approval of the June 11, 2012 Minutes

On a motion by Senator Ortiz y Pino, seconded by Representative Chavez, the minutes of the June 11, 2012 meeting were approved without objection.

2012 State of Housing Update

Senator Rodriguez recognized Joseph Montoya, deputy director of programs, MFA, to present the 2012 state of housing update. Mr. Montoya welcomed committee members, staff and guests and explained that, due to a prior commitment, Jay Czar, executive director, MFA, would not be able to attend the July 11 meeting and that he sends his regrets.

Mr. Montoya told the committee that, in January 2011, the Workforce Solutions Department (WSD) reported an unemployment rate of 8.7 percent but that by May 2012, the seasonally adjusted unemployment rate was 6.7 percent, down from 6.9 percent in April 2012 and from 7.5 percent in May 2011. At the same time, the national unemployment rate increased to 8.2 percent.

He said that the over-the-year job growth rate, comparing May 2012 with May 2011, was a negative 0.2 percent, representing a loss of 1,500 jobs. He noted that the effects of the national recession pushed New Mexico job growth into negative territory for all but one month between November 2008 and July 2011. Employment for May 2012 increased over the year in four industries, decreased in seven and remained unchanged in two.

Mr. Montoya explained that homeownership rates are showing an improving trend but are far from where they were before the effects of the economic downturn. For example, he pointed out the following homeownership rates from U.S. Census Housing Vacancies and Homeownership data:

New Mexico:	2009 - 69.1 percent	2010 - 69.5 percent	2011 - 72.8 percent	2012 - 68.0 percent
National:	2009 - 67.4 percent	2010 - 66.9 percent	2011 - 66.1 percent	2012 - 65.4 percent.

Regarding foreclosure rates, Mr. Montoya noted a small positive trend. He said that according to RealtyTrac, as of May 2012, the six-month trend in foreclosures in New Mexico is falling, with 700 total foreclosures in June 2011, a high of 1,195 in August 2011 and back down to 749 in May 2012. In terms of national foreclosure rates, Mr. Montoya reported that filings are down two percent for the first quarter of 2012 and down 16 percent from the first quarter of

2011. He said that the first quarter of 2012 had the lowest quarterly total since the fourth quarter of 2007. He noted a May 2012 increase in foreclosures of nine percent from April 2012, but still down four percent from May 2011.

He directed committee members' attention to Tab 1 of the meeting notebook, specifically to a graph showing a New Mexico comparison of foreclosures in the two hardest hit cities and counties against the New Mexico and national numbers. The graph depicted the following foreclosure rates:

Rio Rancho	0.32 percent
Sandoval County	0.24 percent
Albuquerque	0.13 percent
Bernalillo County	0.13 percent
New Mexico	0.08 percent
National	0.15 percent

Mr. Montoya also directed members' attention to a second report, behind Tab 1 of the meeting notebook, from The Joint Center for Housing Studies of Harvard University entitled "The State of the Nation's Housing 2012". He suggested that members may wish to read the entire report included in their committee notebooks but that, in the interest of saving time, he would note some of the more salient points in the article. He said that housing markets are showing signs of reviving in that home sales are strengthening, and a floor is beginning to form under home prices. He said that, with new home inventories at record lows, unless the broader economy goes into a tailspin, stronger sales should further stabilize prices and pave the way for an increase in single-family housing construction over the course of this year.

Continuing, Mr. Montoya noted that rental markets are looking up, thanks in part to a decrease in new-home construction and an increase of 4.4 million renters since 2005. Rental vacancy rates are falling, rents are increasing and multifamily construction is up while national homeownership rates continue to fall. He said that surveys consistently show that the vast majority of young adults plan to own a home in the future, but they have waited in hopes that the job market would improve and that home prices would stop falling. In summary, he said that with rents up, home prices down and mortgage interest rates at record lows, monthly mortgage costs related to monthly rents have not been this favorable since the early 1970s.

In response to committee discussion and questions, Mr. Montoya noted that the number of households spending more than one-half of their income on housing is reaching record heights because many homeowners are not able to refinance, because of rising rent costs and because of high unemployment. He noted that between 2007 and 2010, the number of U.S. households paying more than half their income for housing rose by 2.3 million, bringing the total to a record high of 20.2 million. Also, in response to a question about the lack of capital to build new houses, Mr. Montoya noted that funding from Freddie Mac and Fannie Mae has "dried up".

Update of 2012 Legislative Agenda

In response to committee requests from the June meeting, Mr. Montoya directed members' attention to the information behind Tab 2 in the meeting notebook relating to the committee's 2012 endorsed legislation. He reminded the committee that during the June meeting, MFA staff and committee members had discussed committee-endorsed legislation that had passed, but members had also requested an overview of committee-endorsed legislation that did not pass, including the following:

- SB 175, sponsored by Senator Mary Kay Papen, would have appropriated $250,000 to ensure that regional housing authorities assist low-income households in areas in which there are simply no other housing service providers;
- SB 194, sponsored by Senator Papen, would have amended the Regional Housing Law to transfer all oversight responsibilities for regional housing authorities to the Department of Finance and Administration, since it receives its annual operating budget through the regular state appropriations process;
- SB 78, sponsored by Senator Rodriguez, would have appropriated $5 million from the general fund that would have leveraged approximately $48 million and created more than an estimated 325 homes and thousands of jobs;
- SB 92, cosponsored by Senator Martinez and Representative Gonzales, would have appropriated $1 million from the general fund to enable Energy$mart Program providers to weatherize 200 homes for low-income people and would have created dozens of jobs;
- SB 38, sponsored by Senator Ortiz y Pino, would have appropriated $1 million from the general fund to enable service providers to conduct hundreds of pre-purchase homebuyer education classes throughout New Mexico and provide individualized counseling and foreclosure mitigation; and
- SB 89, sponsored by Senator Martinez, would have appropriated $500,000 from the general fund to enable service providers to assist between 150 and 300 low-income New Mexico families to help pay for minor repairs, including roof repair and replacement as well as accessibility modifications for households in which one or more family members has a disability.

New Mexico Housing Trust Fund Update

Linda Bridge, director of housing development, MFA, directed committee members' attention to Tab 3 in the members' meeting notebooks for an update on the New Mexico Housing Trust Fund. She reminded members that the New Mexico Housing Trust Fund was created in 2005 and that since that time, New Mexico taxpayers have realized a tremendous return on their investment in the state's economy, education and health.

Ms. Bridge reported that the New Mexico Housing Trust Fund has received $15 million in appropriations, including $3 million from the 2012 legislature that should become available this summer. She explained that through a competitive application process, the MFA has awarded all $15 million, plus a portion of investment interest of $3.2 million and repayments totaling $7.4 million, to 32 housing projects for a total of $23 million. She said that these dollars have leveraged approximately $227 million in other funding sources and, when complete, will result in 1,503 new and rehabilitated housing units throughout New Mexico. In other words, she said, the state has appropriated $15 million but gained housing investments worth an estimated

$251 million, which is a 15-to-1 return on the state's investment.

Tour of Downtown Albuquerque Low-Income Housing Projects

The committee adjourned at 10:48 a.m. so that members could participate in a tour of several new downtown Albuquerque low-income housing projects. Committee members and the following MFA staff participated in the tour: Ms. Bridge; Dan Puccetti, program manager; Mr. Montoya; Gina Hickman, deputy director of finance and administration; Felipe Rael, program manager; Leann Kemp, communications manager; Erik Nore, director of homeownership; and Sandra Marez, executive assistant.

Committee members took a driving tour past two housing projects and were able to take a walking tour of two additional projects.

The projects on the driving tour included the Barelas Homes, located in the vicinity of Atlantic Avenue and Second Street, and Villa de San Felipe, on Coal Avenue between Fifth and Eighth Streets.

Members learned that the Barelas Homes project includes 14 stand-alone homes of new construction completed between 2005 and 2007 with four more homes to be built for work force housing when the market improves. The Greater Albuquerque Housing Partnership is the developer, with funding sources for construction that include the MFA Housing Trust Fund loan, a City of Albuquerque Urban Development Action Grant (UDAG) loan, other City of Albuquerque funds from federal block grant (HOME) funds, the Bank of Albuquerque, Wells Fargo Bank and a developer contribution, for a total development cost of approximately $3.9 million. Homes include three unit types: (1) two bedrooms, two baths, 950 square feet (sf), at a sale price of $147,900 (three units built and sold); (2) three bedrooms, two baths, 1,350 sf, at a sale price of $177,900 (nine units built and sold); and (3) three bedrooms, two-and-a-half baths, 1,550 sf, at a sale price of $189,900 (six units unsold). The targeted income level for these homes is 100 percent at or below 80 percent of median income.

The second project on the driving tour was the Villa de San Felipe, another new construction apartment project of 161 total units. Completion date was the winter of 2001, and the developer was GSL Partners. The project includes 76 studio apartments, 53 one-bedroom apartments with one bath, 16 two-bedroom apartments with one bath and 16 apartments with two bedrooms and two baths. Forty-one percent, or 65 units, are designated at 60 percent of median income, and 59 percent, or 95 units, are designated at market rate. The project includes one manager's unit. Sources of funds included MFA Tax Credit Equity funds, MFA First Mortgage (Risk Sharing), the City of Albuquerque and a deferred developer fee for a total of $9.6 million.

Committee members were able to take a walking tour of the third project on the tour, a 72-unit single room occupancy (SRO) facility called "Downtown @ 700-2nd", located on the corner of Second Street and Lomas Boulevard in downtown Albuquerque. Committee members learned that targeted income levels for these units include five units at or below 60 percent of median income; 27 units at or below 50 percent of median income; nine units at or below 40 percent of median income; 18 units at or below 30 percent of median income; and 13 units at a market rate of approximately $450 per month. The $12.6 million in total development cost included an MFA Housing Trust Fund construction loan, an MFA Land Title Trust Fund grant, an MFA Pre-Development Grant, and MFA Tax Credit Assistance Program loan, an Enterprise Green Communities grant, a federal HUD Continuum of Care grant, a State of New Mexico capital outlay grant, a City of Albuquerque land donation, a City of Albuquerque Workforce Housing grant, energy tax credit proceeds and low-income housing tax credit equity. Committee members were able to visit one of the SRO units while tour guides explained that many residents come to this facility as their first residence after having been homeless for varying lengths of time. Completed in the spring of 2010 with the Supportive Housing Coalition of New Mexico as the developer, the project features new construction.

The final stop on the tour was Phase 1 (completed in the spring of 2010) of the Silver Gardens project at 100 Silver Avenue SW. Phase 2 is scheduled for completion in 2012. Committee members were able to visit one of the two-bedroom units. The project consists of 16 studios, 82 one-bedroom units and 23 two-bedroom units. Targeted income is 16 units at or below 30 percent of median income; 38 units at or below 50 percent of median income; 38 units at or below 60 percent of median income; and 20 units at market rate.

Sources of the Silver Gardens Phase 1 funding of $13.3 million in total development costs include a Los Alamos National Bank construction loan, an MFA Housing Trust Fund construction loan, an MFA First Mortgage ACCESS loan, income from operations, a Carbon Offsets grant, an Enterprise Green Communities grant, a City of Albuquerque UDAG grant, a Home Depot grant, a State of New Mexico capital outlay grant, HDIC Development Rights, a City of Albuquerque land donation, a City of Albuquerque Workforce Housing grant, Federal Home Loan Bank, USGBC and low-income housing tax credit equity. The developer is Romero Rose LLC and the Supportive Housing Coalition of New Mexico.

The tour ended at approximately 12:30 p.m.

MINUTES
of the
THIRD MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE
August 10, 2012

New Mexico Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico

The third meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee for the 2012 interim was called to order by Senator Nancy Rodriguez, chair, at 10:08 a.m. on August 10, 2012 at the office of the MFA in Albuquerque, New Mexico.

Present	**Absent**
Sen. Nancy Rodriguez, Chair	Rep. Joni Marie Gutierrez, Vice Chair
Rep. Alonzo Baldonado	Sen. Mark Boitano
Rep. Ernest H. Chavez	Rep. Nate Gentry
Sen. Cisco McSorley	
Sen. Gerald Ortiz y Pino	
Advisory Members	
Sen. Rod Adair	Sen. Lynda M. Lovejoy
Rep. Thomas A. Anderson	Sen. Richard C. Martinez
Rep. Roberto "Bobby" J. Gonzales	
Rep. Sandra D. Jeff	
Rep. Rick Little	
Rep. James Roger Madalena	
Rep. Dennis J. Roch	
Sen. Sander Rue	
Sen. David Ulibarri	

Staff

Sharon Ball, Senior Researcher, Legislative Council Service (LCS)
Cassandra Jones, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

August 10

Call to Order

Senator Rodriguez welcomed members of the committee, staff and guests to the meeting. Explaining that Claudia Armijo, LCS staff attorney, is out of town for a legislative staff meeting, she introduced Cassandra Jones, research assistant, LCS, to assist with the meeting. She also introduced Greg Geisler, senior analyst, who is the Legislative Finance Committee (LFC) analyst assigned to the MFA.

The chair advised members that the meeting is being video webcast and reminded them to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Approval of the July 11, 2012 Minutes

On a motion by Senator McSorley, seconded by Representative Chavez, the July 11, 2012 meeting minutes were approved without objection.

New Mexico Finance Authority (MFA) Update

Senator Rodriguez recognized Jay Czar, executive director, MFA, who welcomed committee members, staff and guests and introduced Frank Padilla, director, Office of Community Planning and Development, New Mexico State Office, Housing and Urban Development, who, he said would be providing committee members with information on federal budget trends and housing policy later on the agenda. Mr. Czar told the committee that MFA staff are always grateful to work in cooperation with other agencies, as well as with federal housing agencies.

Mr. Czar directed members' attention to an invitation in members' folders for the upcoming 2012 New Mexico Housing Summit, "Dwelling in the Future", presented by the MFA and the Southwest Affordable Housing Group (SWAHG), on August 22-24 at the Albuquerque Hyatt Regency. He said that all committee members are invited to attend the conference as guests of the MFA and explained the type of program they could expect.

Committee members expressed a number of concerns about current media coverage of alleged fraud at the New Mexico Finance Authority (NMFA). Members were particularly concerned about the similarity in names (MFA and NMFA) that may well confuse the organization they oversee with the NMFA. Concluding his introductory remarks, Mr. Czar noted that the MFA staff had put together a very robust agenda for this meeting that he hoped would address some of members' concerns.

MFA Audit Process

Mr. Czar explained that the MFA undergoes an external audit conducted annually by an independent firm. He then introduced John T. Kennedy, partner, KPMG Albuquerque, MFA's external auditor, to discuss the MFA audit with committee members. Mr. Czar explained that MFA's finance committee serves as the MFA board's audit committee and that Dennis Burt, CPA, is chairman of both the MFA board and its finance committee.

Directing committee members to the information behind Tab 1 in the meeting notebooks, Mr. Kennedy explained that KPMG has the largest financial institution audit practice in the U.S. and that KPMG audits numerous other state housing finance agencies. He also reported that KPMG and the New Mexico Office of the State Auditor (NMOSA) are conducting the MFA 2012 external audit as a joint venture. He noted that the NMOSA brings a high level of knowledge regarding state agency audits to the process. He explained that the audit team is physically on site in excess of two months in the summer and fall conducting the detailed external audit.

In terms of MFA's history of audit results, he said that MFA has received "unqualified" (i.e., clean) audit opinions for the past 20 years. He said that for the past several years the audit has been submitted to the NMOSA, as required by law, by December 15 — three months earlier than the statutory deadline. He explained that audit results are presented to the MFA board each January in Santa Fe on the same day that the legislative session begins (the third Tuesday in January).

Mr. Kennedy explained that all findings are presented to the MFA finance committee and board. He said that MFA staff are responsive to audit recommendations and have addressed all findings in a timely manner and that auditors have reported no repeat findings.

He said that KPMG and NMOSA also conduct fraud interviews with individuals at all levels of the organization, including members of the MFA board, as part of the external audit process, and that no instances of fraud have been identified at this time. He explained that MFA has an anonymous third-party hotline for reporting suspected fraud and other matters of concern.

Finally, Mr. Kennedy noted that MFA has an experienced and well-trained accounting team with CPAs holding both the MFA deputy director and controller positions. He noted the active involvement in the audit process by executive staff and key members of management, as well as regular oversight by the MFA finance committee. He said that no significant issues have been identified in audits conducted by federal and state agencies that have oversight over the MFA and that no significant issues have been identified by the contracted internal auditors. He concluded that the MFA culture is one of a very well run organization, specifically from an audit perspective.

In response to questions about the make-up of the MFA finance committee, Mr. Czar explained that this committee is elected from the MFA board by board members. He explained that the board includes, by statute, the lieutenant governor, the state treasurer and the state attorney general, plus four members appointed by the governor with the advice and consent of the senate.

Noting that the MFA has had "clean" audits for the past 20 years, committee members praised the MFA staff's hard work and expressed concern that the MFA's reputation might suffer because of confusion with the New Mexico Finance Authority (NMFA) and the NMFA's current situation. Mr. Czar responded that this confusion is the primary reason that he and his staff wanted to bring in the outside auditor to address the MFA's audits with the oversight committee. He emphasized that no one scrutinizes the MFA more closely than the staff itself.

He then distributed a handout to committee members entitled "MFA Speaking Points in Reference to Finance Authority Audit Issues/Alleged Fraud". Going over the handout, he reiterated points about the MFA audit committee and MFA's history of clean audits. He added that the MFA also contracts with another firm, Moss Adams, LLP, to oversee an internal audit function to assist management and the board of directors with an independent appraisal of accounting, financial and operating controls; efficient use of resources; reliability of information provided to management; compliance with laws, policies and procedures and programmatic requirements; and the presence of potential risks, mismanagement, fraud and theft or other irregularities.

Mr. Czar also explained that the internal auditors also perform a follow-up on management's actions related to previously reported deficiencies. All internal audit reports and responses are approved by management, the board's finance committee and the board of directors. He explained that the internal audit firm presents the related internal audit reports directly to the finance committee and the board of directors. He noted that internal audit services are bid through a competitive process at least every three years and that the MFA will be issuing a request for proposals for these services in October 2012.

Also, Mr. Czar explained that because of the nature of the MFA's mission, the organization is subject to auditing and monitoring by nine federal agencies and three state agencies. He said that, in the past three years, the MFA has averaged 24 audits or reviews per year by all of these various entities, including: external audits, internal audits, federal agencies and state agencies.

Committee members thanked Mr. Czar and his staff for the report and for their fine work and noted that having a clear distinction between the MFA and the NMFA is important for both organizations.

Neighborhood Stabilization Program Update

Mr. Montoya directed committee members to information behind Tab 2 in the meeting notebook. He explained that, in 2008, New Mexico received $19.6 million in Neighborhood Stabilization Program (NSP) funds as part of the federal Housing and Economic Recovery Act of 2008. He said that the MFA has been instrumental in creating a program to buy foreclosed homes at one percent below appraised value, rehabilitate the properties to MFA's standards (among which is a Home Energy Rating System (HERS) of 85 or better) and then resell the homes to households with incomes at or below 120 percent of the area median income, which, for example, is up to $73,200 (2012) for a family of four in Albuquerque. He said that the MFA has contracted with three different entities with representatives that will report to the committee today: YES Housing, the Kaspia Group (formerly Omni) and the Bernalillo County Housing Department.

YES Housing: Holly Barela, NSP manager for YES Housing, explained that YES Housing had purchased and rehabilitated 19 foreclosed homes in Sandoval and Valencia counties, 18 of which have been sold with one sale pending. She said the average purchase price was approximately $138,000 with an additional $44,000 for repairs and energy efficiency upgrades.

Ms. Barela discussed the positive impact that this program has had for the various communities in which the houses are located. She said that existing residents of neighborhoods benefit from the program through the stabilizing and improvement of property values and neighborhood quality. She said participation in the program allows individuals and families to realize the dream of home ownership by purchasing a home with affordable financing, which is crucial for family financial stability. She said that the average family income of the home buyers is $50,256. She also pointed out the advantages of jobs creation and saved jobs, particularly in the construction and real estate areas. She said that YES had utilized the services of six construction companies, along with their subcontractors, and had also used the services of appraisers, surveyors, real estate agents, mortgage lenders and title companies.

Michelle DenBleyker, vice president of the Real Estate Division, YES Housing, discussed a multi-family rental project in Belen, La Hacienda Apartments. She explained that YES identified a 22-unit apartment in Belen near downtown that was basically abandoned (only two units occupied) and that was known for drug activity. She explained that YES has served as the developer and owns the community with 100 percent of the funding provided through the NSP and MFA. She said that YES did extensive renovations focusing on energy efficiency and also provided some quality-of-life amenities beyond the interior of the apartments, such as installation of a playground and facilities for families to barbecue outside. She said that the project has been a real success story for the city of Belen and that all apartments have been rented for the past year.

Chair Rodriguez indicated at this point that she had to leave the meeting to tour the Santa Fe County courthouse project in Santa Fe and, in the absence of the vice chair, she appointed Senator Ortiz y Pino as temporary chair of the meeting.

Committee members had an extensive discussion about the success of the program and complimented both the YES and MFA staffs on their work. Some committee members expressed concern, however, that some projects appear to cost more for the rehabilitation than the amount realized through the sale. Mr. Czar said that MFA staff would provide the committee with cost and sale information for projects discussed. Mr. Czar explained that in other states, entire neighborhoods have failed, but New Mexico has very few, if any, such entirely failed neighborhoods. He said that the purchase and rehabilitation of a foreclosed home increases the values of all of the surrounding homes in the neighborhood. That is the real intent of the program, he said.

Several committee members wanted to know why the program had been limited to Sandoval, Valencia and Bernalillo counties. Mr. Montoya explained that the federal Department of Housing and Urban Development (HUD) regulates where the MFA can spend federal dollars. He noted that Sandoval County, especially Rio Rancho, was the area hardest hit in the state by foreclosures. Debbie Davis, programs and initiatives manager, MFA, explained that most of these projects were in Rio Rancho, with a few in Valencia County and outside the Albuquerque city limits in Bernalillo County. In response to questions, Mr. Montoya said that the City of Albuquerque and the City of Las Cruces have their own HUD projects.

Mr. Montoya and some committee members agreed that needs exist in other parts of the state, including Taos County, which has a particularly unique situation in that, reportedly, only four percent of Taoseños can afford homes in that community.

In response to committee questions, Ms. Davis explained that NSP homes are energy efficient making utility costs lower to home buyers over the long term. She said that during the rehabilitation process, all homes were updated with new furnaces, water heaters, stoves, refrigerators and dishwashers, and some homes were provided with washers and dryers.

In response to committee questions and discussion, Mr. Montoya said that nine homes were sold to families whose income is at or below 50 percent of median income; 20 to families whose income is between 50 and 80 percent of median income; and 35 to families whose income is between 80 and 120 percent of median income. He said that homes have been sold to a variety of working families, including teachers, casino workers, mechanics, bank tellers, delivery service drivers, a U.S. Forest Department employee, an emergency room nurse and a retired couple caring for their handicapped adult son. He said that most are first-time buyers and that the majority are young families with small children. In response to a question, he explained that home buyers pay the market rate on the first mortgage and, currently, no interest on the second. Mr. Montoya indicated that the program has been significantly extended through the use of recouped funds, but that all the money has now been expended on the project.

Chairman Ortiz y Pino requested that the minutes reflect the committee's interest in providing state funds to keep the NSP functioning.

Federal Housing Policy and Budget Trends

Mr. Montoya told the committee about what he called a "conversation between consumer protection advocates and banks" at the federal level as well as other issues that will affect the way in which the MFA does business. He discussed a review of regulations regarding first mortgages that could allow people to be educated on mortgage issues, especially before they acquire their first mortgage. In response to a committee question, he noted a clear difference of opinion between banks and regulators regarding just how much regulation is needed for the nonstandard mortgage process.

Mr. Padilla told the committee that his agency also reviews the MFA's performance on an annual basis. He said that the performance, professionalism and ethics that the MFA board and staff have displayed over the past 15 years has been truly extraordinary.

Regarding the MFA's participation in the NSP, Mr. Padilla explained that the federal government's original allocation to New Mexico was $20 million in 2008 and that, since that time, New Mexico has received additional funding from two additional programs that has allowed the NSP to turn around more than 200 homes that have been foreclosed. He said that half of the inventory of foreclosures in the market, between 1,000 and 1,500 homes, will have participated in this program before it ends.

In response to committee discussion and questions, Mr. Padilla agreed that the only drawback to the program is that the family whose loan is being foreclosed cannot stay in the home while it is being returned to the market. Some committee members expressed concern that, with the end of federal stimulus funding, these types of programs cannot be expanded or modified in order to help families avoid foreclosure. Committee members also discussed the issue that having the foreclosed homes returned to the market and sold helps maintain the value of other houses in those neighborhoods.

In response to committee questions and discussion, Mr. Padilla said that the HELP program provides funding so that people can renovate or build a facility to serve as a home that will allow the homeowner to dedicate part of the property to establishment of a business such as a workshop or a shop. Mr. Montoya indicated that the issue with this type of building is the nature of regulatory controls, which seem to make this type of building more difficult to build.

Regarding funding levels for the coming year, Mr. Padilla directed members' attention to the handout he had provided, "Budget Authority by Program", which, he said, reflects the President's budget request to Congress. He said that the Senate has deliberated the HUD budget on its side and that the House of Representatives is currently in the process of deliberating. In response to a committee question, he said that he felt HUD would see a $3 to $5 billion dollar increase for the next fiscal year.

Housing Finance and GSE Reform
Bond Markets and Financing Alternatives

Gina Hickman, deputy director of finance and administration, MFA, directed committee members to the information behind Tab 3 in the meeting notebooks. Paul Cassidy, vice president and managing director, Royal Bank of Canada (RBC) Capital Markets, started by mentioning how much he appreciates working with the MFA staff as the agency's senior managing underwriter. Directing committee members' attention to information on page 2 behind Tab 3 in the meeting notebook, Mr. Cassidy explained that this chart illustrates interest rates in sovereign bonds since 2008 and shows the strength of U.S. treasury notes. Together with those of Germany and France, U.S. treasury notes are the "go-to" credit sources internationally, even though treasuries have fallen to the lowest level in more than 65 years. On page 3, he pointed out the effect of the "housing bubble", which continues, although not as strongly, into the present time.

In terms of the tax-exempt municipal market data index (on page 4), Mr. Cassidy pointed out that this market is different from the treasury market in that this market demonstrates an unsloping yield curve. He said that if one compares the yield curve from 2010 to 2012 one would see that we are at the lowest point in terms of interest rates. He noted that interest rates have been lower only 1.5 percent of the time. He said that the MFA has been taking advantage of these low rates by refinancing higher rate bonds at these new lower rates.

Pointing out the listing of the MFA's top 25 bondholders, which own nearly $4 million of MFA debt, Mr. Cassidy said that retail investors own MFA bonds because of the MFA's high ratings with agencies such as Moody's and Standard & Poor's. He also explained that MFA has been able to provide adequate liquidity so the agency can continue to make affordable loans to its clients. He explained that the MFA sets interest rates on first-time home buyers through a number of programs and noted that the MFA makes loans at about 3.5 percent. He said that conventional markets cannot handle a lot of first-time home buyers.

Looking at government-sponsored enterprise (GSE) reform, Mr. Cassidy said that the Obama administration continues to offer a three-options proposal directed at Fannie Mae and Freddie Mac as of February 2011:

- Option 1: A fully privatized system of housing finance; government insurance limited to the Federal Housing Authority (FHA), the United States Department of Agriculture (USDA) and the Department of Veterans Affairs assistance;
- Option 2: Allow the private market to play a dominant role with the government stepping in only during a crisis; and
- Option 3: Create new loan guarantees to replace Fannie Mae and Freddie Mac and provide guarantees for catastrophic losses after private entities take the first loss.

He also discussed a number of the Republican Party's reform bills (as of May 13, 2011) that would:

- prevent dividend payment decreases;
- apply the Freedom of Information Act to GSEs during conservatorship;
- require GSEs to dispose of all "non-mission-critical assets";
- establish a bailout cap for GSEs;
- ensure that an exact replica of GSE is not created;
- prohibit taxpayer funding of GSE employee legal fees;
- abolish affordable housing trust funds; and
- establish five new agencies to replace Fannie Mae and Freddie Mac with lower level guarantees.

In response to committee discussion, comments and questions, Mr. Cassidy and Mr. Czar indicated that, since nothing has been done to reform GSEs and nothing seems to be in the serious planning stage, the MFA will continue to do what it has always done: take loans, package them and sell them on the market at as profitable a rate as possible.

Mr. Cassidy said that, according to Moody's rating agencies reports, external stresses from the U.S. economy and housing market will continue to stress U.S. state housing finance agencies (HFAs). He said that the primary drivers for Moody's negative outlook include low conventional mortgage rates, low investment rates, deterioration of counterparty credit, high unemployment (which drives high rates of loan delinquencies and foreclosures), high liquidity fees for variable rate debt (which puts pressure on profitability) and new strategies for financing loan originations that may bring a new set of risks. In response to a committee question, Mr. Cassidy explained that the term "counterparty" can refer to brokers, investment banks and other securities deals that may be a "contracting party" for over-the-counter securities transactions.

Continuing, Mr. Cassidy pointed out that, according to the Standard & Poor's rating agency, despite deteriorating loan quality, the overall strength of HFAs is stabilizing because of more conservative bond indenture management, a redeeming and refunding of variable rate debt, a switch to mortgage-backed securities (versus whole loan) and a reduction of counterparty exposure.

Directing committee members' attention to page 14 of his handout, Mr. Cassidy explained that, in 2011 and to date in 2012, RBC Capital Markets has served as senior underwriting manager for the MFA for a total of five individual transactions of $40 million, $59.9 million, $70 million, $40 million and $45.5 million each. He said that the MFA has Standard & Poor's ratings of AA- for issuer credit and AA+ for the single family program, with stable outlooks for both.

Ms. Hickman explained that the MFA's single family program is one of four with a market of low- to moderate-income, first-time homebuyers. She noted that the MFA's program is a national model. Mr. Cassidy added that a number of HFAs throughout the country are switching to the program that the MFA adopted 20 or 25 years ago. Ms. Hickman added that the MFA has been very successful over the years at financing mortgages through issuance to tax-exempt bonds. She said that one problem at this point is that bond investors want a greater return on their investment but, with mortgage rates so low, those kinds of returns are not possible. Committee members spent some time discussing the concept of a "new normal" in these post-recession times.

Mr. Czar explained that the MFA, with support of its board, continues to take a conservative approach to doing business. He said that Standard & Poor's evaluation of the MFA included spending much time with management and discussion of issues. He said it had looked at a business model for years to use mortgage backed securities rather than the "whole loan" model. He said that many HFAs in the country using the "whole loan" model can gain more profit but with more risk.

Mr. Cassidy directed committee members' attention to the Standard & Poor's issuer credit rating (ICR), "New Mexico Mortgage Finance Authority; General Obligation" document in the committee notebooks. He noted that the report reflects MFA's:

- high quality and the low risk of the loan portfolio;
- very low risk debt profile based on the use of 97.2 percent fixed-rate debt and 2.8 percent variable-rate member debt guaranteed by "AA+" eligible, government-sponsored entities (GSEs);
- very low general obligation debt, with less than 0.2 percent of total debt outstanding;
- strong legislative and gubernatorial support of the MFA;
- stable and effective management; and
- the improving economic base in New Mexico.

Mr. Czar introduced Bill Elliot, Rocky Mountain Mortgage, who, he said, is one of the MFA's premier lenders, helping people all around the state to own their own homes.

Committee members thanked MFA staff and presenters for the very informative presentations at the meeting. There being no further business to come before the committee, members adjourned at 12:55 p.m.

MINUTES
of the
FOURTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

October 2, 2012
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico

The fourth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee for the 2012 interim was called to order by Senator Nancy Rodriguez, chair, at 10:10 a.m. on October 2, 2012 at the office of the MFA in Albuquerque, New Mexico.

Present
Sen. Nancy Rodriguez, Chair
Rep. Alonzo Baldonado
Rep. Ernest H. Chavez
Sen. Cisco McSorley
Sen. Gerald Ortiz y Pino

Absent
Rep. Joni Marie Gutierrez, Vice Chair
Sen. Mark Boitano
Rep. Nate Gentry

Advisory Members
Rep. Thomas A. Anderson
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff
Rep. Rick Little
Sen. Lynda M. Lovejoy
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Sander Rue

Sen. Rod Adair
Rep. Dennis J. Roch
Sen. David Ulibarri

Staff
Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

October 2

Call to Order

Senator Rodriguez welcomed members of the committee, staff and guests to the meeting. She reminded members that the meeting was being video webcast and suggested they try to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Approval of the August 10, 2012 Minutes

Senator Rodriguez announced that the August 10 meeting minutes were not yet ready and would be approved at the November 20 meeting.

New Mexico Mortgage Finance Authority Update

Senator Rodriguez recognized Jay Czar, executive director, MFA, who welcomed committee members, staff and guests. He reported that MFA staff had provided the Legislative Finance Committee (LFC) an overview of the MFA for FY 2012 and FY 2013. Mr. Czar and the committee discussed the highlights of the report, including the following:

- the agency's vision and strategic plan: the MFA has served more than 88,000 people and provided $5.2 billion in financing and funding since its creation in 1975;
- the agency's audit process, which includes an average of 24 audits per year conducted by nine federal agencies and three state agencies;
- the agency's upgraded Standard & Poor's rating from A+ to AA+ during a time that the government credit ratings, in general, are being downgraded;
- the agency's provision of more than $275 million in affordable housing and related services throughout New Mexico; and
- the agency's use of 100 percent of the federal American Recovery and Reinvestment Act of 2009 (ARRA) funds allocated to it.

Mr. Czar also said that the MFA is getting a steady $2.5 million to $3 million a week in mortgage products with a 10 percent market share. He said that the current market is a "perfect storm" for first-time homebuyers because mortgage payments are generally lower than rental rates. He noted that the MFA has provided $4 million in downpayment assistance to first-time homebuyers.

Mr. Czar also thanked those committee members who attended the 2012 New Mexico housing summit, "Dwelling in the Future", presented by the MFA and the Southwest Affordable Housing Group in Albuquerque in August.

Municipal Housing Revenue Bonds

Mr. Czar directed committee members' attention to the information behind Tab 1 in their meeting notebooks and introduced Paul Cassidy, managing director, RBC Capital Markets, to discuss the issue of municipal housing revenue bonds.

Mr. Cassidy explained that municipal housing bonds can be issued only by governmental entities and can be taxable or tax exempt. He said that tax exempt bonds require the allocation of a federal private activity bond (PAB) cap so investor interest income is exempt from federal and state income tax. He said that these bonds are debt obligations (an "I.O.U.") of the issuer that are paid back from the cash flows on the mortgages funded by the bond proceeds.

He said that the MFA issues municipal housing bonds that are taxable or tax exempt. He explained that taxable bonds have been used in the past to leverage a PAB when that resource was so scarce so that more bonds could be issued to fund the demand for mortgages. He said that the MFA housing bonds are federally guaranteed so that the MFA does not take on any mortgage default risk. He said that this secured structure is called a mortgage-backed securities (MBS) structure. In response to a committee member's question, Mr. Cassidy explained that cash flows from the mortgages are composed of monthly principal and interest payments plus any prepayments that come from the mortgagee.

Mr. Cassidy explained that the MFA issues several municipal housing bond programs each year to minimize negative arbitrage. He explained that "negative arbitrage" is the difference between the yield on the bonds and the yield on bond funds that are invested. The rate is typically fixed to match fixed-rate mortgages. The debt is structured, he said, with the least amount of risk.

In response to committee questions and comments, Mr. Cassidy said that these policies are what distinguish the MFA from the currently troubled New Mexico Finance Authority (NMFA), and he suggested that the similarity in names is confusing and that the MFA may wish to amend its authorizing statutes to change its name during the upcoming legislative session.

Mr. Cassidy explained that the MFA works with a group of professionals secured through the state procurement process. He explained that the MFA is called the "issuer" and that issuers of municipal bonds are state and local government institutions, including housing finance agencies such as the MFA. He said that other professionals include the following:

- issuer's counsel: Sheehan & Sheehan, P.A., which advises the MFA on all general legal matters (not necessarily relevant to individual bond financings) and delivers legal opinions;
- *bond counsel*: Ballard Spahr, LLP out of Salt Lake City, which advises the MFA on legal matters as they relate to bond and tax issues. The bond counsel drafts bond documents and give legal opinions;
- *underwriters*: RBC Capital Markets and Merrill Lynch, which are bankers that work closely with the MFA and other issuers to meet their financing needs. Underwriters work with bond investors to determine market demand and set appropriate interest rates on the bonds on the pricing date. Salespersons and traders buy and sell bonds in the primary and secondary markets to provide liquidity to investors;
- *underwriters' counsel*: Dorsey & Whitney and Modrall Sperling, which represent the underwriters and draft official statements, bond purchase contracts and "blue sky" securities;
- *trustee*: Zion's Bank, which represents the interest of the bondholder and acts as custodian of the bond proceeds to ensure the proper transfers of funds and accounts (and pays the bondholders); and

- *master servicer*: U.S. Bank, which purchases loans from participating lenders and packages them into MBS.

In response to committee questions and comments about mortgage loan eligibility requirements for loans funded with tax-exempt revenue bonds, Mr. Cassidy gave the following examples.

- The **first-time homebuyer** must have had no ownership interest in a residence in the last three years.
- **Income limitation:** The buyer's family income cannot exceed the applicable percentages of applicable median family income. Mr. Cassidy directed members' attention to the spreadsheet on page 5 of the meeting notebook, which shows that the annual income limit for a family of three or more for the Albuquerque metropolitan statistical area's targeted area is $85,400 per year and $61,870 for all other targeted areas in the state.
- **Purchase price limitation:** The purchase price of the home must not exceed 90 percent of the average area purchase price for the related area (110 percent for target area residences).
- **Transaction type:** Mortgages must be new mortgages, not refinanced mortgages.
- **Bond proceeds allocation:** Twenty percent of the bond proceeds must be dedicated to targeted area residences for up to one year.

Mr. Cassidy explained that private activity bonds permit the issuance of tax-exempt revenue bonds for housing. He explained that each state is allocated a PAB cap. He said that since 2002, with inflation adjustments, the PAB cap for New Mexico has risen to $284,560,000. He explained that in New Mexico, the State Board of Finance in 2012 allocated $50 million to purchase single-family homes, $40 million to multifamily developments and approximately $194.6 million to economic development. He noted that there is very little demand for these funds. He said that the State Board of Finance reallocates the unused cap as a carry-forward PAB cap. Each state allocates a PAB cap among its issuers for use over the next three years.

In response to committee discussion and questions, Mr. Cassidy showed the committee the MFA's current ratings for various types of bonds (with the highest ranking at AAA):

Issuer Credit Rating	AA-
NIBP Indenture Rating	AA+
1995 Master Indenture	AA+
Stand-Alone Series	A- to AA+

Mr. Cassidy explained that the MFA's bonds are currently on "negative outlook" because of the federal debt ceiling. The outlook is also affected by the future of government-sponsored enterprises (GSEs), such as the Federal National Mortgage Association (FNMA, or "Fannie Mae"), the Federal Home Loan Mortgage Corporation (FHLMC, or "Freddie Mac") and the Government National Mortgage Association (GNMA, or "Ginnie Mae"), which is uncertain in light of possible housing reform policy changes. Almost 80 percent of the MFA loans are secured by Ginnie Mae.

Mr. Cassidy said that he could make the following case for the MFA's management objectives:

- maintaining the viability of the residential home loan program;
- minimizing expense and subsidy;
- maximizing the monetary return to the MFA with full-spread transaction and administration fees of at least 20 percent; and
- analyzing and implementing other strategies that are the most advantageous to the MFA in case the bond market is not an option in 2013.

Mr. Cassidy summarized the challenges facing the MFA management: the future of GSEs; minimizing expenses while maximizing revenues; the uncertain future of tax-exempt bonds; the Federal Reserve Bank artificially holding mortgage rates down; and the changing regulatory environment.

In terms of governance responsibilities, Mr. Cassidy said that he sees the MFA board's general responsibility as setting board policies that are consistent with the MFA's purpose; managing the MFA's resources (both human and fiduciary responsibilities); and ensuring that the MFA support and develop programs for those it serves while maintaining fiscal sustainability. In relation to the board's responsibility for bond issuances, he said that he believes the board should be generally familiar with the process of issuing bonds, be aware of and review bond official statements, approve bond resolutions and be aware of any changes in programs that change risk profile, such as continuous lending, various types of interest rate risk, changes in counterparties and the vagaries of the market.

Federal Housing and Economic Stimulus Update: ARRA Update and Post-ARRA Projections

Joseph Montoya, deputy director of programs, MFA, directed committee members' attention to the spreadsheet behind Tab 2 in their meeting notebooks. Mr. Montoya said he was pleased to be able to report to the oversight committee that the MFA has, since passage of the ARRA in 2009 and the subsequent distribution of the funds, been able to spend more than $95 million in federal ARRA funds appropriately and in a timely matter. He indicated that the MFA managed to account for all program expenditures by the end of the federal fiscal year, September 30, 2012.

Mr. Montoya reported that the MFA had received approximately $26.9 million for the weatherization assistance program, New Mexico "Energy$mart", and has expended the entire amount through the Central New Mexico Housing Corporation in Albuquerque, the Community Action Agency of Southern New Mexico in Las Cruces and Los Amigos Educational Resource Center, Inc., in Santa Fe.

Mr. Montoya noted that the MFA had expended nearly $6.8 million for the Homelessness Prevention and Rapid Re-Housing Program through Catholic Charities in Albuquerque, the Gallup Housing Authority, the Housing Authority of the City of Las Cruces, the Rio Arriba

County Housing Authority, the San Juan County Partnership, the Soccoro County Housing Authority, the Life Link and the New Mexico Coalition To End Homelessness in Santa Fe and the Tierra del Sol Housing Corporation in Anthony.

With the Tax Credit Assistance Program (TCAP), Mr. Montoya said the MFA was able to expend nearly $13.9 million on the following project recipients: Downtown @ 700 2nd, Albuquerque; La Pradera, Hobbs; La Terraza, Farmington; Villa Alegre Apartments and Villa Alegre Senior Apartments, Santa Fe; Belen Apartments, Belen; Casa Linda Apartments, Silver City; Hilltop Apartments, Los Lunas; La Villa Elena Apartments, Bernalillo; Rio Abajo Apartments, Truth or Consequences; Sage Apartments, Gallup; and Southview Apartments, Lovington.

Finally, Mr. Montoya said that the MFA was able to expend nearly $47.8 million through the Tax Credit Exchange Program for the following project recipients: Cimarron II, Anthony; Falcon Ridge, Hatch; New Life Homes 4, Sawmill Senior Housing and The Artisan at Sawmill Village, Albuquerque; and the Village Sage, Santa Fe.

Committee members complimented the MFA staff on its efficient, expeditious expenditure of the federal stimulus funds. Some committee members noted the continued need throughout New Mexico and the entire country and expressed varying degrees of regret about the end of the federal stimulus program and its success. Some committee members also expressed concern about the apparently high per-unit cost of some of the multifamily housing. Mr. Montoya explained that multifamily housing is an "extremely regulated" environment, which accounts, in part, for high per-unit costs.

The MFA Budget for FY 2012-FY 2013

Gina Hickman, deputy director, finance and administration, MFA, directed committee members' attention to the information behind Tab 3 in the meeting notebooks — a memorandum to committee members from Ms. Hickman regarding the agency's proposed budget. She reminded committee members that the MFA receives no state general fund dollars and that the use of the term "general fund" in the document refers to the agency's general fund. She also noted that the MFA operates on the same fiscal year as the federal government: October 1 through September 30 of each calendar year.

Ms. Hickman pointed out that revenue for FY 2012-2013 is projected at $11.7 million, a decrease of just under $1.2 million, or nine percent under the projected September 30, 2012 actual revenue, and -$424,000, or minus three percent, under the prior-year budget. The expense budget is projected at just over $9.2 million, an increase of $475,000, or five percent, over the September 30, 2012 projected actual revenue and a decrease of -$167,000, or minus two percent, under the prior year budget. She said that the 2012-2013 budgeted excess revenue over expenses is just under $2.5 million.

Ms. Hickman provided an analysis of significant decreases and increases. She said that the decrease on the revenue side under prior-year actual revenue (minus nine percent) and budget (minus three percent) is related to the loss of ARRA program-related administrative fees, offset by an increase in weatherization program carryover administrative fees and an increase in the interest on investment and loan portfolios. In addition, the decrease under prior-year actual revenue also reflects the projected State Investment Council fair market value gain for FY 2012 of nearly $850,000, which is not budgeted.

On the operating expenses side, Ms Hickman said that the increases over the prior-year actual expenses were $418,000 (six percent), with decreases under the prior-year budget of -$302,000 (minus four percent) with the following specifics:

- Salaries. increase over prior-year actual: $285,000 (nine percent); increase over prior-year budget: $38,000 (three percent). She explained that regular merit increases are budgeted at zero percent for next year. The increase in actual expenses and budget is a result of changes in staff positions. Actual and budgeted expenses reflect the elimination of three term positions related to ARRA program administration. The decrease is offset by the addition of the director of community development, who returned from military leave, and the addition of two housing programs analysts to support another program. The increase in comparison to actual revenues is a result of vacancies realized this year, as well as adjustments to the market.

- **Incentives.** Increase over prior-year actual: $73,000 (38 percent); increase over prior-year budget: $73,000 (38 percent). Ms. Hickman explained that the increase is related to a one-time incentive payment in lieu of merit increases.

- **Payroll taxes; employee benefits.** Increase under prior-year actual expenses: $203,000 (14 percent); increase over prior-year budget: $9,000 (1 percent). She explained that the increase in taxes and benefits over actual expenses is primarily due to the vacancies realized this year, as well as changes in staff positions identified previously.

- **Public information.** Decrease under prior-year actual expenses: -$12,000 (minus eight percent); decrease under prior-year budget: -$24,000 (-14 percent). Ms. Hickman explained that the decrease is a result of a decrease in advertising.

- **Out-of-state travel:** increase over prior-year actual expenses: $23,000 (23 percent); decrease under prior year budget: -$5,000 (-4 percent). Ms. Hickman explained that the increase over prior-year actual expenses is a result of increased outreach and training-related travel, and the decrease under the prior-year budget is a result of a decrease in training opportunities below the planned amount for this year.

- **Repairs; maintenance.** Increase over prior-year actual expenses: $30,000 (12 percent); increase over prior-year budget: $28,000 (12 percent). Ms. Hickman explained that the increase reflects the addition of maintenance for Bloomberg marketing service software.

- **Interest expenses.** Decrease under prior-year actual expenses: -$79,000 (-38 percent); decrease under prior-year budget: -$147,000 (-53 percent). Ms. Hickman explained that the decrease is due to short-term borrowing anticipated to capture the volume cap included this year that will not be necessary next year.

- **Contractual services.** Decrease under prior-year actual expenses: -$100,000 (-13 percent); decrease under prior-year budget: -$212,000 (-25 percent). Ms. Hickman explained that the decrease under prior-year actual expenses is because of fees for legal services related to mortgage servicing defaults. The budgeted decrease reflects this same decrease in legal fees and a decrease in internal and external audit services fees, offset by the addition of consultant services for fraud/waste/abuse and multifamily financial services.

- **Professional services program.** Decrease under prior-year actual expenses: -$46,000 (-50 percent); decrease under prior-year budget: -$45,000 (-50 percent). She explained that the decreases are because the MFA no longer needs consultant services to support ARRA programs, as well as a decrease in required property inspections.

Regarding non-operating expenses, Ms. Hickman said that the proposed budget shows a decrease under prior-year actual expenses of -$79,000 (-10 percent), and a decrease under the prior-year budget of -$112,000 (-13 percent). Ms. Hickman explained that these decreases are a result of a decrease in Energy$mart training and technical assistance, as well as the elimination of one program and the agency's not participating in another.

In terms of capital outlays, the agency is budgeting a decrease under the prior-year actual expenses of -$35,000 and an increase over the prior-year budget of $4,000. Ms. Hickman explained that the decrease is a result of items purchased this year under the ARRA grant.

In terms of non-cash items, Ms. Hickman said the agency is budgeting an increase over the prior-year actual expenses of $171,000 (37 percent) and an increase over the prior-year budget of $3,800. Specifically, she noted a decrease in depreciation because of assets that have become fully depreciated, an increase over prior-year budget because of the amortization of internally generated computer software, which was not budgeted last year, and an increase in the provision for loan losses because of an adjustment for the second mortgage losses anticipated.

Committee members complimented Ms. Hickman and other agency staff, as well as the MFA board, for their thorough analysis of the MFA proposed budget.

MFA's Proposed Legislative Agenda

Mr. Montoya directed committee members' attention to the information behind Tab 4 in the committee notebooks for a discussion about the MFA's proposed 2013 legislative agenda.

- **Appropriate $5 Million for the New Mexico Housing Trust Fund**
  Discussion: Created in 2005, this trust fund was capitalized with an initial

appropriation of $10 million. Since that time, the fund has received a total of $15 million, not including a $3 million appropriation in 2012 that should be available soon. The MFA serves as the fund's trustee and has awarded approximately $25 million for affordable housing development, an amount that has leveraged approximately $231 million in other housing funding and will result in new construction and preservation of 1,503 affordable homes throughout New Mexico. The requested $5 million appropriation will further capitalize the New Mexico Housing Trust Fund to create homes and hundreds of construction jobs.

- **Appropriate $1 Million for the New Mexico Energy$mart Program**

Discussion: In 2009, New Mexico received $27 million in ARRA funds for the Weatherization Assistance Program. By March 31, 2012, the MFA's partners spent all of the stimulus funds to weatherize more than 4,000 homes. This ramped-up production saved New Mexicans millions of dollars and put hundreds of contractors back to work, but the MFA estimates that more than 85,000 homes are eligible for weatherization services through the Energy$mart program, and stimulus funds are now gone. The MFA leverages state funds with federal Department of Energy Weatherization Program funding and Low Income Home Energy Assistance Program funding. In response to committee comments and discussion, Mr. Montoya said that the Energy$mart program plays a crucial role in reducing energy costs for moderate- to low-income families. He noted that low-income homeowners can spend up to 25 percent of their monthly budgets on utility costs, compared to about five percent for homeowners with higher incomes.

- **Appropriate $250,000 for Regional Housing Authority (RHA) Funding**

Discussion: As part of the RHA reform process, the state has appropriated funds for RHA board members to travel to board meetings, staff to attend training sessions and other essential organizational governance and capacity-building expenses. The legislature also has appropriated funds to pay for oversight expenses in order to ensure appropriate oversight and continued success in the authorities' transition.

- **Appropriate $100,000 for Affordable Housing Act Oversight**

Discussion: Enacted in 2004, the Affordable Housing Act (Section 6-27-1 NMSA 1978) was substantially amended in 2007 to ensure consistency with constitutional language, as well as to clarify some additional issues related to oversight and enforcement. The act specifically designates the MFA with these oversight responsibilities. In addition to oversight as designated in statute, the MFA has undertaken technical assistance training to assist local governments in the pursuit of their respective affordable housing endeavors. Until now, the MFA has used its own funds to provide oversight of the statutes and rules required in the act.

- **Amend the Affordable Housing Act**

Discussion: The Affordable Housing Act allows state and local governments to contribute public funds, buildings or other resources to create or preserve affordable housing. In exchange, the act imposes a long-term affordability requirement on publicly subsidized properties. No exception from this requirement is made for those foreclosed properties that might not be marketable with long-term affordability restrictions. The inability to sell such properties after foreclosure results in a loss of public funds, as well as the loss of those properties from the affordable housing stock. Amending the act to exempt foreclosed properties for the long-term affordability provision would make the properties more marketable. A second proposed amendment would address the fact that the act does not include any specific penalties for violations of the act's provisions. The Attorney General's Office, which is charged with enforcement of the act's provisions, requests the inclusion of penalties to enable enforcement. The MFA is requesting a penalty provision amendment that would prescribe appropriate civil fines for violation of the act, as well as violation of the act's rules and, where applicable, criminal penalties under current criminal statutes for fraud, theft, forgery, embezzlement and similar crimes likely to occur in the transfer of land in violation of the act.

- **Appropriate $500,000 for Rapid Re-Housing Services**

Discussion: This appropriation would primarily serve people living in poverty who experience homelessness because of a crisis (such as job loss, illness or domestic violence) and who do not need access to long-term, intensive services to remain housed, including individuals without children and families with children; people who are employed or seeking employment; and those unable to work because of a disability. This funding would provide short- to medium-term services and rental assistance that helps homeless individuals and families quickly obtain permanent housing. Eligible activities would include rental subsidies to help pay rent, money for back rent and utilities, basic case management services and financial literacy and life skills classes and one-on-one assistance.

- **Appropriate $500,000 for Permanent Housing Services**

Discussion: This appropriation would primarily serve homeless people with disabilities who need long-term access to supportive services in order to stay housed, including people with mental health disabilities, substance abuse issues and physical disabilities.

Senator Rodriguez thanked the MFA staff members for their very thorough and informative presentation of the MFA's legislative agenda. In response to a committee question, Senator Rodriguez indicated that the bill sponsors would be suggested at the November meeting. Members requested that LCS staff provide draft copies of proposed legislation a few days before the November meeting so that committee members will have an opportunity to study the legislation in advance.

MFA 2012-2014 Strategic Plan Goals and Objectives Year 2

Ms. Hickman directed members to information behind Tab 5 in their meeting notebooks. She explained that the MFA is in the middle of its strategic plan that was approved for FY 2012-2013. She explained that the plan consists of five goals with appropriate accompanying objectives and activities.

Goal 1: Development of stronger communities. Create, facilitate, promote and support planning and development of sustainable, affordable housing strategies, programs and delivery systems that foster healthy living environments and livable communities.

Objectives:

1. Incorporate sustainable, healthy, energy-efficient design in all applicable MFA

products and programs. For FY 2013, Ms. Hickman said that the MFA will incorporate new New Mexico Energy$mart standards into rehab specifications with select agencies.

2. Increase capacity of MFA partners to deliver services and housing.
3. Improve customer satisfaction, as measured by regular customer satisfaction surveys. The MFA will review subgrantee relationships for FY 2013 by September 30, 2014.
4. Research, design and develop responsive programs.
5. Develop public awareness campaign strategy and implement strategy by September 30, 2014.
6. Research and assess the feasibility of new sustainable revenue-generating activities and launch by September 30, 2014.

Goal 2: Homeownership. Provide financial and educational resources to create and preserve affordable homeownership opportunities, with an emphasis on quality customer service, support for underserved markets and sustainable home ownership.

Objectives:

1. Provide first mortgage financing to 3,180 homebuyers. FY 2012: 880 first-time homebuyer loans; FY 2013: 1,050 first-time and non-first-time homebuyers; and FY 2014: 1,250 first-time and non-first-time homebuyers.
2. Increase assistance to rural households. May include first mortgage loans, downpayment assistance loans, pre-purchase counseling and loss mitigation counseling. The goal for FY 2012 was to increase assistance over baseline, and the goal for FY 2013 is to develop and implement a rural marketing and referral program.
3. Assist at-risk homeowners to obtain loss mitigation counseling; assisting 200 at-risk homeowners in FY 2012 and an additional 200 at-risk homeowners in FY 2013.
4. Assist in the development and implementation of the attorney general's homeownership preservation initiative. Currently (for FY 2013), the MFA is developing a memordandum of understanding (MOU) with the Attorney General's Office; the MOU will include objective measurement.
5. Assist 2,694 first-time homebuyers to obtain face-to-face or online counseling sessions with 762 online counseling units and 32 face-to-face sessions for FY 2012; 880 online counseling units and 35 face-to-face sessions for FY 2013; and 850 online counseling units and 35 face-to-face sessions for FY 2014.
6. Rehabilitate 2,507 existing housing units in New Mexico to achieve MFA health and resource conservation standards with 1,400 units in FY 2012 through the successful closeout of ARRA weatherization grants and transfer of New Mexico Energy$mart contracts to new entities, 507 units with HOME and Energy$mart in 2013 and 600 in 2014.
7. Provide funds to acquire and rehabilitate 14 units, for sale or rent, to reduce the inventory of foreclosed homes and to stabilize affected communities with 13 units in FY 2012 and one unit in FY 2013. Committee members wanted to know why the MFA would stop this objective with FY 2013: and whether there are there any more to save. Mr. Montoya explained that every sale creates a loss simply by the nature of the transaction. Committee members indicated a desire to continue to discuss this

issue.

8. Maintain the MFA share of the single-family market by establishing a benchmark in 2013 and implementing the process by the end of FY 2014.

Senator Rodriguez thanked the MFA for the presentation and, in response to committee discussion, requested that MFA staff provide a graphic representation of the results of implementation of the objectives.

New Mexico Statutes — Current Mortgage Industry: Update and Issues

Mr. Czar directed committee members to the information behind Tab 6 in their notebooks, as well as several handouts. He then introduced members of the next panel, most of whom are current or former presidents of the New Mexico Mortgage Lenders Association (NMMLA) to present the association's concerns about potential conflicts related to "anti-steering" language with federal and state statutes regarding mortgages and deeds of trust: Jack Thompson, current president and chief executive officer/president, Legacy Mortgage; Angela Muxworthy, current treasurer and past president, New Mexico Educators Federal Credit Union; Matt Teskey, past president and vice president of corresponding lending, West Star Mortgage Corporation; and Eric Nore, director, homeownership, MFA. Mr. Thompson explained that "loan steering" is a predatory practice by a lender to place a consumer into a loan with repayment terms that are far less favorable to the consumer than otherwise available because the lender anticipates additional gain for the difference in the terms. When the New Mexico Administrative Code was amended to protect a mortgage consumer from improper loan steering, the mechanism used was establishment of a limited fiduciary responsibility between the mortgage loan originator (MLO) and the consumer.

Mr. Teskey explained that the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1403 of HR 4173), which goes into effect today (October 2, 2012), does not impose a fiduciary requirement; rather, in an attempt to address the same concern of improper loan steering, it amends Section 129 of the Truth in Lending Act (TILA) or requires the newly created Consumer Financial Protection Bureau to create, implement and enforce several rules regarding the construction of mortgage originator compensation. Simply put, he said, the net result of amending TILA prohibits any varying degrees of MLO compensation based upon prospective loan terms.

Committee members expressed their thanks to the panel for bringing this concern to their attention and indicated that they will look forward to updates as the law is implemented.

Senator Rodriguez thanked the staff for providing excellent, informative meetings both this month and in August. There being no further business to come before the committee, the meeting adjourned at 1:58 p.m.

MINUTES
of the
FIFTH MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE

November 20, 2012
Mortgage Finance Authority Office
344 Fourth St. SW
Albuquerque, New Mexico

The fifth meeting of the Mortgage Finance Authority (MFA) Act Oversight Committee for the 2012 interim was called to order by Senator Nancy Rodriguez, chair, at 10:08 a.m. on November 20, 2012 at the office of the MFA in Albuquerque, New Mexico.

Present
Sen. Nancy Rodriguez, Chair
Rep. Alonzo Baldonado
Rep. Ernest H. Chavez
Sen. Cisco McSorley
Sen. Gerald Ortiz y Pino

Absent
Rep. Joni Marie Gutierrez, Vice Chair
Sen. Mark Boitano
Rep. Nate Gentry

Advisory Members
Sen. Rod Adair
Rep. Roberto "Bobby" J. Gonzales
Rep. Rick Little
Sen. Lynda M. Lovejoy
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Sander Rue

Absent
Rep. Thomas A. Anderson
Rep. Sandra D. Jeff
Rep. Dennis J. Roch
Sen. David Ulibarri

Staff
Claudia Armijo, Staff Attorney, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

<u>Tuesday, November 20</u>

Call to Order
Senator Rodriguez welcomed members of the committee, staff and guests to the meeting.

Approval of the August 10 and October 2, 2012 Minutes

On a motion by Senator Ortiz y Pino, seconded by Representative Chavez, the minutes of the August 10 and October 2, 2012 meetings were approved without objection.

MFA Update

Senator Rodriguez recognized Jay Czar, executive director, MFA, who welcomed committee members, staff and guests. He advised committee members that the meeting was being video webcast and reminded them to try to keep sidebar conversations to a minimum to avoid noise interference with the webcast.

Mr. Czar told the committee that the MFA is a member of the National Council of State Housing Agencies (NCSHA), an organization of agencies that provides housing for low-income families in states throughout the country. He noted that the video that he was about to show had been produced by the NCSHA and had been shown at a recent national conference attended by more than 800 individuals. He explained that the video, entitled "Because Home Means Everything", features vignettes of affordable housing projects located in Connecticut, Texas and New Mexico and includes interviews with individuals and families who benefit from an affordable housing program in each of their respective states. The New Mexico vignette featured a project called "Downtown @ 700-2nd", a 72-single-room occupancy (SRO) facility located on the corner of Second Street and Lomas Boulevard NW in downtown Albuquerque. He noted that the developer, the Supportive Housing Coalition of New Mexico, used New Mexico's low income housing tax credit program to build the complex. Filmmakers interviewed one of the residents, known as the "Mayor of 'Downtown @ 700-2nd'", who had been homeless for 17 years before moving into the complex. Mr. Czar reminded committee members that they had toured this facility during the July 2012 meeting.

Senator Rodriguez thanked Mr. Czar for providing the video and noted that its message puts into perspective the difference that having a home can make in people's lives. Committee members agreed.

Mr. Czar gave a brief presentation and recognition for six members of the MFA Oversight Committee who would be leaving the legislature at the end of the 2012 interim: Representative Gutierrez, Senator Adair, Senator Boitano, Representative Little, Senator Lovejoy and Senator Ulibarri. He presented all departing members a Plexiglass plaque to thank them for their service on the MFA Oversight Committee.

Final Review and Endorsement of Proposed Legislation — 2013

Joseph Montoya, deputy director of programs, MFA, directed committee members' attention to the information behind Tab 1 in the meeting notebook, which included discussion drafts of MFA-proposed legislation for the committee's consideration for possible endorsement for the 2013 legislature.

New Mexico Housing Trust Fund Appropriation (.190638.1SA): The first bill, Mr. Montoya noted, is a request for a $5 million general fund appropriation to the New Mexico Housing Trust Fund for expenditure in fiscal year 2014 and subsequent fiscal years to provide funding to carry out provisions of the New Mexico Housing Trust Fund Act. Mr. Montoya explained that the New Mexico Housing Trust Fund was created in 2005 and capitalized with an initial appropriation of $10 million. He said that the fund has received an additional $5 million since 2006, including $1 million from the 2006 legislature, $2 million from the 2007 legislature and $5 million from the 2008 legislature. He noted that an additional $3 million, which was appropriated by the 2012 legislature, has not been made available yet from the Department of Finance and Administration (DFA) but should be available soon.

Mr. Montoya went on to explain that the MFA serves as the fund's trustee and has awarded approximately $25 million for affordable housing development. He said that this amount has leveraged approximately $231 million in other housing funding and will result in the new construction and preservation of 1,503 affordable homes throughout New Mexico.

Mr. Montoya explained that in light of the mortgage market credit crunch and dwindling federal resources available for housing and economic development initiatives, the MFA is requesting a $5 million appropriation to the New Mexico Housing Trust Fund to create homes and hundreds of construction jobs throughout the state.

Committee members expressed concern that the DFA is taking so long to carry out the distribution of appropriations that had been approved by the 2012 legislature and the governor and asked Mr. Montoya to keep them apprised about when the appropriation becomes available.

The committee agreed to *endorse the proposed legislation*, and *Senator Rodriguez* agreed to carry the bill.

New Mexico Energy$mart Appropriation (.190641.1SA): Addressing the second bill, Mr. Montoya explained that, in 2009, the MFA had received $27 million for the weatherization assistance program under the federal American Recovery and Reinvestment Act of 2009 (ARRA), and since then, the MFA's partners have successfully weatherized more than 4,000 homes. He noted that this ramped-up production has saved New Mexicans millions of dollars and put hundreds of contractors back to work. He noted, however, that the MFA estimates that more than 85,000 homes are eligible for weatherization services through the New Mexico Energy$mart program even as the stimulus program has ended, and all funds have been expended.

Mr. Montoya explained that the MFA leverages state funds with federal Department of Energy weatherization assistance program funding and low income home energy assistance program (LIHEAP) funding. The state's financial participation supplements the program and increases the number of assisted households. He explained that the state has consistently provided financial support to this program in the past.

Mr. Montoya explained that New Mexico Energy$mart plays a crucial role in reducing energy costs for low- to moderate-income families. He noted that low-income homeowners can spend up to 25% of their monthly budgets on utility costs compared to about 5% of higher-income homeowners.

The committee agreed to *endorse the proposed legislation*, and *Senator Martinez* agreed to carry the bill.

Regional Housing Authority Funding (.190639.1SA): Mr. Montoya explained that New Mexico's regional housing authorities have undergone substantial changes in the past five years. As part of the regional housing authority reform process, the state appropriated funds for regional housing authority board members to travel to board meetings, training expenses for regional housing authority staff members and other essential organizational governance and capacity-building expenses. He noted that the state has also appropriated funds to pay for oversight expenses in order to ensure appropriate oversight and continued success in the authority's transition. He said that the MFA requests an appropriation of $250,000 to offset these costs. Some committee members expressed concern that without these funds, the housing authority system would not have sufficient funding to offset the administrative costs of responsible oversight, governance and capacity building for the regional housing authority system as the legislature has intended.

The committee agreed to *endorse the proposed legislation*, and Senator Rodriguez indicated that *Senator Papen* has requested to carry the bill.

Transfer Regional Housing Authority Oversight to the DFA (.190640.1SA): Mr. Montoya explained that the MFA and DFA were designated as oversight agencies when the regional housing authority system was overhauled in 2007. The state also appropriated funds to pay for oversight and other expenses, but because regional housing authority funding has not been incorporated into the regular budget process, appropriations have been inconsistent and inadequate. As a result, Mr. Montoya explained, regional housing authorities struggle to pay for audits and other essential organizational governance and capacity-building expenses, and the MFA can no longer carry out its assigned oversight duties. Therefore, he said, the MFA proposes amending the Regional Housing Law so that all oversight responsibilities are transferred to the DFA, which receives its annual operating budget through the regular state budget appropriation process.

The committee agreed to *endorse the potential legislation (.190640.1)*, and *Senator Rodriguez* agreed to sponsor it.

Affordable Housing Act Oversight Appropriation (.190642.2SA): Mr. Montoya explained that in 2004, the Affordable Housing Act was passed and signed into law and then amended in 2007 to ensure consistency with constitutional language, as well as to clarify some additional items related to oversight and enforcement. He noted that the act specifically states that the MFA has oversight responsibilities in order to ensure provisions of the act. In addition to the oversight responsibility statutorily outlined in the act, the MFA has also undertaken technical assistance training to assist local governments in their affordable housing endeavors. He said that to date, the MFA has used its own funds to provide oversight of the statutes and rules related to the act. The MFA is requesting $100,000 to offset costs associated with state-mandated oversight of the Affordable Housing Act.

Committee members agreed to *endorse the proposed legislation*, and *Senator Ortiz y Pino* agreed to carry the bill.

Affordable Housing Act Changes (.190643.1SA): Mr. Montoya explained that the Affordable Housing Act, Section 6-27-1 NMSA 1978 et seq., allows state and local governments to contribute public funds, buildings or other resources to create or preserve affordable housing. In exchange for the donation of public funds for affordable housing, the act imposes the long-term affordability requirement on publicly subsidized properties. No exception from the long-term affordability requirement is made for those foreclosed properties that might not be marketable with a long-term affordability provision. He said that the inability to sell such properties after foreclosure results in a loss of public funds, as well as the loss of those properties from the affordable housing stock. He said that the MFA is therefore proposing that the act be amended to exempt foreclosed properties from the long-term affordability requirement in those cases.

Mr. Montoya also pointed out that another problem the MFA faces in its oversight of the act is that it does not include any specific penalties for violation of the act's provisions. He said that the Attorney General's Office (AGO), which is charged with enforcement of the act, has requested the inclusion of penalties to enable enforcement. The MFA is also proposing that a penalty provision be added to the act prescribing appropriate civil fines for violation of the Affordable Housing Act and its rules, and, where applicable, criminal fines under current criminal statutes for fraud, theft, forgery, embezzlement and similar crimes likely to occur in violation of that act.

The committee agreed to *endorse the proposed bill*, and *Representative Gonzales* agreed to carry it.

Rapid Rehousing Services (.190644.2SA): Mr. Montoya said that the MFA is requesting a $500,000 general fund appropriation that would largely serve people living in poverty who experience homelessness because of a crisis (such as job loss, illness or domestic violence) and who do not need access to long-term, intensive services to remain housed. In response to a committee question, Mr. Montoya said that this funding could also go to people with or without children, people who are employed or seeking employment and those who are unable to work because of a disability.

He said that these funds would also provide short- to medium-term services and rental assistance to help homeless individuals and families quickly obtain permanent housing. He said that activities would include rental subsidies to help a household pay its rent; funding to pay for back rent and utilities; funding for basic case management services; financial literacy; life skills classes; and one-on-one assistance. In response to a committee question, Hank Hughes of the New Mexico Coalition to End Homelessness indicated that "rapid" in this case can mean anything between being able to keep people in their homes and a matter of weeks. Lisa Huval, also representing the New Mexico Coalition to End Homelessness, explained that 89% of the people the coalition works with have been successful in getting housing in three months or less. Mr. Hughes noted that this program was funded through the ARRA, but since that funding is gone, he indicated his belief that given their current track record and evidence in both quantitative and qualitative data, the legislature and the governor will find that this is a worthwhile project.

The committee agreed to *endorse the proposed bill*, and *Senator Rue* agreed to sponsor it.

Permanent Supportive Housing Services (.190645.2SA): Mr. Montoya explained that this appropriation would primarily serve homeless people with disabilities who need long-term access
to supportive services in order to stay housed, including people with mental health disabilities, substance abuse issues and physical disabilities. He explained that it would fund case management services for people living in permanent supportive housing and would not be used to pay for any rental assistance. He said that this funding would be used to overcome obstacles to obtaining housing and help clients find and move into affordable, permanent housing. The funding would also help them remain successfully in housing by learning the skills needed to successfully fulfill responsibilities of tenancy, to proactively resolve threats to permanent housing stability and to connect to support networks that increase housing stability and defuse a crisis.

The committee agreed to *endorse the proposed bill*, and *Senator Martinez* agreed to sponsor it.

Changes to MFA Rules and Regulations

Marjorie Martin, attorney, MFA, directed committee members' attention to a memorandum she sent to the committee that provides a summary of the proposed changes to MFA rules and regulations.

The changes (available in the permanent file) involve changes to definitions, including the addition of a sentence to Section 3, General Definitions, Paragraph Z: "For loans to persons and families on Indian reservations, MFA will use the income basis determined under the federal Department of Housing and Urban Development's (HUD's) American Housing and Self Determination Act.". In response to a committee question about the similarity to the current definition, Eric Schmieder, tribal land specialist, MFA, indicated that the additional definition is slightly different in that the addition of this sentence provides some flexibility with the HUD criterion.

In a change to Section 7, Housing Opportunity Fund, Subsection 1, the MFA proposes adding the following language in Paragraph B: ". . . provide financing for families earning more than 50% of county or median income as published by the U.S. Department of Housing and Urban Development at the time of initial family qualification by participants and MFA. This income limitation will be increased to a maximum of 60% of county or area median for areas that exhibit a combination of high housing costs and low median incomes which will be determined by the MFA on an annual basis and published in the Notice of Funds Availability (NOFA).".

Committee members indicated their appreciation for the clear, concise presentation of what could have been a complicated subject. On a motion by Senator Ortiz y Pino, seconded by Representative Chavez, the committee agreed to endorse the changes without objection.

Indian Housing Initiatives

In response to a request from the committee, Mr. Schmieder provided members with a copy of a spreadsheet entitled "Indian Housing Initiatives". Mr. Schmieder indicated that he has worked hard to build relationships with the state's 19 pueblos and three tribes. The listing (which is available in the permanent file) shows a total of $53,910,575 in grants for 1,230 units since 1992 for all tribes and pueblos. Mr. Schmieder indicated that the majority of the funding from the grants went to weatherization and rehabilitation by homeowners. Committee members thanked Mr. Schmieder for his prompt and detailed response.

Regional Housing Authority Updates

By way of background, Mr. Montoya explained that the 2009 legislature amended the Regional Housing Law (Section 11-3A-20 et seq. NMSA 1978) to redefine the activities of the regional housing authorities and to mandate that the MFA provide oversight of certain activities, including submission of an annual report on operations and fiscal elements to the DFA, the MFA Oversight Committee, the Legislative Finance Committee and the HUD.

Western Regional Housing Authority (WRHA): Mr. Montoya noted that the WRHA's financial statement and audits for the period ending June 30, 2011 indicate no findings, concerns or comments. He said the WRHA's public housing assessment system (PHAS) score was 90% and the Section Eight Management Assessment Program (SEMAP) rates this agency as a "high performer", with a maximum score of 130 out of a possible 130 points. He said that, overall, this agency is performing well. Additionally, Mr. Montoya noted the following:

- the annual percentage of units leased versus units budgeted is at 93%;
- throughout the region, the WRHA has 148 people on the waiting list with a three- to five-month waiting period;
- the vacancy rate is 2%;
- fraud recovery collections amounted to $18,868;
- the agency has a five-year capital improvement plan for public housing units for the years 2012 through 2016;
- fixed assets are reported through an electronic spreadsheet that includes verifiable documentation;
- development activities include the Montana Vista affordable housing project, for which the MFA approved funding commitments of $800,000; $600,000 in New Mexico Housing Trust Fund dollars; and $125,000 in a Primero supportive housing pre-development grant. The WRHA is also waiting for notification for approval of $578,000 in a colonias grant. When the MFA receives notification of approval for the colonias funds and the project-based vouchers, the WRHA will move forward with the construction; and
- the WRHA also provides, as needed, homeownership counseling for clients in Silver City.

Eastern Regional Housing Authority (ERHA): Mr. Montoya explained that, because of operational issues throughout the past year, the MFA has contracted with the rural community assistance corporation to conduct both an operational assessment and a strategic plan implementation. He said that results are pending until final reports are completed, and the MFA will continue to provide training and technical assistance to the agency. Mr. Montoya noted the following:

- annual SEMAP scores rate this agency as a "high performer" with a maximum score of 135 points out of a possible 140 points;
- the PHAS score report rates the ERHA with 92 points out of a possible 100;
- the annual percentage of units leased versus units budgeted is at 98%;
- throughout the region, the ERHA has 447 people on a waiting list with a one-year waiting time;
- fraud recovery collections from January 11 through October 11 were $7,942;
- the ERHA has a five-year capital improvement plan for public housing units for years 2012 through 2016;
- no further development efforts are underway at this time; and
- the agency has a pending sale of the Colonial Hillcrest and La Posada properties in Carlsbad, New Mexico.

Northern Regional Housing Authority: Mr. Montoya said that the MFA is exploring options in the continued formation of a northern regional housing authority.

University of New Mexico (UNM) Institute for Applied Research Services — Mortgage Foreclosure Mitigation

Senator Rodriguez recognized Senator Ortiz y Pino, who introduced the next presentation. Senator Ortiz y Pino indicated that a few weeks ago, he had been at a meeting at which the two presenters, Nomalanga Nefertari and Srini Vasan, researchers at the UNM Institute for Applied Research Services, made a presentation on the services available to legislators and legislative staff at the institute.

Ms. Nefertari made a presentation using software available at the institute to address the issue of mitigating mortgage foreclosure using the "legislative database clearinghouse", which she said can provide legislators with the best current information on critical topics. She explained how the institute's model of best research practices, using the most current information and without taking a position, offers legislators nonbiased information to help make policy decisions.

Ms. Nefertari explained that staff at the institute identify quality information from economic and business experts, law, policy and institute and journal research; review and summarize articles, reports, data, analyses and best practice solutions; and interview local and national experts to understand important issues and organize the results in an easy-to-use format. She said that using the institute's services can save legislators hours, weeks and months of time, and legislators can contact institute staff for further information or request staff to work with legislative staff or consultants. She also said that staff could be available to provide presentations to legislative committees or other state stakeholders and can generate reports, graphs and maps on demand.

As an example, she said that on the topic of "mitigating mortgage foreclosure", the institute has 339 files in 21 topic areas, 62 summaries and 100 reports, articles and sources. She also provided information on the national scene, as well as possible questions and debate topics and what the research says works in mitigating mortgage foreclosure.

Dr. Vasan's presentation, "The Use of Geographical Information Systems (GIS) to Analyze Foreclosures in the Albuquerque Metro Area", included maps showing foreclosures by zip code in the Albuquerque area, pre-foreclosures, median household income by zip code and an overlay of total foreclosed homes and property-crime density. She said that, having researched this topic, her conclusions were that the high incidence of foreclosures is strongly associated with high property-crime-density neighborhoods and that intervention may be necessary in these areas because resale of homes in these "hot spot" property-crime neighborhoods would be difficult. She also noted that using these data can help dispel myths or beliefs about specific neighborhoods. For example, she said, the "international district" of Albuquerque is not the location of high property-crime density; however, the area near Paseo del Norte and Ventura NE has high total property foreclosure (617 for the zip code), high property-crime density and high median household income (about $107,000).

Committee members thanked Ms. Nefertari and Dr. Vasan for their presentations and strongly recommended that staff at the institute work with LCS staff to make the best use of this valuable resource.

Homeownership Preservation Program

Senator Rodriguez recognized Erik Nore, director, Homeownership Department, MFA, and Kenneth Casares Owens, assistant attorney general, program manager, AGO, to provide the committee with a presentation on the attorney general's homeownership preservation program.

By way of background, Mr. Nore explained that New Mexico's attorney general, along with 48 other states' attorneys general, the U.S. Department of Justice and the HUD brought a lawsuit against five of the nation's largest mortgage lenders — Bank of America, Chase, General Motors Acceptance Corporation (GMAC)/Ally and Wells Fargo — to address egregious violations of the law in the way in which these services handled foreclosure proceedings. He reported that the result was a $25 billion national settlement that requires significant changes in the way in which these banks service mortgage loans, provides some financial relief for homeowners who already lost their homes and offers new modification and refinance opportunities for those who are still in their homes.

Mr. Owens explained that the settlement addresses 304 particular servicing standards and works to ensure that those homeowners who have the ability to stay in their homes through a modification are allowed to do so. One of the most significant changes, he noted, is in regard to the banks' practice of "dual-tracking", in which one arm of the bank tells homeowners that the bank is willing to work with them through modification while another arm of the bank is working to foreclose on the homes. Now these five banks are restricted to a time when they can move forward on a foreclosure if the banks are in the process of making a determination that the bank would actually make more money by modifying the terms of the loan than by foreclosing on the property.

Mr. Owens explained that for New Mexico homeowners, there is a potential of more than $80 million in monetary relief through direct payments for some who lost their homes to foreclosure, as well as to refinance or modify their loans or have some loan principal forgiveness for some "underwater" borrowers.

Mr. Owens said that the AGO's homeownership preservation program is an effort to assist homeowners who face mortgage delinquency or foreclosures. He said that the AGO will utilize approximately $11.1 million over the next three years to coordinate and fund a statewide collaboration among the AGO, the MFA and eight nonprofit organizations to provide a comprehensive "housing safety net" for the state's homeowners. He said that this coordinated effort will provide a single toll-free number entry point for homeowners, who will be screened and directed to the proper housing counseling or foreclosure legal help. He said that the AGO is currently in contract negotiations with these eight contractors.

Some committee members expressed concern that perhaps the AGO is attempting to accomplish too much on its own. Committee members discussed possible changes in law to allow this project to go forward successfully and requested that the AGO contact Ms. Armijo if it is necessary to draft legislation. Committee members expressed their thanks to the AGO and MFA staff for their hard work on this project.

There being no further business to come before the committee, the committee adjourned at 1:45 p.m.

ENDORSED LEGISLATION

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE NEW MEXICO HOUSING TRUST FUND.

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

SECTION 1. APPROPRIATION.--Five million dollars ($5,000,000) is appropriated from the general fund to the New Mexico housing trust fund for expenditure in fiscal year 2014 and subsequent fiscal years by the New Mexico mortgage finance authority for the purposes of carrying out the provisions of the New Mexico Housing Trust Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

.190638.1SA

SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO FUND THE OVERSIGHT OF THE REGIONAL HOUSING AUTHORITIES.

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

SECTION 1. APPROPRIATION.--Two hundred fifty thousand dollars ($250,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2014 and 2015 for the purpose of funding the oversight of the regional housing authorities by the New Mexico mortgage finance authority. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

RELATING TO HOUSING; TRANSFERRING OVERSIGHT OF THE REGIONAL HOUSING AUTHORITIES TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION; AMENDING SECTIONS OF THE REGIONAL HOUSING LAW.

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

SECTION 1. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF REGIONAL HOUSING AUTHORITY IN BOARD OF COMMISSIONERS--APPOINTMENT OF BOARD OF REGIONAL HOUSING AUTHORITIES--TERMS.--

A. The powers of each regional housing authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the regional housing authority for each of the three regions shall consist of one person from each county within the

.190640.1SA

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designated area of the regional housing authority, which person shall be a resident of that county and shall be appointed by the governor. Appointments shall be for terms of four years and shall be made so that the terms of not more than four commissioners on each board of commissioners expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. Members of [~~a~~] the board of commissioners of a regional housing authority shall elect an executive committee consisting of a chair, vice chair, treasurer, secretary and one other member of the board to function and meet on a monthly basis as an executive committee. The executive committee shall have the authority to act on behalf of the board of commissioners of the regional housing authority as needed. The executive committee shall submit a report of actions to the full board of commissioners, which shall meet on a quarterly basis.

C. [~~The~~] Members of the [~~boards~~] board of commissioners of a regional housing authority may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance. A majority of the appointed commissioners of a board of commissioners shall constitute a quorum of [~~a~~] the board [~~of commissioners~~] for the purpose of conducting its

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business and exercising its powers and for all other purposes. Action may be taken by a regional housing authority upon a vote of a majority of the commissioners present. Each board of commissioners shall organize itself at its annual meeting each year. A board of commissioners may employ an executive director, subject to approval by the [~~New Mexico mortgage finance authority~~] department of finance and administration. With delegated authority from the board of commissioners, the executive director may hire or terminate, according to the procurement and personnel policies and procedures of the regional housing authority, any technical experts, officers, attorneys, agents or employees, permanent or temporary, as the regional housing authority may require.

D. The threshold requirements for commissioners of boards of regional housing authorities are that commissioners have expertise and experience in housing construction, real estate, architecture, law, banking, housing finance, business, property management, accounting, residential development, public housing programs, community development, social services or health care. The requirements set forth in this section shall not apply to commissioners serving pursuant to requirements of the federal department of housing and urban development.

E. Commissioners are expected to attend all meetings of the board of commissioners of the regional housing

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authority, and more than three unexcused absences may be grounds for dismissal from the board. All recommendations for [~~appointment as~~] appointments of commissioners shall be forwarded to and reviewed by the [~~New Mexico mortgage finance authority~~] department of finance and administration prior to recommendation to the governor."

SECTION 2. Section 11-3A-9 NMSA 1978 (being Laws 1994, Chapter 132, Section 9, as amended) is amended to read:

"11-3A-9. NONPROFIT CORPORATIONS.--Every regional housing authority, in addition to other powers conferred by the Regional Housing Law, shall have, if authorized by resolution of its board of commissioners and approved by the state board of finance, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be recommended for approval by the state board of finance and the [~~New Mexico mortgage finance authority~~] department of finance and administration. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the regional housing authority and its board of commissioners."

SECTION 3. Section 11-3A-30 NMSA 1978 (being Laws 2007, Chapter 50, Section 6, as amended) is amended to read:

"11-3A-30. FINANCIAL AND OPERATIONAL OVERSIGHT.--

A. Without the prior approval of the [~~New Mexico~~

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~~mortgage finance authority~~] department of finance and administration, no regional housing authority shall:

(1) enter into any contract, memorandum of understanding or other agreement with a value greater than one hundred thousand dollars ($100,000); or

(2) transfer, sell or liquidate any real or personal property with a value greater than one hundred thousand dollars ($100,000).

B. Not less than thirty days prior to the beginning of its fiscal year, each regional housing authority and each nonprofit corporation established pursuant to Section 11-3A-9 NMSA 1978 shall submit a final operating budget for the subsequent fiscal year to the [~~New Mexico mortgage finance authority~~] department of finance and administration for review.

C. The financial affairs of every regional housing authority and any nonprofit corporation created by a regional housing authority shall be thoroughly examined and audited annually by the state auditor, by personnel of the state auditor's office designated by the state auditor or by auditors approved by the state auditor. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional housing authority shall submit to the state auditor, the department of finance and administration [~~the New Mexico mortgage finance authority, the Mortgage Finance Authority Act oversight committee~~] and the legislative finance committee,

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within thirty days following the receipt of the annual audit of the regional housing authority, a copy of that audit.

D. Every regional housing authority shall submit an annual report of its financial and operational activities to the [~~New Mexico mortgage finance authority~~] department of finance and administration for review and analysis and for dissemination to the [~~department of finance and administration, the Mortgage Finance Authority Act oversight committee and the~~] legislative finance committee. Each report shall set forth a complete operating and financial statement covering its operations since the previous report was presented.

E. Failure on the part of a regional housing authority to correct any qualified audit within one year of the release of the audit shall result in the abatement of any state funds until such corrective actions are taken. If a regional housing authority should receive a qualified audit opinion for more than two consecutive years, the oversight agency shall recommend corrective action to be taken."

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO EXPAND A RESIDENTIAL ENERGY CONSERVATION PROGRAM FOR LOW-INCOME PERSONS.

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 general fund to the department of finance and administration for expenditure in fiscal years 2014 and 2015 for the New Mexico mortgage finance authority to provide for a residential energy conservation program to increase the energy efficiency and reduce energy expenditures of homes occupied by low-income persons in New Mexico. No more than five percent of this appropriation shall be used by the New Mexico mortgage finance authority for administrative expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert

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to the general fund.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO FUND THE OVERSIGHT DUTIES RELATED TO THE AFFORDABLE HOUSING ACT.

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

SECTION 1. APPROPRIATION.--One hundred thousand dollars ($100,000) is appropriated from the general fund to the department of finance and administration for expenditure by the New Mexico mortgage finance authority in fiscal years 2014 and 2015 for the purpose of funding the oversight of the Affordable Housing Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

RELATING TO HOUSING; AMENDING THE AFFORDABLE HOUSING ACT BY PROVIDING TERMS FOR THE TIMELY SALE OF FORECLOSED AFFORDABLE HOUSING PROJECTS WITHOUT RETAINING THE LONG-TERM AFFORDABILITY RESTRICTIONS, PROVISIONS FOR ENFORCEMENT OF THE ACT AND PENALTIES FOR VIOLATIONS OF THE ACT.

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

SECTION 1. Section 6-27-1 NMSA 1978 (being Laws 2004, Chapter 104, Section 1) is amended to read:

"6-27-1. SHORT TITLE.--[~~This act~~] Chapter 6, Article 27 NMSA 1978 may be cited as the "Affordable Housing Act"."

SECTION 2. A new section of the Affordable Housing Act is enacted to read:

"[NEW MATERIAL] INVESTIGATION OF ACT VIOLATIONS--PENALTIES--REMEDIES.--

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A. The attorney general shall investigate an alleged violation of the Affordable Housing Act reported by the authority. As used in this section, "person" means an individual, including a municipal or county government employee or elected official.

B. If the attorney general has reasonable belief that a person may be in possession, custody or control of an original or copy of a record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription or other tangible document or recording that the attorney general believes to be relevant to the subject matter of an investigation of a probable violation of the Affordable Housing Act, the attorney general may, prior to the institution of a civil proceeding, execute in writing and cause to be served upon the person a civil investigative demand requiring the person to produce for inspection or copying the document or recording. The demand by the attorney general shall not be a matter of public record and shall not be published by the attorney general except by order of the court.

C. If the attorney general has reasonable belief that a person has, in the conduct of the person's official duties, violated a provision of the Affordable Housing Act and that instituting a proceeding against that person would be in the public interest, the attorney general may bring a civil action on behalf of the state alleging a violation of the

Affordable Housing Act. The action may be brought in the district court of the county in which the person alleged to have violated the act resides or in which the person's principal place of business is located. The attorney general shall not be required to post bond when seeking a temporary or permanent injunction in the civil action.

D. The attorney general may, in addition to or as an alternative to pursuing a civil action, as provided in this section, pursue criminal charges against a person for an alleged violation of the Affordable Housing Act that, under the applicable provisions of state law, constitutes fraud, bribery, embezzlement or larceny.

E. In an action brought under this section for an alleged violation of the Affordable Housing Act, if a court finds that a person willfully committed an act in violation of the Affordable Housing Act, the attorney general may seek to recover a civil penalty not exceeding the amount of five thousand dollars ($5,000) per violation, in addition to any equitable relief imposed by the court."

SECTION 3. Section 6-27-8 NMSA 1978 (being Laws 2004, Chapter 104, Section 8, as amended) is amended to read:

"6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF AFFORDABLE HOUSING PROJECTS--[~~INVESTIGATION~~] SALE AFTER FORECLOSURE--RELEASE OF AFFORDABILITY RESTRICTION.--

A. State, county and municipal housing assistance grants pursuant to the Affordable Housing Act shall be applied for and awarded to qualifying grantees pursuant to the rules promulgated by the authority subject to the requirements of that act.

B. The authority shall adopt rules covering:

(1) procedures to ensure that qualifying grantees meet the requirements of the Affordable Housing Act and rules promulgated pursuant to that act both at the time of the award and through the term of the grant;

(2) establishment of an application and award timetable for housing assistance grants to permit the selection of the potential qualifying grantees prior to January of the year in which the grants would be made;

(3) contents of the application, including an independent evaluation of the:

(a) financial and management stability of the applicant;

(b) demonstrated commitment of the applicant to the community;

(c) cost-benefit analysis of the project proposed by the applicant;

(d) benefits to the community of a proposed project;

(e) type or amount of assistance to be provided;

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(f) scope of the affordable housing project;

(g) substantive or matching contribution by the applicant to the proposed project; and

(h) performance schedule for the qualifying grantee with performance criteria;

(4) a requirement for long-term affordability of a state, county or municipal project so that a project cannot be sold shortly after completion and taken out of the affordable housing market to ensure a quick profit for the qualifying grantee;

(5) a requirement that a grant for a state or local project must impose a contractual obligation on the qualifying grantee that the housing units in a state or local project pursuant to the Affordable Housing Act be occupied by low- or moderate-income households;

(6) provisions for adequate security against the loss of public funds or property in the event that a qualifying grantee abandons or otherwise fails to complete a project;

(7) a requirement for review and approval of a housing grant project budget by the grantor before any expenditure of grant funds or transfer of granted property;

(8) a requirement that, unless the period is extended for good cause shown, the authority shall act on an

application within forty-five days of the date of receipt of an application that the authority deems to be complete and, if not acted upon, the application shall be deemed approved;

(9) a requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;

(10) provisions defining "low- and moderate-income" and setting out requirements for verification of income levels;

(11) a requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan; and

(12) a requirement that the governmental entity enter into a contract with a qualifying grantee consistent with the Affordable Housing Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the qualifying grantee.

C. In addition to the rulemaking duties provided in Subsection B of this section, the authority shall adopt rules covering provisions necessary to ensure the timely sale of an affordable housing project, including the land or buildings, if the project:

(1) is subject to a long-term affordability contract executed by a governmental entity pursuant to the

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Affordable Housing Act;

(2) is abandoned by the qualified grantee or otherwise fails;

(3) is determined by the authority not to be marketable for a price that would sufficiently recover the public funds invested in the project; and

(4) has a title that is subsequently transferred by or to the contracting governmental entity through:

(a) a foreclosure sale;

(b) a transfer of title by deed in lieu of foreclosure; or

(c) any other manner.

D. The rules adopted by the authority pursuant to Subsection C of this section shall require that a governmental entity shall exercise reasonable efforts to ensure that all proceeds from the sale of a property pursuant to Subsection C of this section are used solely for purposes pursuant to the Affordable Housing Act. The rules shall provide the terms for:

(1) the sale of the property at fair market value; and

(2) the removal of the contractual obligation requiring long-term occupancy of the property by low- or moderate-income households.

[~~C.~~] E. In addition to the rulemaking mandated in

[~~Subsection B~~] Subsections B, C and D of this section, the authority may adopt additional rules to carry out the purposes of the Affordable Housing Act. Rulemaking procedures pursuant to the Affordable Housing Act shall:

(1) provide a public hearing in accordance with the state Administrative Procedures Act; and

(2) require concurrence in a rule having application to local government by both the New Mexico municipal league and the New Mexico association of counties.

[~~D. The attorney general shall investigate any alleged violation of the Affordable Housing Act as reported by the authority.~~]"

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR RAPID RE-HOUSING OF HOMELESS PERSONS LIVING IN POVERTY WHO BECOME HOMELESS AFTER A LIFE CRISIS SUCH AS JOB LOSS, ILLNESS OR DOMESTIC VIOLENCE.

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

SECTION 1. APPROPRIATION.--Five hundred thousand dollars ($500,000) is appropriated from the general fund to the department of finance and administration for expenditure by the New Mexico mortgage finance authority in fiscal years 2014 and 2015 to assist persons who become homeless due to a life crisis such as a job loss, illness or domestic violence. The assistance may include short-term rent subsidies, financial assistance with utilities, basic case management services, financial literacy education and life-skills classes as well as one-on-one assistance. No more than five percent of this

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appropriation shall be used by the New Mexico mortgage finance authority for administrative expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR PERMANENT SUPPORTIVE LONG-TERM HOUSING SERVICES FOR HOMELESS PERSONS WITH DISABILITIES OR ISSUES OF SUBSTANCE ABUSE OR MENTAL ILLNESS.

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

SECTION 1. APPROPRIATION.--Five hundred thousand dollars ($500,000) is appropriated from the general fund to the department of finance and administration for expenditure by the New Mexico mortgage finance authority in fiscal years 2014 and 2015 to provide long-term access to supportive services to homeless persons with disabilities, substance abuse issues or mental illness in an effort to assist them with staying housed. The services may include case management services, assistance in finding and moving to long-term affordable housing, assistance and training for development of skills related to

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housing stability and assistance with connecting to support networks focused on increasing housing stability. No more than five percent of this appropriation shall be used by the New Mexico mortgage finance authority for administrative expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

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