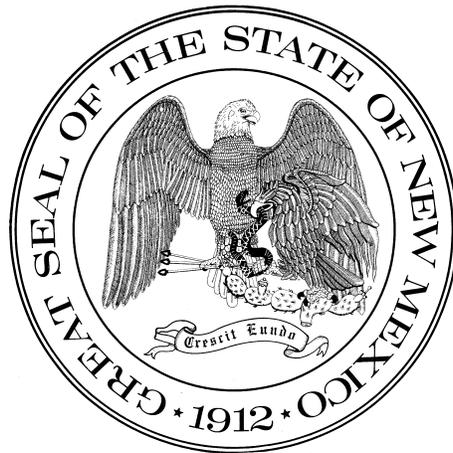


**NEW MEXICO
FINANCE AUTHORITY
OVERSIGHT COMMITTEE**

FINAL REPORT



**REPORT TO THE
FORTY-NINTH LEGISLATURE
FIRST SESSION**

New Mexico Legislative Council Service
Santa Fe, New Mexico
January 2009

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**2008 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

Members

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Elias Barela
Rep. Richard J. Berry
Sen. Joseph J. Carraro
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom

Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Don L. Tripp
Sen. David Ulibarri
Rep. Richard D. Vigil

Advisory Members

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Rep. Ernest H. Chavez
Sen. Kent L. Cravens
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales

Sen. Stuart Ingle
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. Leonard Lee Rawson
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. James R. J. Strickler
Sen. James G. Taylor
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

Work Plan

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

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

To carry out these tasks and statutory duties during the 2008 legislative interim, the NMFA

oversight committee shall:

- (1) monitor and oversee the operations of the NMFA, including a review of the NMFA's budget, investments, policies, goals, funds and loan programs;
- (2) receive progress reports on capital projects funded through the NMFA;
- (3) receive testimony from state and local officials on capital needs and state fair finances;
- (4) review the NMFA's implementation of the Statewide Economic Development Finance Act and examine the economic development revolving fund and obstacles, such as confidentiality laws, that seem to preclude the legislature from performing its oversight function in an informed manner related to the projects for which the NMFA proposes to provide funding assistance;
- (5) take testimony and evaluate economic development projects proposed for funding or funded through the federal new market tax credit program and bonding issues related to tax increment financing;
- (6) take testimony and make recommendations on loans or grants from the Water Project Fund for interstate water projects that benefit New Mexico;
- (7) take testimony on GRIP I and II financing, project development and bonding;
- (8) monitor and oversee the operations of the border authority, review and analyze the border authority's short-term and long-term goals, assess infrastructure needs in the border region and review the effectiveness of the border authority and its projects;
- (9) monitor and oversee the operations of the NMRETA, including a review of the NMRETA's structure, goals and objectives, proposed work plan, policy statements, rulemaking and budget;
- (10) investigate the availability of federal funding and programs for local government infrastructure needs and how to maximize this federal funding; and
- (11) report to the legislature and recommend necessary changes in law or policy.

APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
May 28	Santa Fe
June 26-27	Silver City/Deming
July 31-August 1	Angel Fire
September 15-16	Santa Rosa
October 9-10	Albuquerque
December 4-5	Santa Fe

2008
NEW MEXICO FINANCE AUTHORITY OVERSIGHT
COMMITTEE
INTERIM SUMMARY

Doris Faust, Staff Attorney
Legislative Council Service
December 31, 2008

New Mexico Finance Authority Oversight Committee 2008 Interim Summary

In the 2008 interim, the New Mexico Finance Authority (NMFA) Oversight Committee met in various locations throughout the state and took testimony on projects that local communities intended to finance through the NMFA or had already financed through the NMFA. The committee also examined issues related to funds managed by the NMFA, including the water and wastewater project grant fund and the public project revolving fund. The committee evaluated economic development programs funded through the NMFA, such as the federal new markets tax credit program and the economic development revolving loan fund, and reviewed bond issues related to tax increment development districts. The committee heard testimony on transportation funding, including GRIP I and II issues and project lists. In addition to its review and oversight of the NMFA, the committee also reviewed budgets and projects of the Border Authority, the Spaceport Authority and the New Mexico Renewable Energy Transmission Authority.

The committee reviewed and considered for endorsement 17 separate bills brought forward by the four authorities that the committee oversees or that are related to transportation issues.

The committee endorsed bills proposed by the NMFA, including:

- a \$2 million appropriation from the public project revolving fund to the local government planning fund;
- a \$2 million appropriation from the general fund to the drinking water state revolving loan fund;
- a bill for project authorizations from the public project revolving fund; and
- a bill for project authorizations from the economic development revolving fund.

The committee endorsed two bills proposed by the Border Authority, including bills to:

- increase border authority powers to operate businesses; and
- remove the border authority from the jurisdiction of the property control division.

The committee endorsed three bills proposed by the Spaceport Authority, including bills to:

- rename the spaceport "Spaceport America";
- make proprietary information obtained by the spaceport confidential; and
- limit liability for space flight entities.

The committee endorsed a bill proposed by the Renewable Energy Transmission Authority (RETA) making multiple amendments to the RETA statutes.

The committee endorsed a memorial asking the House Memorial 35 study group to continue its work and endorsed bills related to transportation funding, including bills to:

- make unblended fuel available for certain uses, such as in aircraft;
- authorize the legislature to direct 30 percent of the petroleum products loading fee to the state road fund;
- distribute 16.5 percent of the motor vehicle excise tax to the state road fund; and

- decrease the maximum night-time speed limit from 75 mph to 65 mph.

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

**May 28, 2008
Room 322, State Capitol
Santa Fe**

Wednesday, May 28

- 9:00 a.m. **Call to Order**
— Senator Mary Kay Papen, Chair
— Representative Daniel P. Silva, Vice Chair
- 9:15 a.m. **Interim Legislative Meeting Protocols**
— Paula Tackett, Director, Legislative Council Service (LCS)
- 9:45 a.m. **2008 Legislation Summary**
— Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, New Mexico Finance Authority (NMFA)
- 10:30 a.m. **Review and Discussion of Work Plan, Meeting Dates and Locations
for 2008 Interim**
— Doris Faust, Staff Attorney, LCS
- 11:15 a.m. **GRIP Bonding Issues and Auction Rate Securities**
— William C. Sisneros, Chief Executive Officer, NMFA
— Scott Stovall, Chief Investment Officer, NMFA
— Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, NMFA
- 12:15 p.m. **New Market Tax Credit Update**
— Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, NMFA
— Marquita Russell, Chief of Programs, NMFA
- 1:00 p.m. **Adjournment**

Revised: June 23, 2008

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

**June 26, 2008
Thomas B. McDonald Student Memorial Center
Western New Mexico University
Silver City**

**June 27, 2008
Mimbres Valley Learning Center
2300 East Pine
Deming**

Thursday, June 26 - Silver City

- 10:00 a.m. **Call to Order**
—Senator Mary Kay Papen, Chair
- 10:05 a.m. **Welcome**
—Yolanda O'Connell, Comptroller, Western New Mexico University
- 10:25 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor James Marshall, Silver City
—Alex Brown, City Manager, Silver City
—Jon Paul Saari, Grant County Manager
—Mayor Rudolpho Martinez, Bayard
—Mayor Ray C. Baca, Hurley
- 11:30 a.m. **Local Hospital Funding through the New Mexico Finance Authority (NMFA)
and Cigarette Tax**
—Brian Bentley, Chief Executive Officer, Gila Cancer Center
—Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, NMFA
- 12:15 p.m. **Lunch**

1:30 p.m. **Tour of:**
Murray Hotel — Funded through Statewide Economic Development Revolving
 Fund
—Traci Davis, Senior Program Administrator, NMFA
—Mike Martin, Chief Executive Officer, Western Bank

Fort Bayard Medical Center
—Katrina Hotrum, Deputy Secretary, Department of Health
—Representative Rodolpho "Rudy" S. Martinez, Facilities Manager, GEO Care,
 Inc.

5:00 p.m. **Recess**

Friday, June 27 - Deming

9:00 a.m. **Call to Order**

9:05 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Andres Silva, Deming
—Richard McInturff, City Administrator, Deming
—Scott Vinson, County Manager, Luna County
—Paul Nimick, Grant Administrator, Village of Columbus

10:15 a.m. **Review of Border Authority Activities and Proposed Legislation**
—Jaime Campos, Executive Director, New Mexico Border Authority

11:15 a.m. **Spaceport Authority Update**
—Steve Landeene, Executive Director, Spaceport Authority

12:45 p.m. **Approval of Minutes and Committee Business**

1:00 p.m. **Adjournment**

Revised: July 29, 2008

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

**July 31 - August 1, 2008
Angel Fire Resort
Angel Fire**

Thursday, July 31

- 9:30 a.m. **Call to Order and Welcome**
—Senator Mary Kay Papen, Chair
- 9:40 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Larry Leahy, Angel Fire
—Whitney Hite, Chair, Colfax County Commission
—Don Day, Colfax County Manager
—Miguel Martinez, Mora County Manager
—Mayor Linda Calhoun, Red River
—Mayor Billie Odom, Eagle Nest
- 11:00 a.m. **Statewide Economic Development Fund Update, Project Review,
Confidentiality Requirements, Obstacles to the Effectiveness of the Fund,
Legislative Proposals**
—William Sisneros, Chief Executive Officer, New Mexico Finance Authority
(NMFA)
- 12:15 p.m. **Lunch**
- 1:30 p.m. **Lease-Purchase Financing of Capitol Buildings and Charter Schools**
—Tom Pollard, Ph.D., Legislative Fiscal Analyst, Legislative Council Service
—Jeremy Turner, Chief Financial Advisor, NMFA
—Don Moya, Deputy Secretary, Public Education Department (PED)
—Antonio Ortiz, Program Manager, Capital Outlay Bureau, PED
—Lynda Perry, Moreno Valley Education Foundation
—Dr. Jacque Boyd, Director, Moreno Valley Charter School
- 3:00 p.m. **Water Project Fund Update**
—Rick Martinez, Deputy Secretary, Department of Finance and Administration

4:00 p.m. **New Markets Tax Credit Update and Application Process**
—Marquita Russell, Programs Director, NMFA

4:45 p.m. **Recess**

Friday, August 1

9:00 a.m. **Call to Order**

9:05 a.m. **Transportation Funding — Revenue Forecast, Bonding Concerns**
—Gary Giron, Deputy Secretary, Department of Transportation (DOT)

10:15 a.m. **GRIP Update, Project Financing and Status**
—Max Valerio, Chief Engineer, DOT

11:15 a.m. **NMFA Operations, Budget and Investments**
—Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, NMFA

12:20 p.m. **Approval of Minutes and Committee Business**

12:30 p.m. **Adjourn**

Revised: September 11, 2008

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

**September 15-16, 2008
Santa Rosa High School Auditorium
717 South 3rd Street
Santa Rosa**

Monday, September 15

- 9:00 a.m. **Call to Order**
—Senator Mary Kay Papen, Chair
- 9:05 a.m. **Welcome**
—Dan Flores, Superintendent, Santa Rosa Consolidated Schools
—Mayor Jose Campos, Santa Rosa
- 9:15 a.m. **New Markets Tax Credits**
—Marquita Russell, Programs Director, New Mexico Finance Authority
(NMFA)
- 10:45 a.m. **New Mexico Renewable Energy Transmission Authority (NMRETA) Update**
—Lisa Szot, Executive Director, NMRETA
- 12:15 p.m. **Depart for Tour of Wind Farm; Lunch Provided**
- 3:30 p.m. **Renewable Energy Opportunities in New Mexico**
—Secretary Joanna Prukop, Energy, Minerals and Natural Resources Department
—Zane Rakes, Director of Operations, Schott Solar
—Lynn Greene, Eurus Energy
- 4:45 p.m. **Recess**

Tuesday, September 16

- 8:00 a.m. **Call to Order**

- 8:05 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Jose Campos, Santa Rosa
—Glen Gonzales, Commissioner, Guadalupe County
—John Nuttall, County Manager, De Baca County
—Richard Primose, County Manager, Quay County
—John Sutherland, City Manager, Tucumcari
- 9:30 a.m. **Behavioral Health Capital Fund Update**
—Karen Meador, Deputy Secretary, Human Services Department
—Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
 Strategy, NMFA
- 10:45 a.m. **GRIP Update**
—Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
 Strategy, NMFA
- 11:30 a.m. **NMFA Procurement Process**
—William Sisneros, CEO, NMFA
- 12:25 p.m. **Committee Business**
- 12:30 p.m. **Adjourn**

Revised: October 7, 2008

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

**October 9-10, 2008
Mid Region Council of Governments Building
809 Copper Ave. NW
Albuquerque**

Thursday, October 9

- 9:00 a.m. **Call to Order**
—Senator Mary Kay Papen, Chair
- 9:05 a.m. **Welcome and Report on Albuquerque Capital and Infrastructure Issues**
—Mayor Martin Chavez, Albuquerque
- 9:45 a.m. **Border Authority Legislative Proposals**
—Jaime Campos, Executive Director, Border Authority
- 10:30 a.m. **Renewable Energy Transmission Authority Legislative Proposals**
—Lisa Szot, Executive Director, Renewable Energy Transmission Authority
- 11:30 a.m. **New Mexico Finance Authority (NMFA) Legislative Proposals**
—Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, NMFA
- 12:30 p.m. **Lunch**
- 1:45 p.m. **Review and Comparison of Tax Increment Development Districts**
—Dan White, Economist, Legislative Finance Committee
—Olivia Padilla-Jackson, Director, State Board of Finance
- 3:00 p.m. **Winrock/Quorum Town Center Tax Increment Development District
Proposal**
—Michael Kelly, Winrock Partners, LLC
—Trenton Stafford, Hunt Uptown
- 4:30 p.m. **Approval of Minutes and Committee Business**
- 4:45 p.m. **Recess**

Friday, October 10

- 8:30 a.m. **Call to Order**
- 8:35 a.m. **Overview of Local Capital Projects and Capital Needs**
—Thaddeus Lucero, Bernalillo County Manager
—Mayor Thomas Swisstack, Rio Rancho
—Mayor Louis F. Huning, Los Lunas
—David Lopez, Belen City Council
—Mayor Philip Gasteyer, Corrales
—Mayor Bryan Olguin, Peralta
- 10:15 a.m. **Transit District Gross Receipts Tax Increment Proposal**
—Lawrence Rael, Executive Director, Mid Region Council of Governments
- 10:45 a.m. **New Mexico First Town Hall Meeting Report**
—Secretary Rhonda Faught, Department of Transportation
- 11:30 a.m. **Spaceport Authority Legislative Proposals**
—Matthew Woodlee, Director of International Trade, Economic Development
Department
- 12:30 p.m. **Lunch and Tour of Existing and Proposed Tax Increment Financing
Districts: Mesa del Sol, SunCal and Winrock**
—Vanessa Alarid, SunCal
—Mark Lautman, Vice President of Economic Development, Mesa del Sol
—Michael Kelly, Winrock Partners, LLC
- 2:35 p.m. **Adjourn**

Revised: December 1, 2008

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

**December 4-5, 2008
Room 322, State Capitol
Santa Fe**

Thursday, December 4

- 10:00 a.m. **Call to Order**
—Senator Mary Kay Papen, Chair
- 10:05 a.m. **Border Authority Legislative Proposals**
—Jaime Campos, Executive Director, Border Authority
- 11:00 a.m. **Spaceport Authority Legislative Proposals**
—Steve Landeene, Executive Director, Spaceport Authority
- 11:45 a.m. **Proposed Tax Increment Development District Bill**
—Dan White, Economist, Legislative Finance Committee
—Doris Faust, Staff Attorney, Legislative Council Service (LCS)
- 12:00 noon **Lunch**
- 1:30 p.m. **Rural Municipality Audit Requirements — State Auditor Recommendations**
—Hector Balderas, State Auditor
—Evan Blackstone, General Counsel, State Auditor's Office
- 2:15 p.m. **Approval of New Mexico Finance Authority (NMFA) Rules for the Acequia Fund**
—Marquita Russel, Chief of Programs, NMFA
- 2:45 p.m. **Issues Affecting Local Governments Relating to Decreased Capital Outlay Funds, Transportation Needs, Construction Cost Inflation, Blight, Regulations, Water Infrastructure Needs and Taxing Authority**
—William Fulginiti, Executive Director, New Mexico Municipal League (invited)
—Paul Gutierrez, Executive Director, New Mexico Association of Counties
—Lawrence Rael, Executive Director, Mid-Region Council of Governments

4:15 p.m. **Drinking Water Revolving Fund Bond Program**
—Marquita Russel, Chief of Programs, NMFA

4:45 p.m. **Approval of Minutes and Committee Business**

5:05 p.m. **Recess**

Friday, December 5

9:00 a.m. **Call to Order**

9:05 a.m. **NMFA Legislative Proposals**
—Mark Valenzuela, Director of Governmental Affairs and Legislative Finance
Strategy, NMFA

10:00 a.m. **Transportation Subcommittee Legislative Proposals**
—Representative Patricia A. Lundstrom, Chair, Transportation Subcommittee of
the NMFA Oversight Committee
—Doris Faust, Staff Attorney, LCS

11:30 a.m. **Renewable Energy Transmission Authority Legislative Proposals**
—Lisa Szot, Executive Director, Renewable Energy Transmission Authority
—Ted Apodaca, General Counsel, Renewable Energy Transmission Authority

12:30 p.m. **Adjourn**

MINUTES
of the
FIRST MEETING IN 2008
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

May 28, 2008
Room 322
State Capitol, Santa Fe

The first meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 9:17 a.m. on Wednesday, May 28, in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Richard J. Berry
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom
Sen. Nancy Rodriguez
Sen. H. Diane Snyder
Rep. Don L. Tripp

Absent

Rep. Janice E. Arnold-Jones
Rep. Elias Barela
Sen. Joseph J. Carraro
Sen. Clinton D. Harden, Jr.
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Rep. Henry Kiki Saavedra
Sen. David Ulibarri
Rep. Richard D. Vigil

Advisory Members

Rep. Anna M. Crook
Sen. Dianna J. Duran
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Ben Lujan
Sen. Leonard Lee Rawson
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Rep. Ernest H. Chavez
Sen. Kent L. Cravens
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Stuart Ingle
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. James R.J. Strickler
Sen. James G. Taylor
Rep. Thomas C. Taylor

Staff

Doris Faust, Legislative Council Service (LCS)

Cleo Griffith, LCS

Larry Matlock, LCS

Tom Pollard, LCS

Guests

The guest list is in the original meeting file.

Call to Order and Welcome

Senator Papen called the meeting to order. She welcomed the members, staff and audience to the committee's first meeting of the 2008 interim and asked Mark Valenzuela to begin his presentation pending the arrival of Paula Tackett, director, LCS.

2008 Legislation Summary

Mr. Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA, gave a summary of passed and signed legislation relevant to the committee. He discussed House Bills 2, 172 and 308 as well as Senate Bills 8, 18, 146, 161, 242, 333, 352, 442 and 489. His handout, created by New Mexico Legislative Reports, is in the meeting file.

Mr. Valenzuela introduced Marcos Gonzales, an intern at the NMFA who graduated with a degree in finance from the University of New Mexico.

Explaining that the NMFA does not push any projects, but merely offers advice, Mr. Valenzuela once again disavowed any responsibility for the proposed tilapia farm project for which he was called as an expert witness on the floor of the senate during the 2007 regular session. "We want to stay away from anything not vetted through the interim process", he said. He mentioned House Bill 172, which had unanimous support. He said that the NMFA can fund any project from the Public Project Revolving Fund that costs less than \$1 million without legislative authorization and that the NMFA works with communities on their "wish lists". Representative Gonzales requested to see all of those lists. Mr. Valenzuela agreed to mail the lists.

Mr. Valenzuela announced that the NMFA will conduct regional town hall meetings during the month of August to work with communities on funding their local projects and to put more specificity in the project authorization bill.

Representative Varela asked whether health care facilities are on the Public Project Revolving Fund bill. Mr. Valenzuela responded that there is a separate fund for health care facilities, which is limited to government-owned facilities. Loan forgiveness in amounts between three percent and 20 percent is available for facilities that provide indigent care. He mentioned the existence of a primary care capital fund into which the legislature put \$6.5 million about 12 years ago, most of which has been exhausted.

During a discussion of House Bill 308, which authorizes the NMFA to make loans or grants from the Water Project Fund, Mr. Valenzuela explained that 80 percent of the money goes to grants, and that, although the NMFA processes the paperwork, the Water Trust Board makes the decisions as to where the money goes. Thirty-five million dollars is available. Representative Lundstrom requested a comprehensive presentation on the process of allocating those funds.

During questioning by Senator Papen regarding House Bill 308 and how much money is taken "off the top" for the state engineer, Mr. Valenzuela explained that the Administrative Office of the Courts and the Office of the State Engineer receive two percent of the 10 percent from the Water Trust Fund, which comes to \$3.5 million each to adjudicate water rights. The committee requested a presentation from them on how they have been spending that money.

A discussion ensued regarding the declining federal funds available for "clean" water, which actually refers to wastewater, and drinking water. Mr. Valenzuela explained that the federal funds for clean water have decreased. Drinking water federal funds total \$8.5 million, while clean water is only at \$7.5 million. Representative Tripp asked if the state had "maxed out" the federal match.

Mr. Valenzuela responded that the state is at the bare minimum and could employ strategies to get more federal funding. When Representative Tripp asked if the NMFA wanted to sponsor a bill to increase the funds used for the federal match, Mr. Valenzuela responded that it would take a lot of research, mostly by the Department of Environment. Senator Snyder requested a fact sheet to be used when lobbying the state's congressional delegation.

Mr. Valenzuela explained that a "water cabinet" had been created by executive order that could answer these questions better than the NMFA. Ms. Tackett offered the help of her staff. Representative Lundstrom asked Ms. Tackett to include potential conflicts with legislative authority.

During discussion of Senate Bill 442, Senator Rawson requested some analysis of Albuquerque Metropolitan Court funding. Mr. Valenzuela explained that, although the NMFA has not closed out the fiscal year, that funding source is examined on a monthly basis. He explained that he did not know the reason for the decline in funds from the red light cameras and had asked the Legislative Finance Committee (LFC) to examine it more closely.

Interim Legislative Meeting Protocols

Ms. Tackett addressed questions and concerns regarding interim committee protocols. She began with the issue of obtaining a quorum. She said that a quorum consists of one-half plus one of the voting members assigned to the committee. She said that the speaker of the house and the president pro tempore have the authority to appoint voting members to the committee. Once a quorum is established, it is presumed to exist. She also said that a committee can dissolve into a subcommittee to hear testimony and for purposes of reimbursement. A subcommittee consists of a chair or vice chair, one house Democrat, one house Republican, one senate Democrat and one senate Republican. She added that members may resign at any time. Only voting members are allowed to vote. She then discussed the blocking provision, which states that no action shall be taken if a majority of members from one house votes against the measure. Ms. Tackett

addressed issues related to the sound systems in the committee rooms. The sound systems adjust automatically and are easily disrupted by background noise. If a committee member is having trouble hearing, Ms. Tackett suggested checking for excessive background noise (e.g., side conversations, paper rustling, typing, etc.). She also noted that laptop screens block the microphones. She said that the microphones should be turned off until a member is ready to speak to avoid feedback. Finally, Ms. Tackett discussed the interim committee calendar. She said that meeting conflicts were avoided as best as possible during the calendar creation. She added that any changes to the calendar must be approved by the Legislative Council.

After Ms. Tackett's presentation, Representative Lundstrom suggested that there might be an absence of a quorum. Speaker Lujan appointed Representative Sandoval to serve as a temporary voting member during the meeting. That established a quorum, allowing the committee to approve its proposed work plan and budget.

Review and Discussion of Work Plan, Meeting Dates and Locations for the 2008 Interim

Ms. Faust presented the work plan and proposed meeting dates and locations, explaining that the dates had been set by a computer program to reduce conflicting dates among voting members. The proposed work plan, dates and locations are in the meeting file.

Representative Lundstrom moved for the committee to write a letter to the Legislative Council requesting approval for legislators' per diem and mileage to attend the "New Mexico First Townhall Meeting" on August 7, 8 and 9. The motion was seconded and passed without objection.

After suggestions from the members about the exact venue for the Albuquerque-area meeting, Senator Snyder moved to adopt the work plan, meeting dates and locations. Representative Silva seconded the motion, which passed without objection.

GRIP Bonding Issues and Auction Rate Securities

William C. Sisneros, chief executive officer, and Scott Stovall, chief investment officer, both of the NMFA, and Mr. Valenzuela gave the committee a handout entitled, "GRIP Program: Summary of Refunding of Auction Rate Securities". The handout, which compares auction rate securities with variable rate demand bonds, is in the meeting file.

Mr. Sisneros gave an overview of NMFA bond sales. He discussed auction rate securities, which normally require a new auction every seven days or two weeks. They include a default provision that makes the interest default to a higher rate if there are no bidders at an auction. Due to the subprime mortgage crisis, there were no buyers for NMFA auction rate securities, triggering the requirement that the NMFA pay a default rate of 12 percent for a short period of time. The NMFA is currently out of the auction rate securities business.

Mr. Sisneros assured the committee that action was taken, and the problem was solved. The NMFA will now make sure that other projects are not subjected to similar problems. He explained that "this aberration will cost us about \$3.8 million". Mr. Stovall is now charged with making investments to recover as much as he can.

Representative Lundstrom noted that by phasing projects, the legislature is losing money

because of constant inflation. She said that the longer the state waits, the weaker its buying power becomes.

New Markets Tax Credit Update

Marquita D. Russell, chief of programs, NMFA, was joined by Mr. Valenzuela and Traci Davis for their presentation. Their handout, "New Markets Tax Credit Initiative and Program Policy Overview", is in the meeting file.

Ms. Russell explained that the NMFA's tax credit allocation agreement was finalized on February 15, giving it two years to distribute the credits. She explained the NMFA's goals for the tax credit program, demonstrated the leveraged model, examined key policy issues and listed the next steps for each.

She explained that in 2006, the legislature adopted a law that allowed the NMFA to create a for-profit entity that would make loans for small businesses through a competitive application process. This entity is a licensed limited liability company called "Finance New Mexico".

One of the program goals is to provide flexible sources of capital to businesses primarily in rural areas, with a distribution of 60 percent in urban areas and 40 percent in rural areas. Policies already in place allow the NMFA to finance those projects with the most impact first, while also considering job creation and community support. Financing projects that normally would not get financed allow the NMFA to make sure that the jobs created are high-wage jobs.

The benefits of this program include:

- the borrower gets its project financed at advantageous terms;
- investors get tax credits equal to 39 percent of the total amount invested by a community development entity over a seven-year period, five percent in the first three years and six percent for the last four years;
- projects are typically structured to generate an internal rate of return of eight to 10 percent for the investor;
- at the end of the seven-year period, the borrower refinances both the conventional loan and the new markets tax credit (NMTC)-proceeds loan; and
- the NMFA is able to re-lend the money to other businesses without the NMTC constraints and restrictions.

Objectives of the NMTC include:

- providing a framework for prioritization of projects;
- providing potential applicants with a general sense of structuring and potential NMTC benefits;
- ensuring that policies reflect the dynamic nature of the program and the stage of program development; and
- revisiting policies after the first round of applications for adjustments.

Representative Gonzales asked if other states are using similar tactics. Ms. Russell responded that most entities are the for-profit arms of banks, such as community development programs. Phoenix and Los Angeles have public entities that run the programs, but the NMFA is

different because it uses competitive applications with economic impact criteria. She explained that this makes the NMFA well positioned for additional investments.

With no further committee business to be conducted, the committee adjourned at 1:12 p.m.

MINUTES
of the
SECOND MEETING IN 2008
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

June 26, 2008
Western New Mexico University
Silver City

June 27, 2008
Mimbres Valley Learning Center
Deming

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee for 2008 was called to order by Senator Mary Kay Papen, chair, at 10:12 a.m. in the Thomas B. McDonald Student Memorial Center at Western New Mexico University in Silver City.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Richard J. Berry
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Henry Kiki Saavedra
Rep. Don L. Tripp
Sen. David Ulibarri

Absent

Rep. Elias Barela
Sen. Joseph J. Carraro
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. H. Diane Snyder
Rep. Richard D. Vigil

Advisory Members

Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Sen. Mary Jane M. Garcia (June 26)
Rep. Thomas A. Garcia
Sen. Richard C. Martinez
Sen. Leonard Lee Rawson (June 26)
Rep. Edward C. Sandoval

Sen. Pete Campos
Rep. Ernest H. Chavez
Sen. Kent L. Cravens
Sen. Dianna J. Duran
Rep. Daniel R. Foley
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. Sheryl Williams Stapleton
Rep. James R.J. Strickler

Sen. Vernon D. Asbill
Rep. Jose A. Campos

Sen. James G. Taylor
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

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

Guest Legislators

Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales

Staff

Doris Faust, Legislative Council Service (LCS)
Ric Gaudet, LCS
Tom Pollard, LCS

Guests

The guest list is in the original meeting file.

Handouts

Handouts from the meeting are in the original meeting file.

Thursday, June 27

Welcome and Introductions

Senator Papen introduced NMFA and LCS staff to the audience, and members of the committee introduced themselves. Senator Papen then turned over the meeting to Senator Morales of Silver City, who chaired the meeting for the rest of the day.

Yolanda O'Connell, comptroller, Western New Mexico University, welcomed members of the committee to the university and provided a brief history of the university, which now has about 2,700 students, and offers two-year and four-year degrees, as well as master's degrees.

Overview of Local Capital Projects and Capital Needs

Silver City

Mayor James Marshall and City Manager Alex Brown presented Silver City's current capital projects and some upcoming ones that need funding. The city has received four loans from the NMFA in the past year to replace fire equipment, to acquire two fire trucks, to install an automated water monitoring system and to upgrade its sanitation system.

Silver City now has curbside recycling, which, although the program costs some money to operate, also saves the city money in trash-tipping fees and long-term landfill costs. Mr. Brown reported that recycling by residents has increased 11 percent in just one month.

Silver City is planning to replace its city hall and library in the next few years and wants to locate them in a campus-type setting. The cost for both projects is estimated at \$12 million.

The city will retire some bonds soon, which will free up additional bonding capacity for part of the cost. Other projects in the works include city street repairs, which include significant drainage issues due to the city's hilly terrain. The city's cemetery is running out of room and will need a new location soon. Finally, the city's swimming pool, which underwent renovations recently, needs a small amount of money to finish the project.

Grant County

Grant County Manager Jon Paul Saari and County Commission Chair Henry Torres discussed with the committee capital projects for Grant County. The county has been working with the NMFA on a \$4 million bond to build a county detention center. The county may also take a loan with the NMFA in order to replace some of the oldest county vehicles, some of which have more than 300,000 miles logged.

The county is scheduled to issue bonds to construct the new Fort Bayard Medical Center, which will be lease-purchased by the state. Mr. Saari said that the Village of Santa Clara will get a large gross receipts tax (GRT) boost from construction of the center.

The major capital projects the county is pursuing include a new civic center, which has already received some legislative funding, paving and chip sealing county roads, more improvements to the Bataan Memorial Park and long-term planning for water improvements on the Rio San Francisco.

Representative Crook asked whether operational costs for the new civic center have been budgeted. Mr. Saari said that has been planned for.

Representative Ezzell asked if the U.S. Forest Service and other government agencies are cooperating with the county to prevent erosion problems on the Rio San Francisco. Mr. Torres said that, currently, the local soil and water conservation district is doing extensive conservation work and is also working with the U.S. Forest Service on a thinning project, both of which will benefit the health of the river.

Senator Garcia asked how much the civic center will cost. Mr. Saari said that the center, with 28,000 square feet of meeting rooms and office space, will cost \$4 million. The 47-acre campus on state land is being master planned for future county buildings.

Responding to a question from Representative Powdrell-Culbert, Mr. Saari said the current detention facility can house 40 inmates, but the county currently needs space for an average of 75 inmates. The county wants to build a 100-bed facility and is beginning alternative sentences for drug offenders and other minor offenders. The county has secured \$10 million of its own funds for the facility, and will need about \$2 million to \$3 million more.

Bayard

Representative Martinez, who is also mayor of the City of Bayard, presented to the committee the city's capital outlay requests. Those include:

- \$560,000 for street and drainage improvements;

- \$500,000 for library expansion and renovation;
- \$400,000 for community center expansion;
- \$270,000 for animal shelter construction; and
- \$550,000 for water system distribution improvements.

Mayor Martinez mentioned that Bayard recently upgraded its little league parks and will soon be providing emergency water service to the Hanover water system. The Bayard library, which dates back to 1912, is in need of renovation and will add a new adult basic education center. Finally, Mayor Martinez said that Bayard needs a cemetery. It is currently the only municipality in Grant County without a cemetery.

Hurley

Ray Baca, mayor of the Town of Hurley, detailed for the committee Hurley's infrastructure needs, including:

- \$3,500,000 for a new water system;
- \$4,000,000 for street improvements;
- \$1,550,000 for city hall and public safety building improvements;
- \$160,000 for maintenance equipment and vehicles; and
- \$150,000 for a new wastewater system.

Mayor Baca said that Hurley has been dependent on the Chino Mine since 1910 for its water and wastewater systems, but soon the company will require the town to provide its own services. Hurley needs to acquire 350 acre-feet of water rights at \$10,000 per acre-foot and will need to spend about \$1 million for a new well and piping. The Chino Mine will be unable to accept raw sewage into its tailings pond after 2010. Hurley has secured most of the money needed to pump sewage to the Bayard-Santa Clara wastewater system, but needs \$150,000 more in order to avoid rate increases to its users.

Representative Ezzell asked from where Hurley could purchase water rights. Mayor Baca said the mining company can sell the rights to the town. In addition, Santa Clara and Silver City have water rights in the area that could be purchased. Representative Ezzell suggested leasing water rights from the mine instead of purchasing them.

Local Hospital Funding Through the NMFA and the Cigarette Tax

Brian Bentley, chief executive officer, Gila Regional Medical Center, described for the committee the process that the center used to obtain funding for its new cancer center. In 2006, the legislature enacted a law that allowed a distribution of cigarette tax revenues to benefit rural cancer treatment centers. The law was amended in 2007 to allow the NMFA to issue revenue bonds of \$3 million. Bonds were issued in August 2007, and the center is now treating patients.

The center also includes a radiation treatment area, which allows patients to be treated in Silver City without having to travel to Las Cruces.

Mark Valenzuela and Adam Hagan of the NMFA described the history of cigarette tax revenues and financing for various health-related uses. There has been a general downward trend of cigarette tax receipts since 1994, except for the huge jump in receipts in 2003 after the tax was increased. Taking that downward trend into account and setting aside part of the receipts in a credit enhancement account, the NMFA has been able to bond against the cigarette tax revenues and still receive a very high bond rating from bonding agencies. Without the credit enhancement account, the NMFA would have to pay a much higher interest rate because cigarette tax revenue bonds have traditionally been viewed as high-risk bonds.

Mr. Valenzuela said that the NMFA has never had to use the credit enhancement account to pay debt service on its bonds. However, if there is a dramatic drop in cigarette tax revenues, the legislature will have to create a different financing mechanism for the existing bonds.

The other hospital set to receive funding for cancer treatment is Nor-Lea General Hospital in Lovington. After that center is funded, said Mr. Valenzuela, there will be no additional bonding ability for several years. Mike Miller, representing the Nor-Lea General Hospital, said that Lea County has the highest incidence of lung cancer in the state. Funding the cancer treatment center will allow patients to receive treatment close to home.

Representative Berry said he is happy the state is funding regional cancer treatment centers. He asked what else the cigarette tax funds. Mr. Valenzuela said that 85 percent of cigarette tax revenues fund health-related programs.

Representative Silva asked about the percentage of cigarettes sold in New Mexico that are not taxed. Mr. Valenzuela said that although that information has been difficult to track in the past, data from 2007 indicate that 35 percent of cigarettes were sold on Native American land and were not taxed by the state.

Tours

Murray Hotel

After lunch, the committee toured the downtown Silver City landmark Murray Hotel, which is being partially financed through the Statewide Economic Development Revolving Fund and the NMFA. The NMFA has a construction loan participation of \$1.4 million, or 49 percent, of the amount financed. When finished, the hotel expects to hire more than 40 people, with beginning average salaries of \$26,000. Members of the committee expressed interest in holding a future meeting in the hotel after its reopening.

Fort Bayard Medical Center

The committee toured the Fort Bayard Medical Center, which currently houses psychiatric long-term patients and veterans. Katrina Hotrum, deputy secretary of health, described the history of the facility, from housing the Buffalo Soldiers in 1866, to becoming a Veterans Administration hospital, to becoming a long-term care facility run by the state. Ms. Hotrum discussed the recent termination of the contract to operate the hospital by GEO Care, effective July 1, 2008, and the selection of Pinon Services to continue operations.

The need for a new facility at Fort Bayard is critical, said Ms. Hotrum. The current building was never designed to be a nursing facility, and the facility treats some of the state's most difficult patients. The legislature authorized the lease-purchase of a new facility, which will be constructed and financed by Grant County and lease-purchased back to the state. Originally, GEO Care was supposed to finance and construct the facility, but there were many problems associated with that deal, including the fact that GEO Care had very little experience in constructing or operating nursing facilities.

Senator Papen asked why the Department of Health used county bonds to finance the new facility, rather than the potentially cheaper NMFA-financed bonds. Ms. Hotrum said that was a decision made by GEO Care when it was still in charge of the project. Senator Papen asked why GEO Care was hired to operate the facility when it had no previous experience in long-term nursing. Ms. Hotrum said that GEO Care believed it could manage the facility, but was unable to do so. The facility was decertified by the federal Department of Justice recently, she said.

Representative Silva asked at what interest rate will the new facility be financed. Ms. Hotrum said she did not know the details, but that the governor was currently in New York trying to secure a better rate for the state's bond issues. She said the state was trying to "bundle" the Fort Bayard bond issuance with lower-rate general obligation bond issues.

Representative Silva asked about the operational costs and financing payments of the new facility. Ms. Hotrum said that the facility should be cheaper to operate than the current hospital. She also said that GEO Care provided inaccurate estimates of lease payments.

Representative Silva asked about the future plans for the entire Fort Bayard property, which contains 438 acres and has 26 springs. Representative Martinez, who also serves as facilities manager for Fort Bayard Medical Center, said that there has been discussion about transforming the place into a state park. He mentioned that there is also a national veterans' cemetery on the property.

Representative Silva asked whether the NMFA is involved in any way with the financing of Fort Bayard. Mr. Valenzuela said that there will be private underwriters for the bonds. He said the state will be paying for the bonds, and Grant County will be the flow-through agent for them. He said there is still a question of whether the state is getting the best deal possible with this method of financing.

The committee recessed for the day and drove to Deming for the subsequent day's meeting.

Friday, June 27

Committee Business

The committee was reconvened at 9:10 a.m. on Friday, June 27, 2008, in the Mimbres Valley Learning Center in Deming by Senator Papen. After introductions, she handed the reins to Representative Irwin, who chaired the meeting for the rest of the day.

Ms. Faust announced to the committee that the Legislative Council approved member per diem for attendance at the New Mexico First transportation town hall meeting in August.

The minutes from the May 28, 2008 meeting of the NMFA Oversight Committee were approved without changes.

Overview of Local Capital Projects and Capital Needs

Andres Silva, mayor of Deming, described for the committee ongoing and future capital outlay projects for the city. Three projects that need additional funding are:

- \$350,000 for the Deming fire department substation;
- \$350,000 for youth recreation athletic fields; and
- \$500,000 for the joint Luna County/Deming law enforcement complex.

Mayor Silva also described several projects that the NMFA is providing loans or grants for, including water distribution lines, water system improvement planning, the Solana water and sewer extension and a water storage project. Finally, Deming is in the planning process to build a new main fire station, financed by a possible GRT increase.

Richard McInturff, Deming city administrator, mentioned a requirement that the Public School Facilities Authority has that a new school needs to have 20 acres of land. This requirement has meant that the most recent four schools in the Deming Public School District have all been built outside city limits, resulting in higher construction costs and essentially requiring that all students be bused to the new schools. Mayor Silva suggested that the legislature could give incentives for school districts to locate new schools within city limits.

Representative Ezzell said the 20-acre requirement for new schools is too much of a burden for small school districts to comply with.

Representative Tripp asked about Deming's growth rate. Mr. McInturff said that the city has seen a growth rate of four percent per year over the last several years, especially with the increase in border personnel. He said the city does not have enough housing to meet demand and is doing everything it can to encourage new development. The city could receive much more in economic benefits if it is able to provide housing for all those people who currently commute from Las Cruces or El Paso every day.

Representative Arnold-Jones asked about Deming's innovative approach with the Department of Environment to get reimbursed for its sewer extension on a per-foot basis, rather

than a cost-reimbursement basis. Mr. McInturff said that approach reduces tremendously the amount of bureaucratic paperwork required to get reimbursed. Representative Berry commended Deming for using unit pricing and said he is surprised that it is not more commonly used.

Luna County

Luna County Manager Scott Vinson presented to the committee the various projects the county is working on, including:

- a judicial complex, funded by a GRT bond and legislative appropriations;
- an entertainment complex, funded by a capital outlay GRT bond;
- a child care facility, funded by a community development block grant;
- a youth recreation center, funded by the legislature;
- the Columbus cattle pens, funded by the legislature;
- a city/county law enforcement complex, funded locally and by the legislature;
- a Columbus substation, funded locally;
- adult softball fields, funded locally; and
- new jail cells, funded locally.

The county is also proposing an expansion of the rural health clinic and the recreation center and is currently identifying revenue sources for those projects.

Mr. Vinson discussed the close collaboration among Luna County, cities and the school district. As an example, when the new school outside of Columbus was being constructed, the school district realized that it did not have enough money to pave the road or extend utility lines to the site. So, the county decided to pave the road and purchased all of the sewer, water and gas supplies. The Village of Columbus then installed the utilities, using its equipment and labor.

Mr. Vinson described the entertainment complex that Luna County and the City of Deming are building, which will be leased to a private company to operate. This project is an attempt to keep border patrol families in Deming, thus bringing more economic development and tax revenue to the area.

The Columbus cattle pens project will allow livestock to cross the international border, which will result in an estimated \$400,000 annual profit to the county. Representative Ezzell said that cattle entering the U.S. need to be inspected for hoof and mouth disease. Mr. Vinson said that the cattle crossing will be staffed full-time by the U.S. Department of Agriculture.

Luna County is constructing new jail cells to house more federal prisoners and is using recycled shipping containers as the building material. The cost of using shipping containers is

about \$17,000 per bed, compared to \$89,000 using traditional methods. Mr. Vinson said the county earns about \$1 million each year housing those prisoners.

Representative Arnold-Jones asked whether the county has difficulty working with the federal Homeland Security Department, and she asked why the department is using its eminent domain powers to build a new detention facility, rather than using existing facilities. Mr. Vinson said that he heard about the department's decision to condemn private property after it had already been decided. He said the county lodged a protest with the department.

Columbus

Paul Nimick, grant administrator for the Village of Columbus, presented to the committee projects the village is working on, including:

- increasing its water storage capacity;
- completing water delivery improvements;
- storm and surface water control;
- street improvements; and
- port-of-entry industrial park construction.

The village has an immediate need of \$100,000 to complete funding for a left-turn lane into the new school. Mr. Nimick said that the village is in the process of annexing the school property.

Mr. Nimick said that Columbus also needs assistance to fund its police, fire and EMT departments. He said that 90 percent of fire and police activities are border-related.

Representative Ezzell asked what the major crime issues are along the border. Mr. Nimick said he believes that marijuana is the major drug being smuggled across the border. He said that there has been a recent decrease in drug trafficking, but an increase in violent crime, mostly due to the drug wars in Mexico.

Review of Border Authority Activities and Proposed Legislation

Jaime Campos, executive director, Border Authority, gave the committee a review of the authority's activities in Santa Teresa and Columbus/Palomas. Some of the projects the authority is facilitating include:

- the Anapra port of entry, which has already received \$12 million in state funding;
- the commercial safety inspection facility in Santa Teresa, which still needs \$3 million more in funding;
- the Border Authority office building, which has been funded by the state;

- the Santa Teresa port-of-entry lighting, which was completed in April;
- the Union Pacific Railroad relocation and expansion, which will cost \$150 million;
- the Strauss Road intermodal access, which has been funded by the state and federal governments;
- the Columbus port-of-entry expansion, which still needs \$50 million in federal funding;
- the Columbus port-of-entry commercial bypass, which has been funded by the state and federal governments;
- the Columbus import/export stockyards, which have been funded by the state; and
- the Columbus/Palomas joint border flood study, which has been funded by the state.

Mr. Campos said that the railroad port of entry will be located three miles west of Santa Teresa and will be a 24-hour crossing.

Representative Ezzell asked about safety and inspection requirements for trucks coming from Mexico. Mr. Campos said that all trucks coming from Mexico need to comply with U.S. trucking laws. Mr. Campos said that any truck driver from Mexico who wishes to travel past the 10-mile border zone needs to meet additional licensing and insurance requirements.

Mr. Campos said that Ciudad Juarez is having a very difficult time right now, with drug-related murders, kidnappings and bank robberies rampant.

Mr. Campos described two proposed changes to New Mexico statutes that the Border Authority is seeking. The first would allow the authority to use money it receives from leases for its own programs. It leases property it owns to a private parking company for use as an export parking lot. Mr. Campos said that current statutes do not allow the authority to operate a business, which this project technically would be considered.

The other change in statute that the authority is seeking is an exemption from the jurisdiction of the Property Control Division (PCD) of the General Services Department. The authority wants to build its headquarters and not have the building be subject to the control of the PCD.

Representative Silva asked how many commercial trucks pass through the Santa Teresa port of entry daily. Mr. Campos said that the average daily truck traffic is 159 and is increasing every month. He also said that tourism from Chihuahua is increasing through Santa Teresa.

Spaceport Authority Update

Steve Landeene, executive director, Spaceport Authority, gave a presentation to the committee on the status of Spaceport America. The spaceport is still in the planning and design phase, with construction expected to begin in early 2009. Mr. Landeene described the spaceport's vision, which includes a multifaceted approach to success, including vertical and horizontal space launch facilities, training, research and development, entertainment, tourism, education and fundraising.

The current status of the development of the spaceport includes:

- the design for the facility is 95 percent complete;
- the environmental impact statement is underway and is expected to be complete by the end of the year;
- the spaceport district was created by the affirmative vote of the residents of Dona Ana and Sierra counties, with Otero County slated to vote in November 2008;
- the lease with the anchor tenant, Virgin Galactic, is closer to being signed;
- the temporary road and bridge work for construction purposes will begin in October 2008;
- an agreement with Sierra Rural Electric Cooperative is nearing completion, including a memorandum of understanding regarding renewable energy; and
- the welcome and visitor centers in Hatch and Sierra County are being planned.

Mr. Landeene discussed three changes in legislation that the Spaceport Authority is requesting:

- providing an "informed consent" liability limitation for companies that use the spaceport;
- changing the official name of the spaceport from the "Southwest Regional Spaceport" to "Spaceport America"; and
- clarifying that the spaceport does not have zoning or eminent domain powers.

The committee discussed whether the Spaceport Authority will comply with all of the statutory deadlines by the end of the year. Mr. Landeene said that the goal is to meet the benchmarks by the end of the year, but if they are not quite met, the enacting legislation would have to be modified. He said that he hopes to have a signed lease agreement with Virgin Galactic before construction begins. A draft lease has been created, but what remains to be agreed upon are the user fees. He said that Virgin Galactic has already committed significant investment toward moving its headquarters to the spaceport.

Representative Arnold-Jones asked for details of the planned educational activities and whether a revenue source has been identified. Mr. Landeene said that the authority is trying to get funding for educational programs and is also in discussion with the U.S. Air Force.

Representative Powdrell-Culbert asked if the authority is working with officials of Fort Bliss. Mr. Landeene said that officials at Holloman Air Force Base, White Sands Missile Range and Fort Bliss have all expressed interest in collaborating with the spaceport.

Representative Ezzell asked for details of the economic validation model in the handout. Mr. Landeene said he would provide copies of the spreadsheet to the committee members. He said that the preliminary analysis shows a net present value for the state of \$57 million. He also said that the project remains within the budgeted \$225 million that the legislature mandated.

Representative Silva asked about development plans around the spaceport. Mr. Landeene said that Virgin Galactic wishes to develop a resort complex for its customers. He said that the spaceport site will not be developed for hotels or housing, however.

Representative Berry said that although it is commendable that the spaceport is being built using energy-efficiency standards, there is no good reason why the state should spend the budgeted \$2 million to get the facility LEED-certified.

Representative Ezzell asked what liability the state will have once the spaceport is operational. Mr. Landeene said that there should be none, but that he will review that claim with the authority's legal counsel.

Senator Papen asked Mr. Landeene to work with staff in developing legislation the authority wishes to have enacted and to get the committee a list of additional capital outlay needs as soon as possible. Representative Silva suggested that the authority present drafted legislation to the committee for review at its November meeting.

There being no further business, the committee adjourned at 1:53 p.m.

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

**July 31-August 1, 2008
Angel Fire Resort
Angel Fire**

The third meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 9:45 a.m. on Thursday, July 31, in a conference room at the Angel Fire Resort in Angel Fire.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Richard J. Berry
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom (7-31)
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Don L. Tripp
Rep. Richard D. Vigil (8-1)

Advisory Members

Rep. Jose A. Campos
Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Richard C. Martinez
Sen. Leonard Lee Rawson
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Absent

Rep. Elias Barela
Sen. Joseph J. Carraro
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. David Ulibarri

Sen. Vernon D. Asbill
Sen. Pete Campos
Sen. Kent L. Cravens
Rep. Daniel R. Foley
Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. Edward C. Sandoval
Rep. James R.J. Strickler
Sen. James G. Taylor
Rep. Thomas C. Taylor

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

Staff

Doris Faust, Legislative Council Service (LCS)
Tom Bunting, LCS

Larry Matlock, LCS
Tom Pollard, LCS

Guest Legislators

Rep. Andrew J. Barreras
Rep. Ray Begaye (8-1)

Guests

The guest list is in the original meeting file.

Thursday, July 31

Call to Order and Welcome

Senator Papen called the meeting to order. She welcomed the members, staff and audience and thanked the officials of Angel Fire for inviting the committee. The committee members introduced themselves. Senator Papen turned the meeting over to Representative Thomas A. Garcia to act as chair.

Approval of Minutes and Committee Business

The minutes from the second meeting of the NMFA Oversight Committee were approved with no opposition.

2008 Overview of Local Capital Projects and Capital Needs

Angel Fire Mayor Larry Leahy explained that it is hard to maintain the infrastructure with such a small population and the necessity of many miles of road maintenance in an immense area. His capital outlay requests include \$350,000 for a wood chipper and a second gravel truck to deliver slash, as well as a packer truck to pick up trash.

One recent achievement is that the Water Trust Board has given Angel Fire a grant to bring effluent from the treatment plant to the golf course. Mayor Leahy would like to make Plaza del Sol the village center by moving it down to a lake on the south side of north Angel Fire Road. The marshy lowlands to the right would impound the water, which could then be moved to the golf course. If moved from the lake to the ski mountain, this water could be used to make snow during the winter. Angel Fire would then be one of the first ski areas using recycled water to make snow.

Representative Lundstrom was curious about a town with 1,500 full-time residents that swells to over 10,000 residents during the winter months. Mayor Leahy responded, "We live in fear during the weeks approaching Christmas and Spring Break. We pay significant overtime during those periods. We take care of the influx in lodging, lots of condos and second homes. Solid waste is the biggest challenge."

Mayor Leahy said that his community will need \$9 million to address drainage issues, which is part of a five-year plan. He also asked for funding for a hook and ladder truck, explaining, "We have \$320,000 in grant money for that vehicle, but we still need \$300,000 to \$350,000 more."

Colfax County Commissioners Whitney O. Hite and Bill Tomlin and Colfax County Manager Don Day presented their capital outlay needs. Mr. Day thanked the NMFA for its support and asked for help with new projects, including a new fire station in the far southeast corner of the county. The county also needs a new hospital, although renovating the miner's hospital is an option. Although the project is still in the planning stage, the county is committed to providing a viable medical center as well as building a medical training facility.

Commissioner Tomlin explained that infrastructure is the biggest challenge in a county that has over 520 miles of road to be maintained. The county is trying to build a new judicial center and is renovating the county building without raising taxes. He will be approaching the legislature for supplemental funding to cover the higher cost of concrete, gasoline and transportation involved in the projects.

Mora County Manager Miguel Martinez said that his county is just emerging from financial hardship. It has begun construction of a solid waste transfer station, as well as a new Mora County complex, which will have over 42,000 square feet and will contain the sheriff's department, county offices, some state offices and district and magistrate courts. Funding remains a perpetual challenge. Half of the money has been secured from the legislature. The groundbreaking ceremony is expected in early October.

Representative Lundstrom, wanting to know the true savings of a program, asked Mark Valenzuela of the NMFA to add a tracking process to the requirements for LEEDS buildings to find exactly how much money in cost savings could reasonably be expected. She asked, "Does it work and justify the cost for our rural communities?". Mr. Valenzuela agreed, although he said it would require outside expertise to track and monitor how effective it is compared to a traditional construction project.

Mayor Linda Calhoun of Red River said that her town is completely surrounded by national forest, so it is always short of land and is always trying to acquire more. The town needs 19 acres for an advanced treatment plant as well as a cemetery.

The town also needs \$166,000 to refurbish its 1979 model fire truck. The street roller, two police units and an ambulance will be paid off in 2012.

Current projects include construction on the new \$600,000 fire station, which is not moving fast, but at least the equipment will be inside by this fall. The Department of Transportation's Aviation Division contributed \$300,000 for a heliport to begin construction in a couple of weeks.

The town's future needs include \$375,000 for a ladder truck, treatment plant upgrades, a disinfectant system, roof repairs, road maintenance and snow removal equipment, adding meeting rooms to the conference center and storm drain maintenance.

On questions from Representative Ezzell about the difficulty of hiring auditors, Mayor Billie Odom of Eagle Nest, Mayor Leahy and Mayor Calhoun all explained that they have had great difficulties hiring auditors to fulfill compliance requirements for the state auditor. Representative Lundstrom explained that a village like Red River has to go through the same compliance as the City of Albuquerque. Representative Silva noted that it is a distinct

disadvantage for small communities because the City of Albuquerque has its own auditors, while small towns do not. Representative Lundstrom moved for the committee to ask for a waiver on the due dates for these communities to give them more flexibility. The request should be sent to the state auditor and the chair of the task force. Senator Harden seconded the motion, which passed with no opposition.

Mayor Odom also complained about infrastructure difficulties, saying that the extension of sewer lines to the annex areas is a high priority. Although the village has only 306 residents, the wastewater system must be able to support a population of over 5,000. The town has one GRIP II project in the form of road improvements for school bus routes.

She would like to expand water distribution to the annexed areas and expand storage facilities and will need a loan for acquisition of land for effluent disposal.

Statewide Economic Development Fund Update, Project Review, Confidentiality Requirements, Obstacles to the Effectiveness of the Fund, Legislative Proposals

William Sisneros, chief executive officer of the NMFA, gave the committee two handouts, one entitled, "NMFA Going Forward, July 31, 2008" and the other a list labeled, "Total Legislative Appropriations". They are in the meeting file.

Mr. Sisneros explained that the NMFA is "staying ahead of the curve" during difficult economic times. He noted that the state treasurer had made an appearance at this meeting because of a meeting of the Public Employees Retirement Association Board taking place in the meeting room next door. In light of problems in the financial markets, Mr. Sisneros wants to be certain that the NMFA is a sustainable and consistent asset to the state.

Economists from Goldman Sachs are planning a two-year downturn cycle because of lack of confidence in the financial system. But even with the debacle in the insurance companies, the NMFA took a \$153 million bond issue without insurance. The NMFA's strong AA+ rating allowed the bonds to be sold in a matter of hours. Insurance is purchased for the benefit of the bond holders, not the State of New Mexico.

Although he is not proposing it for the 2009 legislative session, Mr. Sisneros does have a strategy to seek a bond rating of AAA.

The committee recessed for lunch at 12:27 p.m., after which Mr. Sisneros continued his presentation, aided by Marquita Russel, programs director of the NMFA, and Mr. Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA.

Representative Lundstrom asked about the next GRIP bond issuance. Mr. Sisneros reported that the letter of credit for the GRIP program is for two years only and that an internal task force with consultants will identify other tools. Representative Silva asked about the GRIP shortfall. Mr. Sisneros reported that the shortfall is between \$400 and \$500 million.

Representative Arnold-Jones asked if the NMFA has sufficient reserves. Mr. Sisneros assured her that the NMFA has a better structure than any other bond program in the country. She expressed concern over the agency's structure, saying that the board is not independent

because it is appointed by the governor. Ms. Russel explained that the board has the independent authority to approve the actions of NMFA and that the rating agencies consider it independent. External and internal auditors and outside contractors look for discrepancies and conflicts, all of which results in a very high bond rating. "The governor appoints the board, but the legislature passes the laws under which we operate."

Lease-Purchase Financing of Capitol Buildings and Charter Schools

Mr. Pollard and Jeremy Turner, chief financial advisor for the NMFA, gave a presentation on lease-purchase financing for legislative and executive branch buildings. Mr. Turner's handout is in the meeting file.

Constitutional amendments approved in 2006 (Article 9, Section 11 for school districts or charter schools and Article 9, Section 8 for state entities) provide that lease-purchases entered into by the state, school districts or charter schools for the acquisition of a building or other real property are not a debt otherwise prohibited by the constitution if:

- there is no legal obligation for the lessee to continue the lease from year to year or to purchase the property; and
- the agreement provides that the lease shall be terminated if sufficient appropriations or operating revenues are not made available to meet current lease payments.

Lease-purchases of the type authorized by the constitutional amendment are not "general obligations" of the state, municipality or school district. General obligations require voter approval, pledge the full faith and credit of the state or local government and any failure of the governmental entity to pay would be a default. This is usually the most highly rated debt a government can issue. Lease-purchases generally carry only slightly lower credit ratings (higher interest rates) than general obligations because no borrower has ever failed to appropriate required payments.

The legislature provided the statutory authorization for school districts and charter schools with the passage of the Public School Lease Purchase Act in 2007 (Chapter 22, Article 26A), which in part provides for:

- a requirement for approval of a lease-purchase by a school district, charter school board and the Public Education Department (PED);
- authorization for districts to apply any legally available funds to lease-purchases, including general funds, bond proceeds, state grants, impact aid, investment income, etc. Also, state funds are made available from the Public School Capital Outlay Fund to assist charter schools in making lease payments; and
- authorization for districts to pass a specific 10 mill lease-purchase property tax. Charter schools may not levy this tax, but can benefit from the tax passed by the district in which it is located.

The NMFA Act was amended in 2001 to authorize the NMFA to acquire and construct buildings and other real property for lease to state agencies, school districts, charter schools and other qualified entities and to issue bonds secured by lease payments received.

For purposes of illustration, a basic "build versus lease" analysis was presented for a facility to be built on state land in Santa Fe.

- The project would relocate the Human Services Department (HSD) from leased to state-owned space. One hundred percent of HSD employees in Santa Fe are currently in private lease space.
- The HSD leases about 173,000 square feet in Santa Fe, at an average of \$21.80 per square foot, making approximately \$3.8 million annually in lease payments.
- A 160,000 square-foot state building, costing approximately \$40 million (160,000 sq. ft. at \$250 per sq. ft.), would be constructed on state land to consolidate the HSD administration from scattered private leased space.
- The construction financing of the HSD building could be accomplished through a redirection of current lease payments, totaling approximately \$3.8 million annually, to paying debt service on lease-purchase revenue bonds issued by the NMFA.
- In addition to debt service on construction bonds issued by the NMFA, the state would also pay \$6.00 per square foot annually for maintenance and would spend another \$75.00 per square foot at the end of 20 years for substantial renovations to enable the building to last 40+ years.
- No new state appropriations for building construction would be required; current lease payments would simply be redirected to lease-purchase.
- This financing could save the state approximately \$47 million (\$18 million, present value) in recurring revenue over the next 30 years, plus at least \$40 million for the value (present value) of the new state building.

This same buy versus lease analysis applies to charter schools. Keys to success of charter school facility lease-purchase financing include:

- defining the long-term need for new charter school facilities and utilizing existing district and/or other public facilities when practical;
- demonstrating the benefit to own rather than lease new charter school facilities;
- dedicating a creditworthy revenue stream for charter school lease-purchase payments; and
- utilizing the most advantageous financing tools to finance acquisition or construction of charter school facilities using lease-purchase payments.

Don Moya, deputy secretary of the PED, and Antonio Ortiz, program manager for the PED Capital Outlay Bureau, presented on the subject of challenges facing charter schools. Mr. Moya explained that the biggest challenge is limited access to capital outlay funds, because charter schools have no taxing authority, unlike public school districts. By statute, all charter schools must be in public facilities by 2010, and if none are available, they will still have to meet state adequacy standards.

Linda Perry, president of the Moreno Valley Education Foundation, said that it is difficult to raise funds for construction. 22 acres of land for the charter school was donated by a ski resort. Although the school's capital campaign was kicked off in 2003, construction on phase one of the multipurpose building has not yet begun. She said that lease-purchasing for their facilities would be very advantageous.

Dr. Jacque Boyd, director of the Moreno Valley Charter School, gave a presentation on the school's success: placing in the top 300 of the top 1,000 high schools in the United States, coming in fifty-first for the entire nation and serving a population of 85 students. There is a maximum of 20 students per class, with most ranging between 15 and 20 students. The school has made adequate yearly progress every year, and 100 percent of the last graduating class entered higher education. The school has no dropouts, although an occasional student will receive a GED.

After considering a host of different designs, a design has been chosen for the multipurpose building that will cost \$2.1 million. State adequacy standards could be met for \$1.4 million. With \$675,000 from House Bill 33 and \$240,000 in capital outlay funds, along with \$531,000 approved by the Public School Capital Outlay Oversight Task Force, the new building will become a reality in three or four phases.

In response to questions from the committee, Dr. Boyd explained that the school has no lunch room. Students eat lunches they bring from home and microwaves are provided in the classrooms. The school has no gym or other sports facilities. Students ride mountain bikes for physical education. In winter, they wear snowshoes and go for hikes. Spring can be spent climbing boulders. "Our kids without a gym are more fit and active than the majority of high schools in the state."

Senator Harden congratulated Ms. Perry and Dr. Boyd for their efforts to make the Moreno Valley Charter School the number-one high school in the state, and they received the applause of the committee members.

Water Project Fund Update

Rick Martinez, deputy secretary of the department of Finance and Administration (DFA) began his presentation by giving the committee members a handout entitled, "Water Project Fund Update". The handout is in the meeting file.

In 2006, the Water Trust Fund (WTF) received a general fund appropriation for \$40 million. In November 2006, a constitutional amendment was adopted that made the WTF a permanent fund. The Water Project Fund (WPF) was created in the NMFA, which provides staff support and makes loans and grants to qualified entities for projects prioritized by the board and authorized by the legislature. The WPF received \$32,246,303 in severance tax bond proceeds for FY 2008.

An annual distribution from the WTF of \$4 million is combined with the severance tax bond proceeds to make up the WPF. Ten percent of the money goes to adjudication and 90 percent to authorized water projects.

The amount that has been drawn down is \$23 million. Mr. Martinez praised the NMFA's technical expertise, saying in the past it was hard to know if a project was actually funded.

A uniform application process was approved by the Capital Outlay Committee, which was produced by a team from the NMFA and DFA. It triggers a flow to different agencies to determine what they qualify for, including all funding streams. It helps when projects come before the Water Trust Board because the financing has also been vetted.

New Markets Tax Credit Update and Application Process

Ms. Russel began her presentation at 5:00 p.m. by giving the committee a handout, which can be found in the meeting file.

In order to qualify for this federal tax credit program, the NMFA set up a for-profit corporation that is also a single-purpose limited liability company. Cash from the sale of tax credits is made available to lend to eligible businesses in low-income communities. Eight applications were reviewed out of the 11 submitted through the automated online process. The requests ranged from \$25 million to \$3 million. It was not a bad return, considering that there really was not any advertising. Since only \$20 million is available, the requests will be taken in prioritized order. The current policy limit is \$16.5 million. A second program aimed at rural projects should be in place by January 2009.

The committee recessed at 5:09 p.m.

Friday, August 1

The meeting was called to order at 9:03 a.m. by Senator Harden, acting chair. Representative Henry Saavedra moved to forbid committee members from speaking "on that point". Senator Harden put the motion up for a vote. The motion passed with only three dissenting after a brief debate.

Transportation Funding — Revenue Forecast, Bonding Concerns

Gary Giron, deputy secretary of the Department of Transportation (DOT), and Bill Mueller, chief economist for the DOT, gave the committee their handout and began their presentation at 9:06 a.m. The handout, which Mr. Giron followed very closely, is in the meeting file.

The State Road Fund has four major revenue sources that make up 94 percent of the revenue. They are:

Gasoline:	28%
Special Fuels:	26%
Weight/Distance:	21%
Vehicle Registrations:	19%.

The first half of calendar year 2008 has seen a gasoline decline response to increased prices. The forecast for gasoline is flat. The increases in special fuels, weight/distance and vehicle registrations in FY 2003 were due to enhancements designed specifically to provide funds for the \$1.6 billion GRIP debt service and some additional maintenance money.

Oil price increases are creating reduced demand for gasoline and are impacting the DOT's revenue. Forecasts have flattened out revenue from gasoline and other revenues, but growth in total revenues continues at a reduced rate.

The governor has proposed an appropriation of \$200 million for the DOT to cover the increased GRIP costs.

GRIP Update, Project Financing and Status

Max Valerio, chief engineer of the DOT, gave the committee members his handout that is in the meeting file. The legislators' questions and Mr. Valerio's answers were focused on individual projects in the legislators' districts.

Representative Tripp, noticing the increase in the cost of materials, asked how much of the inflated cost of materials was caused by dumping so much money into the system on so many projects simultaneously. Mr. Valerio explained that the DOT costs were below the national average up until 2007. National averages for inflation have been in the forties and fifties, while New Mexico averages have consistently remained in the thirties and forties. 2007 marks the first year that New Mexico matches the national average of 42 percent.

NMFA Operations, Budget and Investments

Mr. Sisneros, John Duff, chief financial officer, Chief Operating Officer Jerry Trojan and Greg Campbell gave the last presentation of the day. They gave the committee copies of the NMFA's annual report for 2007, which is in the meeting file. Mr. Valenzuela, present during yesterday's meeting, was unable to attend.

The NMFA's budget, which should be a historic document telling the story of the organization, was approved on June 26, 2008. The NMFA did well on its site visit by the rating agency. The NMFA's board continues to be active and forceful in giving guidance.

Mr. Trojan suggested combining the drinking water program with the clean water program to cross-collateralize them for bonds, which would require legislative authorization.

Mr. Sisneros explained that he wants to combine projects to create new pools of money that will be coordinated with the Department of Environment. Leveraging the money coming in will create a new supply of money.

Personnel costs from 2008 to 2009 are increasing by 10 percent, which reflects normal growth of salary positions and merit increases. Employee benefits are up nine percent, which would have been higher except that the NMFA changed its insurance carrier after the last one projected a 30 percent increase. In-state travel is also costing more because of the increase in the price of fuel. Teleconferencing and videoconferencing will help to reduce travel costs and the number of trips.

Mr. Sisneros is expecting a decrease in contractual services because of the creation of an in-house legal services operation, which is just beginning to pay benefits.

He blamed the increase in operating costs on higher rent paid for the NMFA's office space. A new server room with stand-alone air conditioning is another increased operational cost.

Representative Arnold-Jones noticed that the NMFA's web site does not have current audits posted. Mr. Trojan agreed to remedy the problem. Representative Arnold-Jones suggested that the committee create a subcommittee to meet with staff from the board. These members of the subcommittee would sign confidentiality agreements to look at troublesome issues that usually cannot be covered in public meetings for reasons of confidentiality. Mr. Sisneros suggested instead that the committee could be the body to which the NMFA brings its projects on a monthly basis, since the committee already has monthly meetings. Nondisclosure affidavits would be required.

Senator Papen thanked the committee members and staff and noted that Representative Campos is also the mayor of Santa Rosa and will be an excellent host for the committee's next meeting.

There being no further business before the committee, a motion to adjourn was made, seconded and passed with no opposition at 1:00 p.m.

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

September 15-16, 2008
Santa Rosa High School
Santa Rosa

The fourth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 9:10 a.m. on Monday, September 15, 2008, in the auditorium of Santa Rosa High School.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Joseph J. Carraro
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. David Ulibarri
Rep. Richard D. Vigil

Advisory Members

Rep. Jose A. Campos
Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Thomas A. Garcia
Rep. James R.J. Strickler
Rep. Luciano "Lucky" Varela

Absent

Rep. Elias Barela
Rep. Richard J. Berry
Sen. H. Diane Snyder
Rep. Don L. Tripp

Sen. Vernon D. Asbill
Sen. Pete Campos
Sen. Kent L. Cravens
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. Leonard Lee Rawson
Rep. Edward C. Sandoval

Rep. Sheryl Williams Stapleton
Sen. James G. Taylor
Rep. Thomas C. Taylor

Staff

Doris Faust, Legislative Council Service (LCS)
Larry Matlock, LCS
Tom Pollard, LCS
David Abbey, Legislative Finance Committee (LFC)

Guests

The guest list is in the original meeting file.

Monday, September 15

Call to Order and Welcome

Representative Campos greeted the committee in his capacity as mayor of Santa Rosa and was joined by Dan Flores, superintendent of Santa Rosa Public Schools. Committee members and staff introduced themselves.

Superintendent Flores gave a brief report on the status of Santa Rosa schools. Mayor Campos shared his pleasure in having the opportunity to show off Santa Rosa, also known as the "scuba capital of the southwest" and "the oasis on Route 66". On a more serious note, Mayor Campos indicated his hope that the state can catapult forward with renewable energy, and possibly nuclear energy as well, to create jobs and investment opportunities for the rural parts of the state, predicting that billions would be invested.

The committee acknowledged students from a U.S. government and history class, who observed a portion of the meeting as a part of the school's program to teach leadership.

New Markets Tax Credits

William Sisneros, chief executive officer of the NMFA, gave the committee his handout entitled "New Markets Tax Credit Program Overview". Marquita Russel, chief of programs, joined him for the presentation. Mr. Sisneros took a moment to introduce Phillip Webb, a new member of the staff at the NMFA who serves as the director of commercial loans.

Mr. Sisneros explained that the new market tax credit (NMTC) is a federal tax credit program that will be used to attract capital into areas of New Mexico that are not currently doing so. Finance New Mexico, a limited liability company managed by the NMFA and overseen by the State Board of Finance, will work with local banks and will establish attractive interest rates, thus improving cash flow for commercial lenders.

The NMTCs produce a 39 percent tax credit for investment in a project. Five percent is realized each year for the first three years. The rate goes up to six percent for the remaining four years, at which point the loan must be refinanced and paid back to allow the money to be available for another project. The NMTC will allow an investor to get a \$390,000 tax credit over seven years on an investment of \$1 million.

Ms. Russel said that NMTC availability is based on census data and the median income for the community. She pointed to a map of the state in the handout that has the low-income and high-stress areas of the state in dark orange. More than half of the map was orange, with large tracts in the northwest corner and the western part of the state south of I-40.

Forty percent of the tax credit investment is supposed to be in these rural areas, with 60 percent of the financing available for urban areas. There is a federal obligation to invest 75 percent of the money into the higher-distressed areas. Representative Silva noted that Mesa del Sol appears to be in a low-income area of the map.

Senator Papen asked about the next round of funding, which begins in 90 days, saying she has projects in her district that could use the money, but are not yet ready to spend it. Ms. Russel responded that money will only be available for projects that will be ready to close in 90 days, including appraisals and project development, and that have a financing mechanism in place. The NMFA has a limited time until September 2010 to use these credits and a firm deadline to implement the NMTC program.

She continued, saying that Finance New Mexico would use additional funds to supplement what the bank provides the borrower, with about 30 percent of the capital for the projects coming from the sale of the tax credit. The banks are generally in a very protected position in an NMTC transaction, with an average 70 percent loan-to-value ratio. "We come in with the money from the credits and lend the rest to the business."

Senator Harden asked about small communities that might not qualify as underserved or low income. Ms. Russel replied that the NMFA is developing a secondary program to assist smaller communities with smaller projects. Currently, only a project of \$4 million or more will benefit from the NMTC program. The projects needed by most small communities are not that big, usually ranging from \$500,000 to \$1 million. This separate program would benefit these small communities. Mr. Webb stressed the importance of making sure that lenders know which kinds of projects are compatible with the NMTC program.

The panel also described the Public Project Revolving Fund, which is the NMFA's flagship program, providing capital for roads, sewer lines, buildings, treatment centers and the RailRunner. Mr. Webb cautioned that the growing loan programs must be administered as safely as possible. He highlighted the necessity of making sure people in rural areas know of the existence of the loan program.

New Mexico Renewable Energy Transmission Authority (RETA) Update

Lisa Szot, executive director of the RETA, and Ted Apodaca, general counsel, were joined by Robert Busch, chair of the RETA board. Their handout, "RETA Implementation", is in the meeting file.

Ms. Szot gave a brief history of the RETA, which was created on July 1, 2007. The RETA can fund energy storage projects as well as transmission lines. Energy storage is necessary because of the intermittent nature of wind and solar energy. Stable power sources are necessary to augment renewable energy. At least 30 percent of the energy that travels down the lines constructed by the RETA must be from renewable sources.

One of the benefits of energy transmission projects is economic development, especially with projects with costs that range from the hundreds of millions to billions of dollars. Renewable energy needs to make its way to the customers to be of any value, which is not the way the current transmission grids are designed. In order to benefit from its vast resources of solar and wind power, New Mexico will need to create the paths to get its renewable energy to markets.

Ms. Szot has worked on transmission line projects in the eastern part of the United States and noted that it usually takes 15 to 20 years to complete a project. She reported that everyone fights transmission lines, but it has been easier to complete transmission line projects in the west.

The RETA's mission is to set up transmission to get renewable energy to the grid, but it is an expensive proposition. The only way to raise this much money is through the sale of bonds.

Representative Varela noted that the RETA needs a source of revenue to further renewables, and asked, "Why not consider energy taxes, like we have on oil, gas and coal?". Ms. Szot replied that taxing another form of energy is not in the RETA's purview, but that the authority is working with the governor's office on ideas to promote renewable energy, such as a carbon tax. The only way to raise this much money is through the sale of bonds.

Senator Ulibarri raised a discussion of building a nuclear power plant. Mr. Busch, a project manager who has actually built a plant, explained that the construction costs for nuclear energy are accelerating rapidly and that an 1,100 megawatt facility would cost over \$10 billion. "You would be lucky to get one built in seven years, even with support from the federal government." Representative Arnold-Jones mentioned a new technology for "right size reactors", but added that nuclear energy is not considered renewable by Secretary Joanna Prukop of the Energy, Minerals and Natural Resources Department (EMNRD).

Ms. Szot cautioned that the wind in the Texas panhandle is higher capacity, with more wind over a longer period of time, which would offer stiff competition to New Mexico. "We want the development here, not just because of the tax income for schools, but because the state is the dividing line between the western and eastern interconnections. There are currently only three places with equipment to allow power to cross back and forth."

The committee discussed the proposal by T. Boone Pickens. Ms. Szot cautioned that the Pickens plan would bypass the state's wind energy and would not be compatible with any New Mexico power generation because it would run direct current as opposed to alternating current.

Although the RETA can fund storage projects, Mr. Busch noted that storage technologies have not developed very much and are not competitive compared to hydroelectric storage. Representative Silva asked, "Why create energy to be sold to California? Why not sell to Santa Rosa?". Ms. Szot explained that this would be replacing cheap energy with expensive energy. She also noted that markets like California and Phoenix, Arizona, pay significantly higher prices for electricity. Representative Silva asked, "Why pay these billions of dollars for transmission? Why should we spend New Mexico money to provide power for Arizona and California?". Mr. Busch answered that the local utilities in Arizona and California would pay for the transmission lines. "But we benefit from the investment here and having the jobs here. You pay for it over 40 years, financed with long-lived bonds, and those customers can pay the transmission charges."

Representative Campos warned that future consumption of energy will more than double by 2035, which is why New Mexico needs to address these issues now.

Mr. Apodaca said that the RETA would seek endorsement of legislation at the final meeting of the NMFA Oversight Committee. He would like to amend the act to make it easier for the RETA to issue bonds. Currently, the act that created the RETA requires its funds to be held in the state treasury, which makes daily operations difficult, especially in paying invoices. He noted several impediments, including federal tax limitations, which would exclude many projects. He would like for the RETA to be able to offer tax incentives similar to what developers get with industrial revenue bonds, and he would like for the RETA to have an opportunity to become self-sufficient. Mr. Apodaca reported that to date, the RETA has no funds appropriated to it or to the Renewable Energy Transmission Bonding Fund. The RETA is unable under current law to establish a revolving fund, and it cannot acquire transmission lines on its own. All the RETA is, and all it can be, is a conduit for financing. It has no money to bring to projects, and it cannot borrow money because it has no way to pay back the loan. Without statutory authority to get one percent of the principal, the RETA will have no money coming in.

One project that the RETA is considering is for \$36 million to allow an extra 100 megawatts to flow over a path from the Willard Substation, which goes to Belen. The existing transmission line is already constrained and needs to be replaced with a higher-capacity line.

Tour of Wind Farm

Committee members, staff and audience members were invited to tour the Aragonne Mesa Wind Farm. Operations manager Darren Duran and site manager Casey Hollaway gave details about the windmills. The base of each is approximately 40 feet across, while the tower is 220 feet tall. The power produced will be the equivalent of 13 million gallons of stored water for a hydroelectric power plant. The newer turbines will generate 2.4 megawatts of power.

The farm was started in 2006 when roads were made and cable lines installed. Over 200,000 man-hours have been invested with no reportable injuries. Enough electricity for 20,367 homes will be produced. Each windmill costs between \$1.2 and \$1.4 million in 2006. The transformers contain no polychlorinated biphenyls (PCBs), using mineral oil instead. A permanent staff of 10 maintains the windmills.

The committee returned from the tour at 3:19 p.m.

Renewable Energy Opportunities in New Mexico

Secretary Prukop of the EMNRD began her presentation as soon as the tour concluded. Her handout, "Growing New Mexico's Renewable Energy Industry", is in the meeting file.

In addition to wind and solar energy, Secretary Prukop talked about deep source geothermal energy, which heats steam to power a turbine by running water in pipes deep below the earth's surface in areas with geothermal activity. Geothermal energy is not intermittent and is very stable. Secretary Prukop described the burning of biomass as an alternative energy source, noting that material from the thinning of forests and the destruction of dairy waste is burned to generate electricity.

Solar energy from solar thermal troughs and solar power towers can generate power on a commercial scale, although wind energy is much more cost-efficient. The one thing all of these different energy sources have in common is that they all require transmission lines, which is the bottleneck in renewable energy.

Secretary Prukop said that the state needs strong policies that support renewable energy while protecting the environment with the renewable portfolio standard and climate change initiatives. She recommended offering incentives to individual homeowners that install solar panels on roofs and to large industries with acres of roof space for solar panels. She predicted that, eventually, every roof in the nation would have solar panels.

She encouraged legislators to fund the Energy Innovation Fund to move some of the renewable energy projects from research and development into commercialization, with an additional carveout for the solar part of the production tax credit. There is currently a cap of \$20 million per year, and no more applications for wind will be accepted until the first project expires in 10 years. "Florida Power and Light built the wind farm you inspected today, and we are paying \$4 million per year to that enterprise in tax credits."

Mark Finochario, president and CEO of Schott Solar, appeared before the committee instead of Zane Rakes, director of operations. Mr. Finochario gave an overview of the manufacturing company, which primarily manufactures glass for solar energy applications. Schott Solar has a facility in Massachusetts, a sales office in California and a manufacturing facility is underway in Albuquerque. New Mexico was selected because of its high level of cooperation at all levels, including the state, county and city, to assemble a package of incentives. Mr. Finochario reported that the general infrastructure here is business friendly.

There are currently only two manufacturers of solar thermal receiver tubes, and Schott Solar is one of them. Two-thirds of the Albuquerque factory will be dedicated to building the tubes. There are three production lines now, with plans for 14 or 15. If the company continues to execute those plans, by 2012 the company should have 1,500 employees. The first product is expected to be shipped to customers in April or May 2009.

Lynn Greene of Eurus Energy described some of the reasons that New Mexico will be a major competitor for renewable energy. New Mexico is the closest energy generation state to markets in Arizona and California and the closest wind resources, as well as the Four Corners energy hub, which accesses the highest price in the United States. This is why Eurus has decided to invest \$700 million in Guadalupe County. The Eurus wind farm project will be the biggest wind farm in the state, three times bigger than the one toured by the committee. The company intends to build on both sides of I-40, with an information center for tourists to try to get them off the highway and into Santa Rosa. Lynn Green noted that Steve Moise, a local landowner, was instrumental in convincing the company to move to Santa Rosa.

Jiddu Tapia, vice president of the company, and Nick Hendrickson, an economist, were also present. Mr. Hendrickson said, "We'll have 190 turbines, the largest project in the state, with 298.5 megawatts of capacity." Mr. Tapia noted that in the interconnection queue, the next wind farm will have to make a \$200 million upgrade to the state's transmission grid, which is not profitable. "We had to pay \$56 million to upgrade Public Service Company of New Mexico's

system. No other wind farm will be able to afford the \$200 million." He complimented Secretary Prukop and Ms. Szot for the first-rate work being done on expanding transmission capacity.

Lynn Greene noted that the company will need to apply for industrial revenue bonds, which is not necessary elsewhere in the United States.

The committee recessed at 5:45 p.m.

Tuesday, September 16

The meeting was called to order by the chair at 8:08 a.m. Representative Campos, acting in his capacity as mayor of Santa Rosa, presented the area's infrastructure and economic development needs. Mayor Campos reported that Santa Rosa used to focus on getting people off the interstate, but is now recruiting small business to locate in the town. As an incentive to locate in the area, Mayor Campos noted that a T-1 line is available on very short notice. He mentioned the new dive facility, which helps the town compete against other states like Texas, Utah and Colorado. The declining national economy has caused a 20 percent decline in tourism, which will directly affect the municipal government. Police officers and the public library will have their hours cut.

Santa Rosa needs a new water treatment plant. Cost of construction of a plant started at \$1.8 million and went up to \$3.6 million, and when the new Environmental Protection Agency regulations came out, it went up to \$8 million.

City administrator Tim Dodge said every engineer the town hired had a different opinion on the treatment process necessary for the water treatment plant. The panel agreed that Santa Rosa should not have to figure out which plant will work because it is an unfair burden on a small community. Mayor Campos added, "The EPA needs to tell us which design will work. That would simplify our process."

Mayor Campos cited the town's shortage of doctors, having only three, staffing the state's smallest hospital. The town is also trying to find funding for a new hospital. Christina Campos, president-elect and acting president of the MainStreet program and a hospital administrator, asked the committee to support the new hospital with capital outlay funds.

John Nuttall, manager for De Baca County, presented the county's needs, including \$300,000 for construction of a new transfer station, \$300,000 for additional equipment, including a truck and trailer to haul roll-off containers, and a dump truck to do additional roll-offs for recyclable items. Two million dollars is needed for a new jail and \$1.5 million is needed for a new courthouse and city hall annex. One hundred fifty thousand dollars could pay for hybrid vehicles for county and village staff to attend meetings, most of which are out-of-town. Mr. Nuttall's handout is in the meeting file.

Richard Primrose, Quay County manager, would like to add some space for juvenile detention facilities, as well as some road equipment. Bill Curry, Quay County commissioner, asked for help from the legislature for an overhaul of the county courthouse. Quay County's

handout, a plastic-bound book, is in the meeting file. Amounts required and details of the requests are included.

Tucumcari city manager John Sutherland suggested renewing, restoring, replacing and rebuilding infrastructure from previous decades, especially water systems, wellfield rehabilitation, transmission lines and sewer systems.

Behavioral Health Capital Fund Update

Mark Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA, was joined by John Brooks, senior financial advisor for the NMFA, and Karen Meador, senior policy director for the Human Services Department (HSD). Their handout, entitled "Behavior Health Capital Fund", is in the meeting file.

The Behavioral Health Capital Fund was created during the 2004 legislative session by Senate Bill 284, sponsored by Senator Papen, to fund projects that:

- finance the capital needs of behavioral health service providers; and
- are from nonprofit behavioral health service providers with assets of \$10 million or less.

Senate Bill 52 from the 2005 legislative session authorizes the NMFA to capitalize the fund with \$2.5 million from the cigarette tax revenue bonds.

The NMFA will provide financial analysis of the qualifying clinic, determine the appropriate loan structure, protect the long-term health and longevity of the program, make recommendation of the application to the committee and administer the fund, while the HSD will evaluate the application for eligibility, determine the programmatic priority of the project and collaborate with the NMFA to ensure appropriate use of the loan fund.

So far, four applications have been received. They are from Las Cruces, the tri-county Taos area, Santa Fe and Albuquerque. They will encumber \$2.5 million of the fund. The board of the NMFA has approved one project thus far.

GRIP Update/NMFA Procurement Process

Mr. Valenzuela remained at the presenters' table for the next presentation. His handout, "Summary of Financing Assumptions for the GRIP Program", is in the meeting file. Mr. Sisneros joined him for his presentation.

Mr. Valenzuela explained that the final round of \$485 million in bonds would be issued in 2010. "We intend to finish by 2030."

Representative Lundstrom asked about a \$200 million line of credit. Mr. Valenzuela testified that the Department of Transportation (DOT) has to show it has cash in the bank before the federal government will allow it to let a contract. A line of credit would be a good solution, because the DOT would not have to pull the money down, although more time will be needed to examine the new reimbursement procedures.

Jerry Trojan of the NMFA discussed the NMFA's procurement process. Mr. Sisneros described a transaction in 2003 with CDR, a California company that provided technical advise on swap transactions. The U.S. Justice Department is investigating CDR and has requested cooperation from the NMFA.

There being no further business before the committee, it adjourned at 12:22 p.m.

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

**October 9-10, 2008
Mid-Region Council of Governments Building
809 Copper Ave. NW
Albuquerque**

The fifth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 9:15 a.m. on Thursday, October 9, 2008, at the Mid-Region Council of Governments Building in Albuquerque.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Richard J. Berry
Sen. Joseph J. Carraro
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Don L. Tripp
Rep. Richard D. Vigil

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Thomas A. Garcia (10-9)
Rep. Roberto "Bobby" J. Gonzales
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Absent

Rep. Elias Barela
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. David Ulibarri

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Sen. Kent L. Cravens
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia
Sen. Stuart Ingle
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. Leonard Lee Rawson
Rep. James R.J. Strickler
Sen. James G. Taylor
Rep. Thomas C. Taylor

(Attendance dates are noted for legislators not attending the entire meeting.)

Staff

Doris Faust, Legislative Council Service (LCS)

Larry Matlock, LCS

Tom Pollard, LCS

Guests

The guest list is in the original meeting file.

Thursday, October 9**Call to Order**

Senator Papan called the meeting to order and asked the committee members to introduce themselves.

Welcome and Report on Albuquerque Capital and Infrastructure Issues

Mayor Martin Chavez gave the committee members a warm welcome before he warned them that the city would need to "tighten its belt" while still getting capital outlay funds on the street. Mayor Chavez reported that Albuquerque is facing a \$12.5 million deficit with no good financial news on the horizon.

The city council recently approved a tax increment development district (TIDD) to allow the project at Winrock Mall to proceed to the second phase. The city needs to do something about Winrock Mall, which is mostly empty and has been called an eyesore and a blight. The mayor wants to use the city's gross receipts to build new roads and a connection to mass transit, leveraging the funding.

Mayor Chavez reported that the city had sold its airport bonds the previous week, which had been a matter of concern because of the current market conditions. Credit will become more problematic, and operational budgets will have to decrease.

Mayor Chavez closed his presentation by encouraging partnerships on a regional basis. Upon questions from the committee, he explained that a TIDD lets the city keep a portion of the taxes generated by a developer's investment and devote that portion to infrastructure in the district. Mayor Chavez said that "TIDDs help us to avoid the mistakes we made on the west side of Albuquerque, where we have been playing infrastructure catch-up for 10 years".

He spoke of meeting the new chief executive officer of Eclipse Aviation, who told him that the company makes two jets and will continue to manufacture one of them in Albuquerque, which might mean more jobs after three months to retool the assembly line. On a positive note, Mayor Chavez reported that even if Eclipse Aviation went away tomorrow, it has highlighted New Mexico as a center for technology and upgraded the infrastructure, which is here permanently.

Representative Arnold-Jones asked about group homes, where investors buy residences that escape state regulation by housing three or fewer patients, noting that some of the neighborhoods in the Northeast Heights have as many as eight of these group homes on one

block. Mayor Chavez responded that he is aware of the problem, but since the group homes are state funded, the responsibility for them remains with the state.

Speaker Lujan commented that capital outlay and gross receipts tax go hand-in-hand, that the City of Albuquerque has a lot of outstanding capital outlay projects and that projects have been completed, but the money is outstanding.

Border Authority Legislative Proposals

Jaime Campos, executive director of the Border Authority, and Deputy Director Emma Johnson-Ortiz provided an update on recent developments in the border region. Ms. Johnson-Ortiz was excited to tell the committee that groundbreaking on the Mexican side of the border had taken place for a mega-project by a manufacturer of electronic equipment, establishing operations a few yards away from the authority's new building at the border.

It is the first of four phases that will hire 9,300 workers, with as many as 20,000 on the Mexican side in the next few years, attracting maquiladoras to the Santa Teresa area, as well as suppliers, retailers and distribution centers. The grand opening for the new building will be February 25, 2009.

Senator Papen asked about the cattle crossing at Santa Teresa. Mr. Campos explained that it is the best cattle crossing, and it is even better because it does not pollute. Although the cattle crossing was closed because of fears of mad cow disease, it was only temporary, and that crossing is open now.

Representative Silva asked what the rail crossing would mean for New Mexico. Mr. Campos explained that one train has the potential to keep 300 trucks off the road. Ciudad Juarez is the mega-park of auto parts manufacturers, but more would locate there if a rail line were available. "It will have to be a combination of public and private investment", he said, noting that a bid is being put out for a maritime port in Baja California because the port in Long Beach, California, is not sufficient. It will be completed by 2014.

Ms. Johnson-Ortiz informed the committee that the authority will ask for three pieces of legislation for the 2009 legislative session, dealing with these issues:

- excepting the Border Authority from the Property Control Division of the General Services Department;
- removing conflicts in statute regarding the authority's power to develop; and
- it will be about issuing revenue bonds, although this bill is not ready.

With regard to the proposed bill on bonding issues, Representative Lundstrom asked, "If the revenue sources are dependent on development, the businesses in the foreign trade zone and the state of the economy, what's the back-up plan if the revenue sources don't come in?". Mark Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA, said that the debt is not paid by the state. "If the NMFA takes on the debt, the state isn't responsible for paying it back. The Border Authority is allowed to issue bonds on its own or through the NMFA.". Mr. Campos said this would be the subject of the third bill, which would be worked out at the end of November.

Ms. Faust reminded the committee that all four authorities had been given notice that all bills for committee endorsement must be requested soon enough so that they may be mailed out to the committee members at least 10 days in advance of the December meeting.

Renewable Energy Transmission Authority (RETA) Legislative Proposals

Lisa Szot, executive director of the RETA, appeared before the committee with General Counsel Ted Apodaca. She repeated her request made at the September meeting to support an upgrade in transmission capacity at the Willard substation on the Belen-to-Willard line. Her handout, which is in the meeting file, listed several concepts that have been discussed with the governor's administration, although no draft legislation has yet been approved for release. The concepts are:

- establishing funding sources to enable the RETA to meet its mandate;
- creating tax incentives to get access to the RETA's financing capabilities;
- authorizing the RETA's bonds to be purchased as an investment for the Public Project Revolving Fund and other money invested by the NMFA;
- authorizing the NMFA to provide credit enhancements under the NMFA economic development program and list the RETA as an entity for which the NMFA may make a loan guarantee;
- authorizing the NMFA to issue bonds on behalf of the RETA, identifying projects as "qualified projects" under the Public Project Revolving Fund to facilitate access to that funding source;
- improving the RETA financing and administrative operations; and
- enhancing the RETA bond terms and conditions to improve marketability.

The committee discussed the concepts and their implications, especially regarding the lack of oversight. Mr. Apodaca mentioned that the RETA would issue regulations for the types of procurement policies it adopts.

Speaker Lujan noted that although the Public Regulation Commission regulates a lot of pipelines, the legislature has not given it a direct revenue stream. All of the commission's budget comes from the general fund. Speaker Lujan further said, "Your request is twofold. You want your own bank account, and then you want to come to the legislature for a direct appropriation instead of going through the environmental department."

Senator Snyder expressed concern over giving the RETA that much authority and independence.

The committee recessed for lunch and returned at 2:00 p.m.

NMFA Legislative Proposals

Bill Sisneros, chief executive officer of the NMFA, and Mr. Valenzuela presented the authority's 2009 legislative agenda, which includes:

- appropriation requests:
 - \$2 million for a state match to the Drinking Water State Revolving Loan Fund, which will bring in \$8.5 million from the federal government; and
 - \$2 million for the Local Government Planning Fund from the Public Project Revolving Fund (PPRF);

- authorization legislation;
- PPRF authorization bill;
- the SmartMoney authorization bill;
- the Water Trust Board;
- the amendments to the PPRF to clarify the NMFA's ability to issue bonds for the RETA, UNM hospital and charter schools;
- a memorial to study the use of moral obligation as a backstop to NMFA bonds as a method to gain AAA rating and minimize cost; and
- non-NMFA legislation:
 - development of a charter school financing entity;
 - enhancement to the Rural County Cancer Treatment Fund by increasing the share of the cigarette tax; and
 - the ability to use the Emergency Medical Services Fund as a security revenue stream for NMFA loans.

Review and Comparison of Tax Increment Development Districts (TIDD)

Olivia Padilla-Jackson, director of the State Board of Finance, and Dan White, economist with the Legislative Finance Committee (LFC), began their presentation. Each gave the committee a handout, as well as a single-sheet side-by-side comparison. Laird Graeser, economist for the Department of Finance and Administration (DFA), and Norton Francis of the LFC joined them at the presenters' table.

Mr. White began the presentation with background and an update on the Mesa del Sol TIDD project, which is the only TIDD thus far that has received almost \$1 million in a gross receipts tax increment. The five governing districts can bond up to \$500 million, as approved by the legislature in 2007.

SunCal has not received bonding authorization and has not received any gross receipts taxes because a governing board has yet to be established. The newest TIDD has been approved for a 75 percent increment of gross receipts tax by the city council. Dick Minzner, lobbyist, was introduced by Will Steadman with SunCal. Mr. Minzner was at the meeting to talk about the tax benefits received by the state, noting that "...there was a personal income tax, a capital gains tax paid by the heirs. It had a zero base and all of the \$250 million was capital gain. Some were not New Mexico residents, but state government and the state economy benefited from the money spent."

Mr. White explained that the Winrock TIDD proposal is actually run by two separate companies, one by Winrock and one by Quorum. Each district can get a different increment. One might ask for a 75 percent increment, others for more or less. The numbers come from the TIDD development plan.

Representative Lundstrom asked what the time frame would be if only four of the TIDDs are approved. Mr. Graeser responded that the approval is for the state increment. The county has fully approved the master plan for all nine TIDDs. The approval of the four districts' use of the state tax increment should not have a material slowing-down effect on the overall pace of the development. Mr. Steadman added that the approval of the state component affects the progress, expediting the installation of the infrastructure needed to serve the facilities.

Ms. Padilla-Jackson said that a rule had been adopted at the last meeting of the State Board of Finance to allow for a 30-day public comment period. There are 24 community groups interested, the main input being from developers. The rule will take effect on October 15, 2008 and addresses timelines, internal methodology and the establishment of reporting requirements.

Representative Lundstrom requested a bill to be drafted to increase state oversight of the TIDD program. There being no objection, the motion passed.

Winrock/Quorum Town Center Tax Increment Development District Proposal

Michael Kelly with Winrock Partners, LLC, began his presentation at 5:00 p.m. His handout, "Winrock/Quorum Town Center Re-Development Project", is in the meeting file.

Mr. Kelly explained that, with respect to this particular TIDD application, there are \$4.00 or \$5.00 of private money for every dollar of proceeds going in. The handout contains maps of TIDDs one through three.

The benefits to the state will include increased tax revenues from construction and increased employment. The project will generate \$8.3 million in additional annual gross receipts tax after the bonds are retired and an additional \$582,000 in annual gross receipts tax while TIDD bonds are outstanding. Three thousand three hundred retail jobs are involved, with 1,700 additional professional jobs to be filled by company expansions and relocations. Twelve thousand seven hundred sixty-five construction jobs over an eight-year period are expected.

Of the 450,000 square feet available in the old Winrock Mall and the abandoned motel, 400,000 will be torn down. Mr. Kelly mentioned that someone trying to steal copper wire from one of the vacant buildings was nearly electrocuted while attempting to steal a live transformer. He said that urban renewal is a thing of the 1970s, and currently there is no other way to revitalize the property without the TIDD. The current tenants of the property are Dillard's, Sports Authority and Bed, Bath and Beyond.

The committee recessed at 5:41 p.m.

Friday, October 10

The meeting was called to order by the chair at 8:40 a.m.

Overview of Local Capital Projects and Capital Needs

Thaddeus Lucero, Bernalillo County manager, said his first priority is the jail, which will be financed by requesting additional taxing authority for gross receipts tax. The current facility is almost at maximum capacity with 2,750 inmates. "We are going to have to start turning away prisoners that should not be turned away."

The other priorities for Bernalillo County include:

- \$500,000 for construction on Eubank Boulevard;
- Raymond G. Sanchez Community Center improvements;
- a public safety academy;
- an animal care facility; and

- a large, multipurpose facility in Tom Tenorio Park.

Senator Papen asked Mr. Lucero if a mental health evaluation is performed on those entering the jail. He replied that they get a medical evaluation within 24 hours, and if they are on psychotropic medications, they are transferred to a psychological unit. He noted that the percentage of inmates awaiting a court date was at least 50 percent.

Representative Swisstack, serving in his capacity as the mayor of Rio Rancho, gave the committee copies of his handout. His top projects are:

- \$42 million to equip Well 23, which has already been drilled to provide service to the north central area;
- \$15 million to widen Northern Boulevard from two to four lanes between Acorn Loop and 34th Street;
- \$34 million to pay for planning, design and construction of two lanes on Paseo del Volcan;
- \$35 million for phase 2 of a project to widen Unser Boulevard from Farol to Progress Boulevard;
- \$2,972,736 for a water tank at Enchanted Hills West to provide additional storage and fire flow protection; and
- \$11,500,000 to extend 30th Street from Italia to Paseo del Volcan to provide better access to Rio Rancho's "new downtown".

Details for each project are in the handout.

Representative Lundstrom noted that the majority of the funding requests were federally based, and that the federal government has been more willing to invest in mass-transit projects. She said that at a National Conference of State Legislatures meeting in New Orleans, a national infrastructure committee had been proposed. She asked staff to consider if such a committee would be appropriate for the New Mexico Legislature.

Louis Honing, mayor of the Village of Los Lunas, gave the committee his priorities in a handout; a copy is in the meeting file. Los Lunas projects include:

- \$2,219,480 to widen New Mexico 314 from Main Street to Courthouse Road;
- \$500,000 to design and construct 200 new parking spaces and resolve water retention issues east of the current station parking lot (Rail Runner);
- \$5 million for phase II construction of an intermodal transportation center; and
- \$979,739 to create a second river crossing with a 16-inch main water line.

Fifteen more projects are listed in the handout.

David Lopez of the Belen City Council presented his community's needs, including:

- a new water storage tank;
- storm drain improvements;
- redrilling well #5; and
- Llano improvements on the south side of the exit.

Corrales Mayor Philip Gastayer gave the committee his handout, which is in the meeting file. His community's top five needs are:

- \$1.4 million to develop playing fields and a playground on unimproved land in Salce Park;
- \$2 million over five years for a central water system or hydrants for fire suppression, especially in the bosque;
- \$500,000 for information technology for the village offices;
- \$2 million over five years for repairs to residential roads and drainage; and
- \$800,000 over two years for farmland preservation.

Bryan Olguin, Mayor of Peralta (New Mexico's newest municipality, incorporated in 2007), gave the committee his handout, containing the town's top five capital outlay projects:

- \$230,000 for administrative facilities at 2615 Highway 47;
- \$50,000 for consultant services to develop a comprehensive plan for zoning, permitting, nuisance abatement, animal control, law enforcement, water and wastewater planning;
- \$4,282,500 to extend a sewer line from Peralta Elementary School to the southern boundary of Peralta along Highway 47, about 1.75 miles;
- \$180,000 for a fire department vehicle to transport personnel; and
- \$2,454,250 for a traffic mitigation plan, including the redesign and construction/resurfacing of several residential streets and the acquisition of road maintenance equipment.

Approval of Minutes and Committee Business

Representative Saavedra moved to approve the minutes from the committee's third meeting. Representative Silva seconded, and, there being no objection, the motion passed.

Transit District Gross Receipts Tax Increment Proposal

Lawrence Rael, executive director of the Mid-Region Council of Governments, began his presentation at 11:16 a.m. His handout, which gives the details of the Rio Metro Plan to coordinate transit in the region, is in the meeting file. The bill, which gave local governments the authority to form regional transit districts, resulted in the Rio Metro District and the North Central Region. The Rio Metro District consists of Sandoval, Bernalillo and Valencia counties. Jack Valencia from the North Central Region joined Mr. Rael at the presenters' table. Mr. Rael noted that roads are built to move equipment, not people. "A few people driving cars take up a lot of space on the roads. Putting people into mass transit will open up much-needed space." He asked for \$20 million for mass transit projects in the district.

New Mexico First Town Hall Meeting Report

Secretary of Transportation Rhonda Faught brought nine members of her staff, including the deputy secretary of the department, for her presentation. Her handout is in the meeting file. The recommendations generated by the meeting include:

- developing a comprehensive plan;
- educating the voting public;
- creating government partnerships for future developments;
- enabling public/private partnerships;
- spending transportation-related revenues on transportation needs;
- redirecting taxes from transportation projects to the State Road Fund;
- increasing infrastructure funding;
- increasing transit funding;
- indexing taxes to account for inflation;
- establishing a permanent transportation fund; and
- continuing to study funding options.

Representative Lundstrom moved that the chair appoint a subcommittee to come up with proposed legislation for the NMFA Oversight Committee to consider at its final meeting, including people who participated in the New Mexico First Town Hall Meeting. Representative Silva seconded the motion, which passed on a vote of 11 to 2. Representative Saavedra and Senator Rainaldi voted against the motion.

Senator Papen asked what legislation the governor would want for the 2009 legislative session regarding the Department of Transportation. Secretary Faught replied that she did not have the governor's recommendations and might not get them until the session begins.

Spaceport Authority Legislative Proposals

Matthew Woodlee, director of international trade for the Economic Development Department (EDD), began his presentation at 12:29 p.m. His presentation was very brief because the committee was scheduled to take a tour of local TIDDs at 12:30 p.m., and Senator Papen had warned the presenters and committee members that the tour would start on time.

Mr. Woodlee listed the three pieces of legislation that his department would request for the 2009 legislative session:

1. a confidentiality bill, allowing the Spaceport Authority not to disclose proprietary information (Senate Bill 99 from the 2008 legislative session);
2. changing the name to "Spaceport America"; and
3. addressing liability issues in the personal space flight industry to allow for informed consent.

Mr. Woodlee concluded his presentation, at which time the committee members and staff boarded a bus for the tour.

Tour of Existing and Proposed Tax Increment Financing Districts: Mesa del Sol, SunCal and Winrock

Vanessa Alarid led the tour of SunCal. Her handout is in the meeting file. The committee did not visit Mesa del Sol because most of the members had already seen it during the meetings

of other interim committees. The bus took the members and staff to see the emptiness of Winrock Mall and Mr. Kelly of Winrock Partners pointed out the motel, which continues to be a security problem.

The tour ended and the committee adjourned at 2:45 p.m.

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

**December 4-5, 2008
Room 322
State Capitol, Santa Fe**

The sixth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 10:08 a.m. on Thursday, December 4, 2008, in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Richard J. Berry
Sen. Joseph J. Carraro (12-4)
Sen. Clinton D. Harden
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Don L. Tripp
Sen. David Ulibarri (12-4)
Rep. Richard D. Vigil

Absent

Rep. Elias Barela
Rep. Dona G. Irwin

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Dianna J. Duran (12-4)
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Richard C. Martinez
Rep. Edward C. Sandoval
Sen. James G. Taylor (12-4)
Rep. Luciano "Lucky" Varela

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Sen. Kent L. Cravens
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. Leonard Lee Rawson
Rep. Sheryl Williams Stapleton
Rep. James R.J. Strickler
Rep. Thomas C. Taylor

Also in Attendance

Rep. Andrew J. Barreras (12-5)

(Attendance dates are noted for legislators not attending the entire meeting.)

Staff

Doris Faust, Legislative Council Service (LCS)

Larry Matlock, LCS

Tom Pollard, LCS

Guests

The guest list is in the meeting file.

Thursday, December 4**Call to Order**

Senator Papen called the meeting to order and proceeded immediately to the first presentation.

Border Authority Legislative Proposals

Jaime Campos, executive director of the Border Authority, presented a bill, identified as .174524.1 or letter "A" in the book of proposed legislation, that would give the Border Authority the authority to operate a project as a business. Emma Johnson Ortiz, deputy director, explained that because the Border Authority does not have a revenue stream to pay back bonds, it cannot incur debt. Although the authority has \$250,000 in capital outlay funds set aside, the funds cannot be expended until this proposed bill is enacted. Secretary of Economic Development Fred Mondragón added his support for this bill.

Representative Lundstrom moved to endorse the bill. Representative Saavedra seconded. There being no objections, the motion passed. Senator Papen agreed to sponsor the bill. Representative Varela expressed his desire to sign the bill as a co-sponsor.

With regard to the proposed bill to take the Border Authority out from the jurisdiction of the Property Control Division of General Services Department (GSD), identified as .174615.1 or letter "B" in the book of proposed legislation, Ms. Ortiz said that the GSD had been delaying paperwork that would allow power to be turned on in its new building and recommended that the committee endorse this bill to fix the problem. The vote on endorsement of this bill was delayed until a representative of the Property Control Division could address questions. Secretary Mondragón added that the Border Authority is well-qualified to run its own projects.

Larry Miller, deputy director of the Property Control Division, reported that the division does not oppose the bill, noting that some of the things that the Border Authority wants to do are not within the expertise of the division. Mr. Miller described the functions and duties of the division.

Senator Martinez moved to endorse the bill. Representative Lundstrom seconded the motion, which passed with no objection. Senator Papen will also carry this bill.

Spaceport Authority Legislative Proposals

Daniella Glick, deputy director of the Economic Development Department (EDD) and chair of the Spaceport Authority Board, presented a bill that would protect some of the proprietary information that private companies turn over to the Spaceport Authority, exempting it from disclosure. This bill is identified as .174470.1 or letter "C" in the book of proposed legislation. The bill had been introduced previously and died. Representative Vigil moved to endorse bill "C". Representative Lundstrom seconded. Senator Harden voted against endorsement. There being no other objections, the motion passed. Representative Gonzales agreed to sponsor it.

Secretary Mondragón presented a bill that would change the name of the Southwest Regional Spaceport to "Spaceport America" for trademarking purposes, identified as .174467.1 or letter "D" in the book of proposed legislation. Senator Snyder moved to endorse the bill. Senator Martinez seconded the motion, which passed without opposition.

Ms. Glick continued with a bill to limit liability for space flight entities, identified as .174475.1 or letter "E" in the book of proposed legislation. Steve Landeene, executive director of the Spaceport Authority, explained that the states of Virginia and Florida had already passed a similar version of the legislation, saying that California and Oklahoma are expected to follow suit. The bill would provide immunity from tort liability for the agency from those people paying to travel above the atmosphere. Ms. Glick provided the committee with additional language that the authority wanted in the findings and purpose section of the bill.

In response to questions from the committee about whether this immunity would extend to fuelers and outside contractors, Ms. Glick explained that the immunity would only apply to an actual carrier, such as Virgin Galactic.

Senator Snyder moved to endorse the bill as amended in the purpose section, and Senator Martinez seconded the motion, which passed without opposition. Senator Harden agreed to sponsor this bill.

Proposed Tax Increment Development District (TIDD) Bill

Dan White, economist with the Legislative Finance Committee (LFC), and Ms. Faust, staff attorney for the LCS, presented a bill making technical corrections and providing more oversight for tax increment development districts, identified as .174320.1 or letter "F" in the book of proposed legislation. They explained that the bill would require resolution materials for a TIDD to be available to the public electronically.

Mr. White noted that the law currently does not provide for state representation on a TIDD board once it has been established, meaning that after legislative approval has been gained, the state has no say over what happens to the money, which makes it difficult for proper enforcement. The bill would change the structure of the board to include representation for the state.

Representative Lundstrom moved to endorse the bill. Representative Saavedra seconded the motion, which passed with no objections. Representative Lundstrom will introduce this legislation.

Approval of Minutes and Committee Business

Representative Vigil moved to approve the minutes from the September and October meetings. Senator Rainaldi seconded the motion, which passed without objection. The committee recessed for lunch and returned at 1:42 p.m.

Rural Municipality Audit Requirements

State Auditor Hector Balderas explained that the complicated audits required for governmental entities like the city of Albuquerque or the University of New Mexico are very expensive and that there is a lack of auditors qualified to conduct them. Small towns and villages are currently required to comply with the same level of audit if they receive capital outlay funds from the state. A small village might have to pay \$12,000 for an audit just because it received capital outlay funds for \$20,000. Because of the expense and the difficulty in convincing auditors to work in rural areas, many villages are not in compliance with their audit requirements. A task force was assigned to examine these difficulties and make some recommendations, which may find their way into legislation at a later time.

Approval of New Mexico Finance Authority Rules for the Acequia Project Fund

After a presentation by Senior Program Administrator Jana Egbert describing the proposed rules for the Acequia Project Fund, Senator Harden moved to approve the new rules. Senator Ulibarri seconded the motion, which passed without objection. The committee acknowledged and thanked Trudy Healy, who provided a substantial endowment to the fund.

Issues Affecting Local Governments Relating to Decreased Capital Outlay Funds, Transportation Needs, Construction Cost Inflation, Blight, Regulations, Water Infrastructure Needs and Taxing Authority

William Fulginiti, executive director of the New Mexico Municipal League, was joined by Paul Gutierrez, executive director of the New Mexico Association of Counties, and Lawrence Rael, executive director for the Mid-Region Council of Governments. Their handouts are in the meeting file.

Mr. Fulginiti discussed the need for a main street stimulus program, noting that in one-third of the state's communities, the need exceeds \$750,000. State support of local communities through capital outlay is critical. Mr. Fulginiti discussed local government revenue sources, noting that the gross receipts tax revenue is declining due to the economic downturn. The property tax still has additional capacity, but this is an unpopular tax and not always an efficient revenue source.

Mr. Gutierrez began his discussion of issues affecting New Mexico counties by reporting that jail funding is a substantial problem. Court orders emanating from two major lawsuits have mandated that jail populations be reduced. There is also a lack of qualified psychiatrists willing to work in the jails, so that it is impossible to comply with the requirements. He noted that all three branches of government will need to work together to address these problems. Mr.

Gutierrez also discussed other issues of concern to counties, such as property tax inequities, local match requirements for road funding and the cost of local elections.

Mr. Rael explained some of the difficulties local governments have in monitoring capital outlay projects. Large entities like the city of Albuquerque and Bernalillo County are big enough to have enough staff to monitor their programs, while smaller communities do not have the resources necessary to keep up. After a discussion on the details of ensuring project readiness, the committee moved to the next presentation.

Drinking Water State Revolving Loan Fund Bond Program

Marquita Russell, chief of programs for the NMFA, was joined by Michael Venderhyde, Jennifer Sanchez and Jonathan Brooks for her presentation. Ms. Russell explained that the loan fund was created through the federal government in 1996 to help fund essential water projects like water treatment programs. Her handout is in the meeting file. Mr. Brooks explained that there is a checklist that looks at the three major elements for each project, including managerial expertise, technical expertise and financial readiness.

The committee recessed at 5:07 p.m.

Friday, December 5

Call to Order

The meeting was called to order at 9:12 a.m. Senator Papen. Senator Papen turned control of the meeting over to the vice chair, Representative Silva, as it was his last meeting on the NMFA Oversight Committee.

NMFA Legislative Proposals

Mark Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA, began his presentation, saying the NMFA has four proposals. Gloria Castillo and Tracey Davis helped him with the presentation.

The committee endorsed a bill that authorizes projects from the NMFA's Public Project Revolving Fund, identified as .174459.1 or letter "G" in the book of proposed legislation. Additional projects will be added to the bill prior to its introduction. Representative Lundstrom moved to endorse the bill. Representative Saavedra seconded the motion, which passed with no objection. Representative Varela offered to introduce the legislation.

The committee also endorsed a bill that authorizes projects from the Economic Development Revolving Fund, identified as .174458.1 or letter "H" in the book of proposed legislation. Representative Saavedra moved to endorse the bill. Representative Powdrell-Culbert seconded the motion, which passed with no opposition. Senator Papen agreed to sponsor the legislation.

Mr. Valenzuela described an appropriation bill that would appropriate \$2 million from the general fund to the Drinking Water State Revolving Loan Fund, identified as .174464.1 or letter

"I" in the book of proposed legislation. After a proper motion seconded by Representative Varela, the committee voted to endorse bill "I". Representative Varela will introduce this legislation.

The last NMFA bill, identified as .174457.1 or letter "J" in the book of proposed legislation, would appropriate \$2 million from the Public Project Revolving Fund to the Local Government Planning Fund to fund water or wastewater system development and other priorities. Representative Lundstrom moved to endorse the bill. Representative Vigil seconded the motion, which passed without objection. Senator Mary Jane M. Garcia volunteered to sponsor the legislation.

Proposed Transportation Subcommittee Legislation

Representative Lundstrom was joined at the presenters' table by Ms. Faust to discuss six bills proposed by the Transportation Subcommittee of the NMFA Oversight Committee.

The committee endorsed a bill requiring that wholesale bulk gasoline distributors make unblended gasoline available to certain retailers, especially those that serve small airports. This bill is identified as .174443.1 or letter "K" in the book of proposed legislation. After a proper motion and proper second by Representative Saavedra, the bill was endorsed without opposition.

The committee endorsed a bill, identified as .174443.1 or letter "L" in the book of proposed legislation, to authorize the legislature to appropriate 30 percent of the money going into the Corrective Action Fund in any year to the State Road Fund, but did not endorse a bill requiring a vehicle registration surcharge.

Bill "N", which distributes a portion of the motor vehicle excise tax to the State Road Fund, was endorsed by the committee. Senator Carraro moved to endorse the bill. Senator Snyder seconded the motion. Representatives Tripp and Saavedra were in opposition, as well as Senator Rainaldi. Representative Gonzales agreed to sponsor it.

A memorial, designated as .174497.1 or letter "O", was proposed. It requests a continuation of the 2008 review of the state's current and future transportation needs to identify appropriate funding strategies for a sustainable transportation system. Representative Saavedra moved to endorse the memorial. The motion passed with no opposition. Representative Bobby Gonzales agreed to sponsor it.

Bill "P", requiring a lower speed limit for vehicles with three or more axles, was the subject of some debate because of the many citizens of the state who drive pickups that pull trailers, which would be subject to the lower speed limit. Representative Powdrell-Culbert asked to amend the bill to have lower speed limits at night instead. She explained that it would be unsafe to have vehicles following separate speed limits. Representative Lundstrom moved to amend the bill, and her motion passed. After the motion to amend passed, the amended bill was endorsed on proper motion by Senator Snyder, seconded by Representative Silva. Representative Berry voted in opposition to the bill. The bill will contain a nighttime speed limit of 65 miles per hour.

Renewable Energy Transmission Authority (RETA) Legislative Proposals

Lisa Szot, executive director of RETA, and RETA's general counsel, Ted Apodaca, presented bill "Q". Their handout is in the meeting file. After some discussion, Senator Harden moved to endorse the legislation. Representative Lundstrom seconded the motion, which passed with opposition by Representative Arnold-Jones and Senator Snyder.

Adjourn

Senator Papen thanked the committee members and staff for their hard work. She thanked Representative Silva for his service in the legislature and thanked Senators Snyder and Carraro as well, saying they would be missed because they have been valuable members with good ideas.

The committee adjourned at 12:21 p.m.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE BORDER AUTHORITY; AMENDING POWERS AND DUTIES;
REMOVING RESTRICTIONS ON THE BORDER AUTHORITY'S POWER TO
OPERATE A PROJECT OR BUSINESS; INCREASING THE PURPOSE FOR WHICH
THE BORDER AUTHORITY MAY EXPEND FUNDS.

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

Section 1. Section 58-27-1 NMSA 1978 (being Laws 1991,
Chapter 131, Section 1) is amended to read:

"58-27-1. SHORT TITLE.--~~[Sections 1 through 25 of this
act]~~ Chapter 58, Article 27 NMSA 1978 may be cited as the
"Border Development Act"."

Section 2. Section 58-27-10 NMSA 1978 (being Laws 1991,
Chapter 131, Section 10, as amended) is amended to read:

"58-27-10. POWERS AND DUTIES OF AUTHORITY.--

A. The authority shall:

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1 (1) advise the governor and [~~his~~] the
2 governor's staff and the New Mexico finance authority oversight
3 committee on methods, proposals, programs and initiatives
4 involving the New Mexico-Chihuahua border area that may further
5 stimulate the border economy and provide additional employment
6 opportunities for New Mexico citizens;

7 (2) subject to the provisions of the Border
8 Development Act, initiate, develop, acquire, own, construct and
9 maintain border development projects;

10 (3) create programs to expand economic
11 opportunities beyond the New Mexico-Chihuahua border area to
12 other areas of the state;

13 (4) create avenues of communication between
14 New Mexico and Chihuahua and the Republic of Mexico concerning
15 economic development, trade and commerce, transportation and
16 industrial affairs;

17 (5) promote legislation that will further the
18 goals of the authority and development of the border region;

19 (6) produce or cause to have produced
20 promotional literature related to explanation and fulfillment
21 of the authority's goals;

22 (7) actively recruit industries and establish
23 programs that will result in the location and relocation of new
24 industries in the state;

25 (8) coordinate and expedite the involvement of

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1 the executive department's border area efforts; and

2 (9) perform or cause to be performed
3 environmental, transportation, communication, land use and
4 other technical studies necessary or advisable for projects or
5 programs or to secure port-of-entry approval by the United
6 States and the Mexican governments and other appropriate
7 governmental agencies.

8 B. The authority may:

9 (1) solicit and accept federal, state, local
10 and private grants of funds, property or financial or other aid
11 in any form for the purpose of carrying out the provisions of
12 the Border Development Act;

13 (2) adopt rules governing the manner in which
14 its business is transacted and the manner in which the powers
15 of the authority are exercised and its duties performed;

16 (3) act as an applicant for and operator of
17 port-of-entry facilities and, as the applicant, carry out all
18 tasks and functions, including acquisition by purchase or gift
19 of any real property necessary for port-of-entry facilities,
20 acquisition by purchase, gift or construction of any facilities
21 or other real or personal property necessary for a port of
22 entry and filing all necessary documents and follow-up of such
23 filings with appropriate agencies;

24 (4) as part of a port of entry, give or
25 transfer real property, facilities and improvements owned by

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1 the authority to the United States government;

2 (5) acquire by construction, purchase, gift or
3 lease projects that shall be located within the state;

4 (6) sell, lease or otherwise dispose of a
5 project upon terms and conditions acceptable to the authority
6 and in the best interests of the state;

7 (7) issue revenue bonds and borrow money for
8 the purpose of defraying the cost of acquiring a project by
9 purchase or construction and to secure the payment of the bonds
10 or repayment of a loan; ~~and~~

11 (8) expend funds or incur debt for the
12 improvement, maintenance, repair or addition to property owned
13 by the authority, the state or the United States government;
14 and

15 [~~(8)~~] (9) refinance a project.

16 C. In exercising its authority, the authority shall
17 not

18 [~~(1) operate a project as a business or in any~~
19 ~~manner except as lessor;~~

20 ~~(2)] incur debt as a general obligation of the~~
21 ~~state or pledge the full faith and credit of the state to repay~~
22 ~~debt [~~or~~~~

23 ~~(3) expend funds or incur debt for the~~
24 ~~improvement, maintenance, repair or addition to property not~~
25 ~~owned by the authority]."~~

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PROPERTY CONTROL; EXEMPTING THE BORDER AUTHORITY
FROM THE JURISDICTION OF THE PROPERTY CONTROL DIVISION OF THE
GENERAL SERVICES DEPARTMENT

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

Section 1. Section 15-3B-2 NMSA 1978 (being Laws 1972,
Chapter 74, Section 2, as amended) is amended to read:

"15-3B-2. DEFINITIONS.--As used in the Property Control
Act:

A. "capital outlay project" means the acquisition,
improvement, alteration or reconstruction of assets of a long-
term character that are intended to continue to be held or
used, including land, buildings, machinery, furniture and
equipment. A "capital outlay project" includes all proposed
expenditures related to the entire undertaking;

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC RECORDS; EXEMPTING CERTAIN INFORMATION
OBTAINED BY THE SPACEPORT AUTHORITY FROM DISCLOSURE PURSUANT TO
THE INSPECTION OF PUBLIC RECORDS ACT.

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

Section 1. Section 58-31-1 NMSA 1978 (being Laws 2005,
Chapter 128, Section 1) is amended to read:

"58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31
NMSA 1978 may be cited as the "Spaceport Development Act"."

Section 2. A new section of the Spaceport Development Act
is enacted to read:

"[NEW MATERIAL] SPACEPORT AUTHORITY--CONFIDENTIALITY.--
Information obtained by the authority that is proprietary
technical or business information or related to the possible
relocation or expansion of a business shall be confidential and

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1 shall not be subject to inspection pursuant to the Inspection
2 of Public Records Act."

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE SPACEPORT; RENAMING THE SOUTHWEST REGIONAL
SPACEPORT "SPACEPORT AMERICA" FOR TRADEMARKING PURPOSES.

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

Section 1. Section 5-16-1 NMSA 1978 (being Laws 2006,
Chapter 15, Section 1) is amended to read:

"5-16-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~
~~act]~~ Chapter 5, Article 16 NMSA 1978 may be cited as the
"Regional Spaceport District Act"."

Section 2. Section 5-16-2 NMSA 1978 (being Laws 2006,
Chapter 15, Section 2) is amended to read:

"5-16-2. PURPOSES.--The purposes of the Regional
Spaceport District Act are to:

A. serve the public by providing for the
development of ~~[a southwest regional]~~ "Spaceport America";

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1 B. allow multi-jurisdictional cooperation in the
2 creation of [~~a southwest regional~~] Spaceport America;

3 C. provide for the promotion of [~~the southwest~~
4 ~~regional~~] Spaceport America; and

5 D. foster tourism in the cities and counties
6 comprising the district."

7 Section 3. Section 5-16-6 NMSA 1978 (being Laws 2006,
8 Chapter 15, Section 6) is amended to read:

9 "5-16-6. POWERS OF THE DISTRICT.--

10 A. A district is a body politic and corporate. In
11 addition to other powers granted to the district pursuant to
12 the Regional Spaceport District Act, the district may:

13 (1) have perpetual existence, except as
14 otherwise provided in the contract;

15 (2) sue and be sued;

16 (3) enter into contracts and agreements
17 affecting the affairs of the district;

18 (4) pledge all or a portion of the revenues to
19 the payment of bonds of the authority; and

20 (5) construct, in connection with the
21 authority, [~~a regional~~] Spaceport America within the boundaries
22 of the district.

23 B. After the creation of a district, the board may
24 include property within or exclude property from the boundaries
25 of the district in the manner provided in this section.

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1 Property shall not be included within the boundaries of the
2 district unless it is within the boundaries of the members of
3 the combination at the time of the inclusion. Prior to
4 inclusion of property in or exclusion of property from the
5 boundaries of the district, the board shall cause notice of the
6 proposed inclusion or exclusion to be published in a newspaper
7 of general circulation within the boundaries of the district
8 and cause the notice to be mailed to the authority. The notice
9 shall:

10 (1) describe the property to be included in or
11 excluded from the boundaries of the district;

12 (2) specify the date, time and place at which
13 the board shall hold a public hearing on the proposed inclusion
14 or exclusion; provided that the date of the public hearing
15 contained in the notice shall be not less than twenty days
16 after publication of the notice; and

17 (3) state that persons having objections to
18 the inclusion or exclusion may appear at the public hearing to
19 object to the proposed inclusion or exclusion.

20 C. The board shall hear all objections to the
21 proposed inclusion or exclusion of property at the time and
22 place designated in the notice. The board, upon the
23 affirmative vote of two-thirds of the directors, may adopt a
24 resolution including or excluding all or a portion of the
25 property described in the notice. Upon the adoption of the

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1 resolution, the property shall be included within or excluded
2 from the boundaries of the district as set forth in the
3 resolution. The board may adopt the resolution without
4 amending the district's enabling contract. The board shall
5 file the resolution with the authority, which shall cause the
6 resolution to be recorded in the real estate records of each
7 county having territory included in the boundaries of the
8 district."

9 Section 4. Section 5-16-7 NMSA 1978 (being Laws 2006,
10 Chapter 15, Section 7) is amended to read:

11 "5-16-7. BONDS.--A district may enter into contracts with
12 the authority pursuant to which the authority may issue bonds
13 under the Spaceport Development Act for the purpose of
14 financing the planning, designing, engineering and construction
15 of [~~a regional~~] Spaceport America or a spaceport-related
16 project. The district shall request that the authority issue
17 bonds pursuant to resolution of the board, and the bonds shall
18 be payable solely out of all or a specified portion of the
19 revenues as designated by the board."

20 Section 5. Section 5-16-10 NMSA 1978 (being Laws 2006,
21 Chapter 15, Section 10) is amended to read:

22 "5-16-10. COOPERATIVE POWERS.--A district may cooperate
23 with a person to:

24 A. accept legitimate contributions or liens
25 securing obligations of the district from the person with

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1 respect to the financing, planning, designing, engineering and
2 construction of [~~a regional~~] Spaceport America and, in
3 connection with a loan or advance, enter into contracts
4 establishing the repayment terms;

5 B. enter into contracts regarding the financing,
6 planning, designing, engineering and construction of [~~a~~
7 ~~regional~~] Spaceport America; and

8 C. enter into joint operating contracts with the
9 authority concerning the financing, planning, designing,
10 engineering and construction of [~~a regional~~] Spaceport
11 America."

12 Section 6. Section 5-16-13 NMSA 1978 (being Laws 2006,
13 Chapter 15, Section 13) is amended to read:

14 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each
15 governmental unit that is a county or municipality and is a
16 member of a combination shall have enacted a municipal regional
17 spaceport gross receipts tax or a county regional spaceport
18 gross receipts tax prior to December 31, 2008. At least
19 seventy-five percent of the municipal regional spaceport gross
20 receipts tax or county regional spaceport gross receipts tax
21 revenues received by each governmental unit must be used by the
22 district for the financing, planning, designing, engineering
23 and construction of [~~a regional~~] Spaceport America. No more
24 than twenty-five percent of the municipal regional spaceport
25 gross receipts tax or county regional spaceport gross receipts

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1 tax revenues may be used by the governmental unit enacting the
2 tax for spaceport-related projects as approved by resolution of
3 the governmental unit."

4 Section 7. Section 58-31-2 NMSA 1978 (being Laws 2005,
5 Chapter 128, Section 2) is amended to read:

6 "58-31-2. PURPOSE.--The purpose of the Spaceport
7 Development Act is to:

8 A. encourage and foster development of the state
9 and its cities and counties by developing spaceport facilities
10 in New Mexico;

11 B. actively promote and assist public and private
12 sector infrastructure development to attract new industries and
13 businesses, thereby creating new job opportunities in the
14 state;

15 C. create the statutory framework that will enable
16 the state to design, finance, construct, equip and operate
17 spaceport facilities necessary to ensure the timely, planned
18 and efficient development of [~~a southwest regional~~] Spaceport
19 America; and

20 D. promote educational involvement in spaceport
21 activities and education and training of the work force to
22 develop the skills needed for spaceport operations."

23 Section 8. Section 58-31-5 NMSA 1978 (being Laws 2005,
24 Chapter 128, Section 5, as amended) is amended to read:

25 "58-31-5. AUTHORITY POWERS AND DUTIES.--

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1 A. The authority shall:

2 (1) hire an executive director, who shall
3 employ the necessary professional, technical and clerical staff
4 to enable the authority to function efficiently and shall
5 direct the affairs and business of the authority, subject to
6 the direction of the authority;

7 (2) be located within fifty miles of [~~a~~
8 ~~southwest regional~~] Spaceport America;

9 (3) advise the governor, the governor's staff
10 and the New Mexico finance authority oversight committee on
11 methods, proposals, programs and initiatives involving [~~a~~
12 ~~southwest regional~~] Spaceport America that may further
13 stimulate space-related business and employment opportunities
14 in New Mexico;

15 (4) initiate, develop, acquire, own,
16 construct, maintain and lease space-related projects;

17 (5) make and execute all contracts and other
18 instruments necessary or convenient to the exercise of its
19 powers and duties;

20 (6) create programs to expand high-technology
21 economic opportunities within New Mexico;

22 (7) create avenues of communication among
23 federal government agencies, the space industry, users of space
24 launch services and academia concerning space business;

25 (8) promote legislation that will further the

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1 goals of the authority and development of space business;

2 (9) oversee and fund production of promotional
3 literature related to the authority's goals;

4 (10) identify science and technology trends
5 that are significant to space enterprise and the state and act
6 as a clearinghouse for space enterprise issues and information;

7 (11) coordinate and expedite the involvement
8 of the state executive branch's space-related development
9 efforts; and

10 (12) perform environmental, transportation,
11 communication, land use and other technical studies necessary
12 or advisable for projects and programs or to secure licensing
13 by appropriate United States agencies.

14 B. The authority may:

15 (1) advise and cooperate with municipalities,
16 counties, state agencies and organizations, appropriate federal
17 agencies and organizations and other interested persons and
18 groups;

19 (2) solicit and accept federal, state, local
20 and private grants of funds or property and financial or other
21 aid for the purpose of carrying out the provisions of the
22 Spaceport Development Act;

23 (3) adopt rules governing the manner in which
24 its business is transacted and the manner in which the powers
25 of the authority are exercised and its duties performed;

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1 (4) operate spaceport facilities, including
2 acquisition of real property necessary for spaceport facilities
3 and the filing of necessary documents with appropriate
4 agencies;

5 (5) construct, purchase, accept donations of
6 or lease projects located within the state;

7 (6) sell, lease or otherwise dispose of a
8 project upon terms and conditions acceptable to the authority
9 and in the best interests of the state;

10 (7) issue revenue bonds and borrow money for
11 the purpose of defraying the cost of acquiring a project by
12 purchase or construction and of securing the payment of the
13 bonds or repayment of a loan;

14 (8) enter into contracts with regional
15 spaceport districts and issue bonds on behalf of regional
16 spaceport districts for the purpose of financing the purchase,
17 construction, renovation, equipping or furnishing of [~~a~~
18 ~~regional~~] Spaceport America or a spaceport-related project;

19 (9) refinance a project;

20 (10) contract with any competent private or
21 public organization or individual to assist in the fulfillment
22 of its duties;

23 (11) fix, alter, charge and collect tolls,
24 fees or rentals and impose any other charges for the use of or
25 for services rendered by any authority facility, program or

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1 service; and

2 (12) contract with regional spaceport
3 districts to receive municipal spaceport gross receipts tax and
4 county regional spaceport gross receipts tax revenues.

5 C. The authority shall not:

6 (1) incur debt as a general obligation of the
7 state or pledge the full faith and credit of the state to repay
8 debt; or

9 (2) expend funds or incur debt for the
10 improvement, maintenance, repair or addition to property unless
11 it is owned by the authority, the state or a political
12 subdivision of the state."

13 Section 9. Section 58-31-6 NMSA 1978 (being Laws 2005,
14 Chapter 128, Section 6, as amended) is amended to read:

15 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
16 TO ISSUE REVENUE BONDS.--

17 A. The authority may issue revenue bonds on its own
18 behalf or on behalf of a regional spaceport district, for
19 [~~regional~~] Spaceport America purposes and spaceport-related
20 projects. Revenue bonds so issued may be considered
21 appropriate investments for the severance tax permanent fund or
22 collateral for the deposit of public funds if the bonds are
23 rated not less than "A" by a national rating service and both
24 the principal and interest of the bonds are fully and
25 unconditionally guaranteed by a lease agreement executed by an

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1 agency of the United States government or by a corporation
2 organized and operating within the United States, that
3 corporation or the long-term debt of that corporation being
4 rated not less than "A" by a national rating service. All
5 bonds issued by the authority are legal and authorized
6 investments for banks, trust companies, savings and loan
7 associations and insurance companies.

8 B. The authority may pay from the bond proceeds all
9 expenses, premiums and commissions that the authority deems
10 necessary or advantageous in connection with the authorization,
11 sale and issuance of the bonds.

12 C. Authority revenue bonds:

13 (1) may have interest or appreciated principal
14 value or any part thereof payable at intervals determined by
15 the authority;

16 (2) may be subject to prior redemption or
17 mandatory redemption at the authority's option at the time and
18 upon such terms and conditions with or without the payment of a
19 premium as may be provided by resolution of the authority;

20 (3) may mature at any time not exceeding
21 twenty years after the date of issuance if secured by revenue
22 from the county or municipal regional spaceport gross receipts
23 tax or thirty years if secured by revenue from other sources;

24 (4) may be serial in form and maturity;
25 consist of one or more bonds payable at one time or in

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1 installments; or may be in such other form as determined by the
2 authority;

3 (5) may be in registered or bearer form or in
4 book-entry form through facilities of a securities depository
5 either as to principal or interest or both;

6 (6) shall be sold for cash at, above or below
7 par and at a price that results in a net effective interest
8 rate that conforms to the Public Securities Act; and

9 (7) may be sold at public or negotiated sale.

10 D. Subject to the approval of the state board of
11 finance, the authority may enter into other financial
12 arrangements if it determines that the arrangements will assist
13 the authority."

14 Section 10. TEMPORARY PROVISION--TRANSFERS.--

15 A. On the effective date of this act, all
16 functions, appropriations, money, personnel, records, files,
17 furniture, equipment and other property of the southwest
18 regional spaceport shall be transferred to Spaceport America.

19 B. On the effective date of this act, all
20 contractual obligations of the southwest regional spaceport
21 shall be binding on Spaceport America.

22 C. On the effective date of this act, all
23 references in law to the southwest regional spaceport shall be
24 deemed to be references to Spaceport America.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO TORT CLAIMS; PROVIDING IMMUNITY FROM TORT LIABILITY
FOR CERTAIN ENTITIES ENGAGING IN SPACE FLIGHT ACTIVITIES.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Space Flight Liability and Immunity Act".

Section 2. LEGISLATIVE FINDINGS AND PURPOSE.--The
legislature finds that:

A. the commercial human space flight industry is an
emerging and important industry, and private industry has begun
to develop vehicles capable of carrying human beings into
space. New Mexico and its residents will gain significant
economic and personal benefits from the development of a
successful and robust commercial human space flight industry,
while playing a significant role in its growth. The

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1 development of the spaceport will create jobs and have a
2 positive effect on the state's tax base;

3 B. commercial human space flight activities involve
4 inherent risks that cannot be eliminated or controlled through
5 the exercise of reasonable care and that justify the
6 exculpation of ordinary negligence, and that these inherent
7 risks provide the challenge and excitement that entice space
8 flight participants to participate in these activities;

9 C. space flight participants should be informed of
10 the risks inherent in space flight activities that cannot be
11 completely eliminated and should accept responsibility for the
12 inherent risks of participating in space flight activities; and

13 D. the purpose of the Space Flight Liability and
14 Immunity Act is to permit the use of waivers and releases of
15 liability for space flight entities that will exculpate them
16 from the inherent risks of space flight activities and their
17 negligence.

18 Section 3. DEFINITIONS.--As used in the Space Flight
19 Liability and Immunity Act:

20 A. "participant" means a space flight participant
21 as that term is defined in 49 U.S.C. Section 70102;

22 B. "participant injury" means an injury sustained
23 by a participant, including bodily injury, death, emotional
24 injury or property damage;

25 C. "space flight activities" means launch services

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1 or reentry services as those terms are defined in 49 U.S.C.
2 Section 70102; and

3 D. "space flight entity" means any public or
4 private entity holding, either directly or through a corporate
5 subsidiary or parent, a license, permit or other authorization
6 issued by the United States federal aviation administration
7 pursuant to the federal Commercial Space Launch Amendments Act
8 of 2004, including, but not limited to, a safety approval and a
9 payload determination. "Space flight entity" includes any
10 manufacturer or supplier of components, services or vehicles
11 that have been reviewed by the United States federal aviation
12 administration as part of issuing such a license, permit or
13 authorization.

14 Section 4. CIVIL IMMUNITY FOR SPACE FLIGHT ENTITIES.--

15 A. Except as provided in Subsection C of this
16 section, a space flight entity is not liable for a participant
17 injury resulting from the risks of space flight activities;
18 provided that:

19 (1) the participant has been informed of the
20 risks of space flight activities as required by the Space
21 Flight Liability and Immunity Act and by federal law; and

22 (2) the participant has given informed consent
23 that the participant is voluntarily participating in space
24 flight activities after having been informed of the risks of
25 those activities as required by the Space Flight Liability and

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1 Immunity Act and by federal law.

2 B. Except as provided in Subsection C of this
3 section, no participant, participant's representative,
4 including the heirs, administrators, executors, assignees, next
5 of kin and estate of the participant, or any other person who
6 attempts to bring a claim on behalf of the participant for a
7 participant injury may bring or maintain an action against or
8 recover from a space flight entity for a participant injury
9 that resulted from the risks of space flight activities.

10 C. Nothing in Subsection A or B of this section
11 shall prevent or limit the liability of a space flight entity
12 if the space flight entity:

13 (1) commits an act or omission that
14 constitutes gross negligence evidencing willful or wanton
15 disregard for the safety of a participant and that act or
16 omission proximately causes a participant injury; or

17 (2) intentionally causes a participant injury.

18 D. Any limitation on legal liability afforded by
19 this section to a space flight entity is in addition to any
20 other limitations of legal liability otherwise provided by law.

21 Section 5. WARNING REQUIRED.--

22 A. A space flight entity providing space flight
23 activities to a participant shall have each participant sign
24 the warning statement that shall contain, at a minimum and in
25 addition to any language required by federal law, the following

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1 statement:

2 "WARNING AND ACKNOWLEDGMENT: I understand and acknowledge
3 that, under New Mexico law, there is no civil liability
4 for bodily injury, including death, emotional injury or
5 property damage, sustained by a participant in space
6 flight activities provided by a space flight entity if
7 such injury or damage results from the risks of the space
8 flight activity. I have given my informed consent to
9 participate in space flight activities after receiving a
10 description of the risks of space flight activities as
11 required by federal law pursuant to 49 U.S.C. Section
12 70105 and 14 C.F.R. Section 460.45. The consent that
13 I have given acknowledges that the risks of space flight
14 activities include, but are not limited to, risks of
15 bodily injury, including death, emotional injury and
16 property damage. I understand and acknowledge that I am
17 participating in space flight activities at my own risk.
18 I have been given the opportunity to consult with an
19 attorney before signing this statement."

20 B. Failure to comply with the requirements
21 concerning the warning statement provided in this section shall
22 prevent a space flight entity from invoking the privileges of
23 immunity provided by the Space Flight Liability and Immunity
24 Act.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO TAX INCREMENT DEVELOPMENT DISTRICTS; INCREASING THE STATE'S ROLE IN DEVELOPMENT, REGULATION AND OVERSIGHT OF CREATION AND IMPLEMENTATION OF TAX INCREMENT DEVELOPMENT DISTRICTS.

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

Section 1. Section 5-15-1 NMSA 1978 (being Laws 2006, Chapter 75, Section 1) is amended to read:

"5-15-1. SHORT TITLE.--~~[Sections 1 through 27 of this act]~~ Chapter 5, Article 15 NMSA 1978 may be cited as the "Tax Increment for Development Act"."

Section 2. Section 5-15-4 NMSA 1978 (being Laws 2006, Chapter 75, Section 4) is amended to read:

"5-15-4. RESOLUTION FOR FORMATION OF A DISTRICT.--

A. A tax increment development plan may be approved

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1 by the governing body of the municipality or county within
2 which tax increment development projects are proposed. Upon
3 filing with the clerk of the governing body of an approved tax
4 increment development plan and upon receipt of a petition
5 bearing the signatures of the owners of at least fifty percent
6 of the real property located within a proposed tax increment
7 development area, the governing body may adopt a resolution
8 declaring its intent to form a tax increment development
9 district. Prior to the formation of a district, the owner or
10 developer of the real property located within an area proposed
11 to be designated as a tax increment development area may enter
12 into an agreement with the governing body concerning the
13 improvement of specific property within the district, and that
14 agreement may be used to establish obligations of the owner or
15 developer and the governing body concerning the zoning,
16 subdivision, improvement, impact fees, financial
17 responsibilities and other matters relating to the development,
18 improvement and use of real property within the district.

19 B. A governing body may adopt a resolution on its
20 own motion upon its finding that a need exists for the
21 formation of a district.

22 C. The resolution to form a district shall include:

23 (1) the area or areas to be included within
24 the boundaries of the district;

25 (2) the purposes for which the district is to

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1 be formed;

2 (3) a statement that a tax increment
3 development plan is on file with the clerk of the governing
4 body and that the plan includes a map depicting the boundaries
5 of the tax increment development area and the real property
6 proposed to be included in the area;

7 (4) the rate of any proposed property tax
8 levy;

9 (5) identification of gross receipts tax
10 increment and property tax increment financing mechanisms
11 proposed;

12 (6) identification of gross receipts tax
13 increments and property tax increments proposed to secure
14 proposed gross receipts tax increment bonds or property tax
15 increment bonds;

16 (7) requirement of a public hearing for the
17 formation of the district and notice of the hearing;

18 (8) a statement that formation of a district
19 may result in the use of gross receipts tax increments or
20 property tax increments to pay the costs of construction of
21 public improvements made by the district; and

22 (9) a reference to the Tax Increment for
23 Development Act.

24 D. A resolution may direct that, prior to holding a
25 hearing on formation of a district, petitioners for the

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1 formation of a district prepare a study of the feasibility, the
2 financing and the estimated costs of improvements, services and
3 benefits to result from the formation of the proposed district.
4 The governing body may require those petitioners to deposit
5 with the clerk or treasurer of the governing body an amount
6 equal to the estimated costs of conducting the study and other
7 estimated formation costs. The deposit shall be reimbursed
8 from the proceeds from the sale of bonds issued by the tax
9 increment development district if the district is formed and if
10 gross receipts tax increment bonds or property tax increment
11 bonds are issued by that district pursuant to the Tax Increment
12 for Development Act.

13 E. A resolution adopted pursuant to this section
14 shall direct that a public hearing on formation of the district
15 be scheduled and that notice of the hearing be mailed and
16 published.

17 F. A governing body of the municipality or county
18 within which tax increment development projects are proposed
19 that adopts a resolution to form a district shall notify the
20 secretary of taxation and revenue, the secretary of finance and
21 administration and the director of the legislative finance
22 committee of the governing body's action within ten days
23 following the date on which the resolution was adopted. A copy
24 of the adopted resolution shall be included in the notice sent
25 pursuant to this subsection. All resolution materials,

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1 including fiscal and economic studies, shall also be available
2 electronically to the public."

3 Section 3. Section 5-15-6 NMSA 1978 (being Laws 2006,
4 Chapter 75, Section 6) is amended to read:

5 "5-15-6. NOTICE OF PUBLIC HEARING.--

6 A. Upon adoption of a resolution indicating an
7 intent to form a tax increment development district, a
8 governing body shall set a date no sooner than thirty days and
9 no later than sixty days after the adoption of the resolution
10 for a public hearing regarding the formation of the district.

11 B. Notice of the hearing shall be provided by the
12 governing body by:

13 (1) publication once each week for two
14 consecutive weeks in a newspaper of general circulation in the
15 municipality or county in which the proposed district is
16 located;

17 (2) posting in a prominent location on
18 property located within the proposed tax increment development
19 area for fourteen days prior to the hearing; and

20 (3) written notice via registered or certified
21 United States mail, postage prepaid, no later than ten days
22 prior to the hearing to:

23 (a) all owners of real property within
24 the proposed tax increment development area [~~no later than ten~~
25 ~~days prior to the hearing~~]; and

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1 (b) the secretary of taxation and
2 revenue, the secretary of finance and administration and the
3 director of the legislative finance committee.

4 C. The notice of the hearing shall contain:

- 5 (1) the date, time and place of the hearing;
- 6 (2) information regarding alternative methods
7 for submission of objects or comments;
- 8 (3) a statement that the formation of a
9 district is proposed;
- 10 (4) a map showing the boundaries of the
11 proposed district; ~~and~~
- 12 (5) a statement that a tax increment
13 development plan is on file with the clerk of the governing
14 body and may be reviewed upon request;
- 15 (6) a summary of the resolution as set forth
16 in Subsection D of this section; and
- 17 (7) a copy of the application.

18 D. A summary of the resolution declaring the
19 governing body's intent to form a tax increment development
20 district shall be attached to a notice issued pursuant to this
21 section. The clerk of the governing body shall mail a copy of
22 the notice to each owner of real property within the proposed
23 tax increment development area and to all other persons
24 claiming an interest in the property who have filed a written
25 request for a copy of the notice within the six months

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1 preceding or at any time following the adoption of the
2 resolution. The clerk of the governing body shall publish a
3 copy of the notice and resolution summary at least twice in a
4 newspaper of general circulation in the municipality or county
5 in which the proposed tax increment development district is
6 located. The clerk of the governing body shall obtain an
7 affidavit from that newspaper after each publication is made.
8 The clerk of the governing body shall cause the affidavits to
9 be placed in the official records of the municipality or
10 county. The affidavits are conclusive evidence of the mailing
11 and publishing of notice. Notice shall not be held invalid for
12 failure of delivery to the addressee.

13 E. A clerk of a governing body who is informed of a
14 transfer of ownership of real property within a proposed
15 district and who obtains the name and address of the current
16 property owner shall mail a copy of the notice and resolution
17 as soon as practicable after learning of the transfer."

18 Section 4. Section 5-15-9 NMSA 1978 (being Laws 2006,
19 Chapter 75, Section 9) is amended to read:

20 "5-15-9. FORMATION OF A DISTRICT.--

21 A. If the formation of the tax increment
22 development district is approved by a majority of the voters
23 casting votes at the election, or if an election is held by
24 vote of the owners of property within the district or proposed
25 district, the governing body shall deliver a copy of the

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1 resolution ordering formation of the tax increment development
2 district to each of the following persons or entities:

3 (1) the county assessor and the clerk of the
4 county in which the district is located;

5 (2) the school district within which any
6 portion of the property located within a tax increment
7 development area lies;

8 (3) any other taxing entities within which any
9 portion of the property located within a tax increment
10 development area lies;

11 (4) the taxation and revenue department; ~~and~~

12 (5) the local government division of the
13 department of finance and administration; and

14 (6) the director of the legislative finance
15 committee.

16 B. A notice of the formation showing the number and
17 date of the resolution and giving a description of the land
18 included in the district shall be recorded with the clerk of
19 the county in which the district is located.

20 C. A tax increment development district shall be a
21 political subdivision of the state, separate and apart from a
22 municipality or county."

23 Section 5. Section 5-15-10 NMSA 1978 (being Laws 2006,
24 Chapter 75, Section 10) is amended to read:

25 "5-15-10. GOVERNANCE OF THE DISTRICT.--

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1 A. Following formation of a tax increment
2 development district, a district board shall administer in a
3 reasonable manner the implementation of the tax increment
4 development plan as approved by the governing body.

5 B. The district shall be governed by the governing
6 body that adopted a resolution to form the district or by a
7 five-member board composed of four members appointed by that
8 governing body; provided, however, that the fifth member of the
9 five-member board is the secretary of finance and
10 administration or the secretary's designee with full voting
11 privileges.

12 C. [~~Three~~] Two of the appointed directors shall
13 serve an initial term of six years. Two of the appointed
14 directors shall serve an initial term of four years. The
15 resolution forming the district shall state which directors
16 shall serve four-year terms and which shall serve six-year
17 terms. If a vacancy occurs on the district board because of
18 the death, resignation or inability of the director to
19 discharge the duties of the director, the governing body shall
20 appoint a director to fill the vacancy, and the director shall
21 hold office for the remainder of the unexpired term until a
22 successor is appointed or elected.

23 D. A director may be a director of more than one
24 district.

25 E. In the case of an appointed board of directors

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1 that is not the governing body, at the end of the appointed
2 directors' initial terms, the board shall hold an election of
3 new directors by majority vote of owners and qualified resident
4 electors in accordance with the Tax Increment for Development
5 Act. Each owner shall have the number of votes or portion of
6 votes equal to the number of acres or portion of acres rounded
7 upward to the nearest one-fifth of an acre owned in the
8 district by that owner."

9 Section 6. Section 5-15-15 NMSA 1978 (being Laws 2006,
10 Chapter 75, Section 15) is amended to read:

11 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
12 INCREMENT.--

13 A. Notwithstanding any law to the contrary, but in
14 accordance with the provisions of the Tax Increment for
15 Development Act, a tax increment development plan, as
16 originally approved or as later modified, may contain a
17 provision that a portion of certain gross receipts tax
18 increments collected within the tax increment development area
19 after the effective date of approval of the tax increment
20 development plan may be dedicated for the purpose of securing
21 gross receipts tax increment bonds pursuant to the Tax
22 Increment for Development Act.

23 B. As to a district formed by a municipality, a
24 portion of any of the following gross receipts tax increments
25 may be paid by the state directly into a special fund of the

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1 district to pay the principal of, the interest on and any
2 premium due in connection with the bonds of, loans or advances
3 to, or any indebtedness incurred by, whether funded, refunded,
4 assumed or otherwise, the authority for financing or
5 refinancing, in whole or in part, a tax increment development
6 project within the tax increment development area:

7 (1) municipal gross receipts tax authorized
8 pursuant to the Municipal Local Option Gross Receipts Taxes
9 Act;

10 (2) municipal environmental services gross
11 receipts tax authorized pursuant to the Municipal Local Option
12 Gross Receipts Taxes Act;

13 (3) municipal infrastructure gross receipts
14 tax authorized pursuant to the Municipal Local Option Gross
15 Receipts Taxes Act;

16 (4) municipal capital outlay gross receipts
17 tax authorized pursuant to the Municipal Local Option Gross
18 Receipts Taxes Act;

19 (5) municipal regional transit gross receipts
20 tax authorized pursuant to the Municipal Local Option Gross
21 Receipts Taxes Act;

22 (6) an amount distributed to municipalities
23 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

24 (7) the state gross receipts tax.

25 C. As to a district formed by a county, all or a

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1 portion of any of the following gross receipts tax increments
2 may be paid by the state directly into a special fund of the
3 district to pay the principal of, the interest on and any
4 premium due in connection with the bonds of, loans or advances
5 to or any indebtedness incurred by, whether funded, refunded,
6 assumed or otherwise, the district for financing or
7 refinancing, in whole or in part, a tax increment development
8 project within the tax increment development area:

9 (1) county gross receipts tax authorized
10 pursuant to the County Local Option Gross Receipts Taxes Act;

11 (2) county environmental services gross
12 receipts tax authorized pursuant to the County Local Option
13 Gross Receipts Taxes Act;

14 (3) county infrastructure gross receipts tax
15 authorized pursuant to the County Local Option Gross Receipts
16 Taxes Act;

17 (4) county capital outlay gross receipts tax
18 authorized pursuant to the County Local Option Gross Receipts
19 Taxes Act;

20 (5) county regional transit gross receipts tax
21 authorized pursuant to the County Local Option Gross Receipts
22 Taxes Act; ~~and~~

23 (6) the ~~[state gross receipts tax]~~ amount
24 distributed to counties pursuant to Section 7-1-6.47 NMSA 1978;

25 and

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(7) the state gross receipts tax.

D. The gross receipts tax increment generated by the imposition of municipal or county local option gross receipts taxes specified by statute for particular purposes may nonetheless be dedicated for the purposes of the Tax Increment for Development Act if intent to do so is set forth in the tax increment development plan approved by the governing body, if the purpose for which the increment is intended to be used is consistent with the purposes set forth in the statute authorizing the municipal or county local option gross receipts tax.

E. An imposition of a gross receipts tax increment attributable to the imposition of a gross receipts tax by a taxing entity may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing gross receipts tax increment bonds more than seventy-five percent of its gross receipts tax increment attributable to the imposition of gross receipts taxes by the taxing entity. A resolution of the taxing entity to dedicate a gross receipts tax increment or to increase the dedication of a gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar year.

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1 F. An imposition of a gross receipts tax increment
2 attributable to the imposition of the state gross receipts tax
3 within a district less the distributions made pursuant to
4 Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of
5 securing gross receipts tax increment bonds with the agreement
6 of the state board of finance, evidenced by a resolution
7 adopted by a majority vote of the state board of finance. The
8 state board of finance shall not agree to dedicate more than
9 seventy-five percent of the gross receipts tax increment
10 attributable to the imposition of the state gross receipts tax
11 within the district. The resolution of the state board of
12 finance shall become effective only on January 1 or July 1 of
13 the calendar year and shall find that:

14 (1) the state board of finance has reviewed
15 the request for the use of the state gross receipts tax;

16 (2) based upon review by the state board of
17 finance of the applicable tax increment development plan, the
18 dedication by the state board of finance of a portion of the
19 gross receipts tax increment attributable to the imposition of
20 the state gross receipts tax within the district for use in
21 meeting the required goals of the tax increment plan is
22 reasonable and in the best interest of the state; and

23 (3) the use of the state gross receipts tax is
24 likely to stimulate the creation of jobs, economic
25 opportunities and general revenue for the state through the

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1 addition of new businesses to the state and the expansion of
2 existing businesses within the state.

3 G. The governing body of the jurisdiction in which
4 a tax increment development district has been established shall
5 timely notify the assessor of the county in which the district
6 has been established, the taxation and revenue department and
7 the local government division of the department of finance and
8 administration when:

9 (1) a tax increment development plan has been
10 approved that contains a provision for the allocation of a
11 gross receipts tax increment;

12 (2) any outstanding bonds of the district have
13 been paid off; and

14 (3) the purposes of the district have
15 otherwise been achieved."

16 Section 7. Section 5-15-16 NMSA 1978 (being Laws 2006,
17 Chapter 75, Section 16) is amended to read:

18 "5-15-16. BONDING AUTHORITY--GROSS RECEIPTS TAX
19 INCREMENT.--

20 A. A district may issue gross receipts tax
21 increment revenue bonds, the pledged revenue for which is a
22 gross receipts tax increment, for any one or more of the
23 purposes authorized by the Tax Increment for Development Act.

24 B. A district may pledge irrevocably any or all of
25 a gross receipts tax increment received by the district to the

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1 payment of the interest on and principal of the gross receipts
2 tax increment bonds for any of the purposes authorized in the
3 Tax Increment for Development Act. A law that imposes or
4 authorizes the imposition of a municipal or county gross
5 receipts tax or that affects the municipal or county gross
6 receipts tax shall not be repealed, amended or otherwise
7 directly or indirectly modified in any manner to adversely
8 impair any outstanding gross receipts increment bonds that may
9 be secured by a pledge of any municipal or county gross
10 receipts tax increment, unless those outstanding bonds have
11 been discharged in full or provision has been fully made for
12 those bonds.

13 C. Revenues in excess of the annual principal and
14 interest due on gross receipts tax increment bonds secured by a
15 pledge of gross receipts tax increment revenue may be
16 accumulated in a debt service reserve account; provided that
17 revenue in excess of that needed to service bonds issued
18 pursuant to the tax increment development plan and to provide a
19 sufficient level of reserves, as determined by the district
20 board of the district in consultation with the New Mexico
21 finance authority, shall be returned to the taxing authority
22 pursuant to procedures established by the taxing authority.

23 The district may appoint a commercial bank trust department to
24 act as paying agent or trustee of the gross receipts tax
25 increment revenue and to administer the payment of principal of

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1 and interest on the bonds.

2 D. Except as otherwise provided in the Tax
3 Increment for Development Act, gross receipts tax increment
4 bonds:

5 (1) may have interest, principal value or any
6 part thereof payable at intervals or at maturity as may be
7 determined by the governing body;

8 (2) may be subject to a prior redemption at
9 the district's option at a time and upon terms and conditions,
10 with or without the payment of a premium, as determined by the
11 district board;

12 (3) may mature at any time not exceeding
13 twenty-five years after the date of issuance;

14 (4) may be serial in form and maturity, may
15 consist of one bond payable at one time or in installments or
16 may be in another form determined by the district board;

17 (5) shall be sold for cash at, above or below
18 par and at a price that results in a net effective interest
19 rate that does not exceed the maximum permitted by the Public
20 Securities Act and the Public Securities Short-Term Interest
21 Rate Act; and

22 (6) may be sold at public or negotiated sale.

23 E. At a regular or special meeting, the district
24 board may adopt a resolution that:

25 (1) declares the necessity for issuing gross

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1 receipts tax increment bonds;

2 (2) authorizes the issuance of gross receipts
3 tax increment bonds by an affirmative vote of a majority of all
4 the members of the district board; and

5 (3) designates the sources of gross receipts
6 taxes or portions thereof to be pledged to the repayment of the
7 gross receipts tax increment bonds."

8 Section 8. Section 5-15-21 NMSA 1978 (being Laws 2006,
9 Chapter 75, Section 21) is amended to read:

10 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST
11 STATE GROSS RECEIPTS TAX INCREMENTS.--In addition to all other
12 requirements of the Tax Increment for Development Act, prior to
13 a district board issuing bonds against a gross receipts tax
14 increment attributable to the imposition of the state gross
15 receipts tax within a district:

16 A. the New Mexico finance authority shall review
17 the proposed issuance of the bonds and determine that the
18 proceeds of the bonds will be used for a tax increment
19 development project in accordance with the district's tax
20 increment development plan and present the proposed issuance of
21 the bonds to the legislature for approval; and

22 B. the issuance of the bonds and the maximum amount
23 of bonds to be issued shall be specifically authorized by law."

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BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

DISCUSSION DRAFT

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

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

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

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the
provisions of Section 6-21-6 NMSA 1978, the legislature
authorizes the New Mexico finance authority to make loans from
the public project revolving fund to the following qualified
entities for the following public projects on terms and
conditions established by the authority:

- 1. to the Pueblo of Ohkay Owingeh in Rio Arriba
county for equipment, building, infrastructure, refinancing,
water, wastewater, water rights, solid waste and road and land
projects; and

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BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

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

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

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the
provisions of Sections 6-25-6 and 6-25-13 NMSA 1978, the
legislature authorizes the New Mexico finance authority to
provide financing assistance in the form of loan participations
with private lenders for up to forty-nine percent of total
individual project financing, not to exceed five million
dollars (\$5,000,000) per project, from the economic development
revolving fund to eligible entities for the following standard
projects, subject to detailed analysis, final approval and
specific terms and conditions established by the authority:

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- 1 1. a hospitality and tourism facility in Luna
- 2 county;
- 3 2. a value-added agriculture manufacturing project
- 4 in Roosevelt county;
- 5 3. a solar photovoltaic project in San Miguel
- 6 county;
- 7 4. an agricultural processing project in Lea
- 8 county;
- 9 5. a downtown revitalization project in Eddy
- 10 county;
- 11 6. a hospitality and tourism facility in Lincoln
- 12 county;
- 13 7. a metal fabrication manufacturing facility in
- 14 San Juan county;
- 15 8. a solar photovoltaic manufacturing project in
- 16 Quay county;
- 17 9. an electromagnetic mapping manufacturing project
- 18 in Colfax county;
- 19 10. a wood manufacturing project in Mora county;
- 20 11. a cosmetics manufacturing project in Taos
- 21 county;
- 22 12. a water conservation production facility in San
- 23 Juan county;
- 24 13. a clean energy production facility in Cibola
- 25 county;

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

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

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

Section 1. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the general fund to the drinking water state revolving loan fund for expenditure in fiscal year 2009 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act of 1974 projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance at the end of a fiscal year shall not revert to the general fund.

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

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE LOCAL GOVERNMENT PLANNING FUND.

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

Section 1. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2009 and subsequent fiscal years to fund local government planning for water or wastewater system development, economic development or long-term water management and water conservation strategies. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PETROLEUM PRODUCTS; REQUIRING THAT WHOLESALE BULK
GASOLINE DISTRIBUTORS MAKE UNBLENDED GASOLINE AVAILABLE TO
CERTAIN RETAILERS; DECLARING AN EMERGENCY.

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

Section 1. UNBLENDED GASOLINE AVAILABILITY.--Wholesale
bulk gasoline distributors shall offer nonethanol-blended
unleaded premium grade gasoline with an antiknock index number
of ninety-one or greater for sale to retailers who certify that
the gasoline will be sold at retail to consumers for use in:

A. aircraft:

(1) with a supplemental type certificate
approved by the federal aviation administration that allows
aircraft to use gasoline that is intended for use in motor
vehicles; or

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1 (2) issued a type of certificate by an
2 aircraft engine manufacturer that allows aircraft to use
3 gasoline that is intended for use in motor vehicles;

4 B. aircraft that have been issued an experimental
5 certificate, described in 14 C.F.R. 21.191, by the federal
6 aviation administration and that are required by the
7 manufacturer's specifications to use gasoline that is intended
8 for use in motor vehicles;

9 C. light-sport aircraft, as defined in 14 C.F.R.
10 1.1, that are required by the manufacturer's specifications to
11 use gasoline that is intended for use in motor vehicles;

12 D. vintage aircraft that are required by the
13 manufacturer's specifications to use gasoline that is intended
14 for use in motor vehicles;

15 E. motorized vehicles whose engines are designed to
16 use non-blended premium fuel;

17 F. tools, including but not limited to lawn mowers,
18 leaf blowers and chain saws; or

19 G. watercraft.

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

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE GROUND WATER
PROTECTION ACT TO PERMIT THE LEGISLATURE TO APPROPRIATE MONEY
IN THE CORRECTIVE ACTION FUND TO THE STATE ROAD FUND.

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

Section 1. Section 74-6B-7 NMSA 1978 (being Laws 1990,
Chapter 124, Section 7, as amended) is amended to read:

"74-6B-7. CORRECTIVE ACTION FUND CREATED--AUTHORIZATION
FOR EXPENDITURES.--

A. There is created the "corrective action fund".
The fund is intended to provide for financial assurance
coverage and shall be used by the department to the extent that
revenues are available to take corrective action in response to
a release, to pay for the costs of a minimum site assessment in
excess of ten thousand dollars (\$10,000), to pay the state's

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1 share of federal leaking underground storage tank trust fund
2 cleanup costs as required by the federal Resource Conservation
3 and Recovery Act of 1976 and to make payments to or on behalf
4 of owners and operators for corrective action taken in
5 accordance with Section 74-6B-13 NMSA 1978. The legislature
6 may appropriate up to thirty percent of the annual distribution
7 to the fund pursuant to Section 7-1-6.25 NMSA 1978 to the
8 ~~[department to match federal funds, for underground~~
9 ~~contamination cleanup, and to address water needs]~~ state road
10 fund. The owner or operator of a site shall not use the
11 corrective action fund as evidence of financial assurance to
12 satisfy claims of third parties.

13 B. The board, after recommendations from the
14 storage tank committee, shall adopt rules for establishing
15 priorities for corrective action at sites contaminated by
16 storage tanks. The priorities for corrective action shall be
17 based on public health, safety and welfare and environmental
18 concerns. In adopting rules pursuant to this subsection, the
19 board shall follow the procedures of Section 74-4-5 NMSA 1978.
20 The provisions of that section relating to all other matters in
21 connection with the adoption of rules shall apply. The
22 department shall establish priority lists of sites in
23 accordance with the rules adopted by the board.

24 C. The department shall make expenditures from the
25 corrective action fund in accordance with rules adopted by the

.174493.1

1 board or the secretary for corrective action taken by the
2 state, owners or operators at sites contaminated by storage
3 tanks; provided that:

4 (1) payments may be made only for corrective
5 action taken by persons qualified by the department to perform
6 the work pursuant to rules adopted by the board;

7 (2) no expenditures from the fund shall be
8 paid to or on behalf of an owner or operator for corrective
9 action, other than a minimum site assessment or sampling, if
10 the corrective action is conducted by a person that is a
11 subsidiary or parent of or that is otherwise affiliated with
12 the owner or operator;

13 (3) expenditures shall be made by the
14 department to perform corrective action, to pay for the costs
15 of minimum site assessment in excess of ten thousand dollars
16 (\$10,000) or to make payments to or on behalf of an owner or
17 operator in accordance with Section 74-6B-13 NMSA 1978;

18 (4) any corrective action taken shall be taken
19 at sites in the order of priority appearing on the priority
20 lists, unless an emergency threat to public health, safety and
21 welfare or to the environment exists;

22 (5) when available revenues are limited and
23 the fund can no longer be approved as a financial
24 responsibility mechanism, priorities for expenditures from the
25 fund shall also be based on financial need as determined by

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1 rules adopted by the board; and

2 (6) corrective action involving remediation
3 shall follow a competitive bidding procedure based on technical
4 merit and cost effectiveness.

5 D. No expenditure from the corrective action fund
6 shall be authorized for corrective action at sites owned or
7 operated by the United States or any agency or instrumentality
8 thereof.

9 E. Nothing in this section authorizes payments for
10 the repair or replacement of a storage tank or equipment.

11 F. Nothing in this section authorizes payments or
12 commitments for payments in excess of the funds available.

13 G. The board, by rule, may provide for a specific
14 amount to be reserved in the fund for emergencies. The amount
15 reserved may be expended by the department only for corrective
16 action necessary when an emergency threat to public health,
17 safety and welfare or to the environment exists.

18 H. Within sixty days after receipt of notification
19 that the corrective action fund has become incapable of paying
20 for assured corrective actions, the owner or operator shall
21 obtain alternative financial assurance acceptable to the
22 department."

23 Section 2. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2009.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO TAXATION; DISTRIBUTING A PORTION OF THE MOTOR
VEHICLE EXCISE TAX TO THE STATE ROAD FUND.

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

Section 1. Section 7-14-10 NMSA 1978 (being Laws 1988,
Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
the tax and any associated interest and penalties shall be
deposited in the "motor vehicle suspense fund", hereby created
in the state treasury. As of the end of each month:

A. eighty-three and one-half percent of the net
receipts attributable to the tax and associated penalties and
interest shall be distributed to the general fund; and

B. sixteen and one-half percent of the net receipts
attributable to the tax and associated penalties and interest

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1 shall be distributed to the state road fund."

2 Section 2. EFFECTIVE DATE.--The effective date of this
3 provisions of this act is July 1, 2009.

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HOUSE MEMORIAL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

A MEMORIAL

REQUESTING A CONTINUATION OF THE 2008 REVIEW OF THE STATE'S
CURRENT AND FUTURE TRANSPORTATION NEEDS TO IDENTIFY APPROPRIATE
FUNDING STRATEGIES FOR A SUSTAINABLE TRANSPORTATION SYSTEM.

WHEREAS, in 2008, House Memorial 35 was approved and a
committee was formed to identify appropriate funding strategies
for a sustainable transportation system; and

WHEREAS, the committee formed pursuant to House Memorial
35 convened numerous times in 2008 and provided valuable input
to the legislature regarding transportation funding; and

WHEREAS, problems and concerns that were studied by the
committee are serious and ongoing; and

WHEREAS, the department of transportation continues to
experience increased construction costs attributed to inflation
of materials, including fuel, steel, concrete, asphalt and

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1 petroleum products, that are used in highway projects; and

2 WHEREAS, inflation of these same material costs continues
3 to affect the ongoing maintenance efforts for the highway
4 infrastructure; and

5 WHEREAS, the residents of the state are increasingly
6 dependent on alternative modes of public transportation; and

7 WHEREAS, federal funding for federal aid construction
8 projects remains significantly less than anticipated; and

9 WHEREAS, the state road fund revenue is not growing at a
10 rate comparable to the cost of inflation;

11 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
12 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the secretary
13 of transportation be requested to appoint a technical committee
14 whose members shall include representatives of the department
15 of transportation, New Mexico division of the federal highway
16 administration, associated contractors of New Mexico, American
17 council of engineering companies of New Mexico, New Mexico
18 passenger transportation association, regional planning
19 organizations, municipal planning organizations and other
20 transportation and aviation associations; and

21 BE IT FURTHER RESOLVED that the technical committee be
22 requested to develop data and information regarding influences
23 on the future outlook of transportation in New Mexico and
24 alternative funding strategies to be available for use by
25 decision-makers to aid in addressing sustainable transportation

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1 systems for New Mexico; and

2 BE IT FURTHER RESOLVED that the technical committee also
3 study tying together land use and transportation improvements
4 to provide for anticipated growth in jobs and housing while
5 reducing greenhouse gas emissions; and

6 BE IT FURTHER RESOLVED that the results of this study be
7 submitted to the governor and the legislature no later than
8 November 15, 2009; and

9 BE IT FURTHER RESOLVED that copies of this memorial be
10 transmitted to the governor, the secretary of transportation
11 and the members of New Mexico's congressional delegation.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; PLACING SPEED RESTRICTIONS ON
VEHICLES DURING NIGHTTIME HOURS.

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

Section 1. Section 66-7-301 NMSA 1978 (being Laws 1978,
Chapter 35, Section 405, as amended) is amended to read:

"66-7-301. SPEED REGULATION.--

A. No person shall drive a vehicle on a highway at
a speed greater than:

(1) fifteen miles per hour on all highways
when passing a school while children are going to or leaving
school and when the school zone is properly posted;

(2) thirty miles per hour in a business or
residence district;

(3) seventy-five miles per hour from one-half

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1 hour before sunrise to one-half hour after sunset, or sixty-
2 five miles per hour at any other time; and

3 (4) the posted speed limit in construction
4 zones posted as double fine zones or other safety zones posted
5 as double fine zones as designated by the [~~highway and~~
6 ~~transportation~~] department of transportation, provided that the
7 posted speed limit shall be determined by an engineering study
8 performed by the [~~state highway and transportation~~] department
9 of transportation.

10 B. In every event, speed shall be so controlled by
11 the driver as may be necessary:

12 (1) to avoid colliding with a person, vehicle
13 or other conveyance on or entering the highway;

14 (2) to comply with legal requirements as may
15 be established by the [~~state highway and transportation~~]
16 department of transportation or the New Mexico state police
17 division of the department of public safety and the duty of all
18 persons to use due care; and

19 (3) to protect workers in construction zones
20 posted as double fine zones or other safety zones posted as
21 double fine zones as designated by the [~~highway and~~
22 ~~transportation~~] department of transportation.

23 C. The speed limits set forth in Subsection A of
24 this section may be altered as authorized in Section 66-7-303
25 NMSA 1978."

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Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION
AUTHORITY; ADDING THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION
AUTHORITY TO THE LIST OF QUALIFIED ENTITIES FOR THE PURPOSES OF
THE PUBLIC PROJECT REVOLVING FUND; AUTHORIZING THE NEW MEXICO
FINANCE AUTHORITY TO ISSUE AND SUPPORT BONDS AND TO EXTEND
CREDIT ENHANCEMENTS FOR RENEWABLE ENERGY PROJECTS; EXEMPTING
CERTAIN PROPERTY FROM TAXATION; TRANSFERRING THE RENEWABLE
ENERGY TRANSMISSION BONDING FUND AND THE RENEWABLE ENERGY
TRANSMISSION AUTHORITY OPERATIONAL FUND FROM THE STATE TREASURY
TO THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY;
AMENDING THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY
ACT WITH REGARD TO THE DEPOSIT OF FUNDS AND THE ISSUANCE OF
BONDS.

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

.174668.2SA

underscored material = new
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1 Section 1. A new section of the New Mexico Finance
2 Authority Act is enacted to read:

3 "[NEW MATERIAL] BONDS FOR RENEWABLE ENERGY TRANSMISSION
4 PROJECTS.--The authority may issue bonds on behalf of renewable
5 energy electrical transmission and storage projects to be
6 entered into pursuant to the New Mexico Renewable Energy
7 Transmission Authority Act."

8 Section 2. Section 6-21-3 NMSA 1978 (being Laws 1992,
9 Chapter 61, Section 3, as amended) is amended to read:

10 "6-21-3. DEFINITIONS.--As used in the New Mexico Finance
11 Authority Act:

12 A. "authority" means the New Mexico finance
13 authority;

14 B. "bond" means any bonds, notes, certificates of
15 participation or other evidence of indebtedness;

16 C. "bondholder" or "holder" means a person who is
17 the owner of a bond, whether registered or not;

18 D. "emergency public project" means a public
19 project:

20 (1) made necessary by an unforeseen occurrence
21 or circumstance threatening the public health, safety or
22 welfare; and

23 (2) requiring the immediate expenditure of
24 money that is not within the available financial resources of
25 the qualified entity as determined by the authority;

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1 E. "public project" means the acquisition,
2 construction, improvement, alteration or reconstruction of
3 assets of a long-term capital nature by a qualified entity,
4 including land; buildings; water rights; water, sewerage and
5 waste disposal systems; streets; airports; municipal utilities;
6 parking facilities; and machinery, furniture and equipment.
7 "Public project" includes all proposed expenditures related to
8 the entire undertaking. "Public project" also includes the
9 acquisition, construction or improvement of real property,
10 buildings, facilities and other assets by the authority for the
11 purpose of leasing the property;

12 F. "qualified entity" means the state or an agency
13 or institution of the state or a county; municipality; school
14 district; two-year public post-secondary educational
15 institution; land grant corporation; acequia association;
16 public improvement district; federally chartered college
17 located in New Mexico; intercommunity water or natural gas
18 supply association or corporation; special district or
19 community water association; nonprofit foundation or other
20 support organization affiliated with a public university,
21 college or other higher educational institution located in New
22 Mexico; ~~[or]~~ an Indian nation, tribe or pueblo located wholly
23 or partially in New Mexico, including a political subdivision
24 or a wholly owned enterprise of an Indian nation, tribe or
25 pueblo or a consortium of those Indian entities; or the New

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1 Mexico renewable energy transmission authority; and

2 G. "security" or "securities", unless the context
3 indicates otherwise, means bonds, notes or other evidence of
4 indebtedness issued by a qualified entity or leases or
5 certificates or other evidence of participation in the lessor's
6 interest in and rights under a lease with a qualified entity
7 and that are payable from taxes, revenues, rates, charges,
8 assessments or user fees or from the proceeds of funding or
9 refunding bonds, notes or other evidence of indebtedness of a
10 qualified entity or from certificates or evidence of
11 participation in a lease with a qualified entity."

12 Section 3. Section 6-21-6 NMSA 1978 (being Laws 1992,
13 Chapter 61, Section 6, as amended) is amended to read:

14 "6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--
15 ADMINISTRATION.--

16 A. The "public project revolving fund" is created
17 within the authority. The fund shall be administered by the
18 authority as a separate account, but may consist of such
19 subaccounts as the authority deems necessary to carry out the
20 purposes of the fund. The authority may establish procedures
21 and adopt rules as required to administer the fund in
22 accordance with the New Mexico Finance Authority Act.

23 B. Except as otherwise provided in the New Mexico
24 Finance Authority Act, money from payments of principal of and
25 interest on loans and payments of principal of and interest on

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1 securities held by the authority for public projects authorized
2 specifically by law shall be deposited in the public project
3 revolving fund. The fund shall also consist of any other money
4 appropriated, distributed or otherwise allocated to the fund
5 for the purpose of financing public projects authorized
6 specifically by law.

7 C. Money appropriated to pay administrative costs,
8 money available for administrative costs from other sources and
9 money from payments of interest on loans or securities held by
10 the authority, including payments of interest on loans and
11 securities held by the authority for public projects authorized
12 specifically by law, that represents payments for
13 administrative costs shall not be deposited in the public
14 project revolving fund and shall be deposited in a separate
15 account of the authority and may be used by the authority to
16 meet administrative costs of the authority.

17 D. Except as otherwise provided in the New Mexico
18 Finance Authority Act, money in the public project revolving
19 fund is appropriated to the authority to pay the reasonably
20 necessary costs of originating and servicing loans, grants or
21 securities funded by the fund and to make loans or grants and
22 to purchase or sell securities to assist qualified entities in
23 financing public projects in accordance with the New Mexico
24 Finance Authority Act and pursuant to specific authorization by
25 law for each project.

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1 E. Money in the public project revolving fund not
2 needed for immediate disbursement, including money held in
3 reserve, may be deposited with the state treasurer for
4 short-term investment pursuant to Section 6-10-10.1 NMSA 1978
5 or may be invested in direct and general obligations of or
6 obligations fully and unconditionally guaranteed by the United
7 States, obligations issued by agencies of the United States,
8 obligations of this state or any political subdivision of the
9 state, interest-bearing time deposits, commercial paper issued
10 by corporations organized and operating in the United States
11 and rated "prime" quality by a national rating service, other
12 investments permitted by Section 6-10-10 NMSA 1978 or as
13 otherwise provided by the trust indenture or bond resolution,
14 if money is pledged for or secures payment of bonds issued by
15 the authority.

16 F. The authority shall establish fiscal controls
17 and accounting procedures that are sufficient to assure proper
18 accounting for public project revolving fund payments,
19 disbursements and balances.

20 G. Money on deposit in the public project revolving
21 fund may be used to make interim loans for a term not exceeding
22 two years to qualified entities for the purpose of providing
23 interim financing for any project approved or funded by the
24 legislature.

25 H. Money on deposit in the public project revolving
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1 fund may be used to acquire securities or to make loans to
2 qualified entities in connection with the small loan program.
3 As used in this subsection, "small loan program" means the
4 program of the authority designed to provide financing for
5 public projects, including projects financed by the New Mexico
6 renewable energy transmission authority or financed by the
7 authority on its behalf, in amounts not to exceed one million
8 dollars (\$1,000,000) per project. A public project financed
9 pursuant to the small loan program shall not require specific
10 authorization by law.

11 I. Money on deposit in the public project
12 revolving fund may be designated as a reserve for any bonds
13 issued by the authority, including bonds payable from sources
14 other than the public project revolving fund, and the authority
15 may covenant in any bond resolution or trust indenture to
16 maintain and replenish the reserve from money deposited in the
17 public project revolving fund after issuance of bonds by the
18 authority.

19 J. Money on deposit in the public project revolving
20 fund may be used to purchase bonds issued by the authority,
21 which are payable from any designated source of revenues or
22 collateral, or to purchase bonds issued by the New Mexico
23 renewable energy transmission authority. Purchasing and
24 holding the bonds in the public project revolving fund shall
25 not, as a matter of law, result in cancellation or merger of

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1 the bonds notwithstanding the fact that the authority as the
2 issuer of the bonds is obligated to make the required debt
3 service payments and the public project revolving fund held by
4 the authority is entitled to receive the required debt service
5 payments.

6 K. Money on deposit in the public project revolving
7 fund may be used to capitalize other financing programs of the
8 authority or of the New Mexico renewable energy transmission
9 authority authorized by law, either directly or from proceeds
10 of bonds issued by the authority and secured by money in the
11 public project revolving fund."

12 Section 4. Section 6-21-6.7 NMSA 1978 (being Laws 2003,
13 Chapter 341, Section 5, as amended) is amended to read:

14 "6-21-6.7. CREDIT ENHANCEMENT ACCOUNT CREATED--USE OF
15 ACCOUNT--RELEASE OF MONEY TO THE GENERAL FUND.--

16 A. The "credit enhancement account" is created as a
17 separate account within the authority for use only as provided
18 in this section.

19 B. All cigarette tax proceeds distributed each
20 month to the authority pursuant to Subsection G of Section
21 7-1-6.11 NMSA 1978 shall be deposited in the credit enhancement
22 account.

23 C. Amounts deposited in the credit enhancement
24 account may be pledged irrevocably as additional security for
25 the payment of the principal, interest, premiums and expenses

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1 on bonds issued by the authority or the New Mexico renewable
2 energy transmission authority for:

3 (1) designing, constructing, equipping and
4 furnishing additions and improvements to the university of New
5 Mexico hospital and the cancer research and treatment center at
6 the university of New Mexico health sciences center; ~~and~~

7 (2) land acquisition and the planning,
8 designing, construction and equipping of department of health
9 facilities or improvements to such facilities; and

10 (3) financing and entering into electrical
11 transmission and storage projects authorized pursuant to the
12 New Mexican Renewable Energy Transmission Authority Act.

13 D. The authority shall determine monthly upon
14 receipt of cigarette tax proceeds if the individual amounts of
15 cigarette tax proceeds distributed pursuant to Subsection E or
16 Subsection F, respectively, of Section 7-1-6.11 NMSA 1978 are
17 sufficient to meet the monthly amount required for immediate
18 payment or designation for payment of principal, interest,
19 premiums and expenses on bonds additionally secured by the
20 credit enhancement account. Any insufficient amount shall be
21 paid immediately from the credit enhancement account. A
22 payment from the credit enhancement account shall be reimbursed
23 in succeeding months from the individual amount of cigarette
24 tax proceeds distributed pursuant to Subsection E or Subsection
25 F, as applicable, of Section 7-1-6.11 NMSA 1978 in excess of

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1 the amount required for immediate payment or designation for
2 payment of principal, interest, premiums and expenses on bonds.
3 All money in the credit enhancement account in excess of the
4 monthly amount required for immediate payment or designation
5 for payment of principal, interest, premiums and expenses on
6 bonds shall be transferred monthly by the authority to the
7 general fund.

8 E. Upon payment of all principal, interest,
9 premiums and expenses on bonds additionally secured by a pledge
10 of amounts deposited in the credit enhancement account, the
11 authority shall certify to the secretary of taxation and
12 revenue that all obligations for bonds have been fully
13 discharged and shall direct the secretary of taxation and
14 revenue and the state treasurer to cease distributing cigarette
15 tax proceeds to the authority pursuant to Subsection G of
16 Section 7-1-6.11 NMSA 1978 and to distribute those cigarette
17 tax proceeds to the general fund.

18 F. Any law authorizing the imposition, collection
19 or distribution of the cigarette tax or that affects the
20 cigarette tax shall not be amended, repealed or otherwise
21 directly or indirectly modified so as to impair or reduce debt
22 service coverage for any outstanding revenue bonds that may be
23 secured by a pledge of those cigarette tax proceeds distributed
24 to the credit enhancement account, unless the revenue bonds
25 have been discharged in full or provisions have been made for a

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1 full discharge."

2 Section 5. Section 7-36-3 NMSA 1978 (being Laws 1975,
3 Chapter 218, Section 1, as amended by Laws 2006, Chapter 90,
4 Section 1 and by Laws 2006, Chapter 92, Section 1) is amended
5 to read:

6 "7-36-3. INDUSTRIAL REVENUE BOND, POLLUTION CONTROL BOND,
7 ~~[AND]~~ ECONOMIC DEVELOPMENT BOND AND RENEWABLE ENERGY
8 TRANSMISSION PROJECT PROPERTY--HEALTH-RELATED EQUIPMENT--TAX
9 STATUS.--

10 A. Property interests of a lessee in project
11 property held under a lease from a ~~[county or a municipality]~~
12 New Mexico governmental entity under authority of an industrial
13 revenue bond or pollution control revenue bond act ~~[or]~~, the
14 Statewide Economic Development Finance Act or the New Mexico
15 Renewable Energy Transmission Authority Act are exempt from
16 property taxation for as long as there is an outstanding bonded
17 indebtedness under the terms of the revenue bonds issued for
18 the acquisition of the project property, but in no event for a
19 period of more than thirty years from the date of execution of
20 the first lease of the project to the lessee by the county or
21 municipality or in the case of a project financed pursuant to
22 the New Mexico Renewable Energy Transmission Authority Act, not
23 to exceed thirty years from the date of commencement of project
24 construction.

25 B. Property interests of a person, other than a

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1 public utility, arising out of the purchase of a project
2 authorized by the Industrial Revenue Bond Act, the County
3 Industrial Revenue Bond Act, the Pollution Control Revenue Bond
4 Act, ~~[or]~~ the Statewide Economic Development Finance Act or the
5 New Mexico Renewable Energy Transmission Authority Act are
6 exempt from property taxation for as long as the project
7 purchaser remains liable to the project seller for any part of
8 the purchase price or in the case of a project financed
9 pursuant to the New Mexico Renewable Energy Transmission
10 Authority Act, for as long as the project is operated by the
11 developer or project entity, but not to exceed thirty years
12 from the date of execution of the sale agreement.

13 C. Property interests of a participating health
14 facility in health-related equipment purchased, acquired,
15 leased, financed or refinanced with the proceeds of bonds
16 issued under the Hospital Equipment Loan Act are exempt from
17 property taxation for as long as the participating health
18 facility remains liable for any amount under any lease, loan or
19 other agreement securing the bonds, but not to exceed thirty
20 years from the date the bonds were issued for the health-
21 related equipment.

22 D. The exemptions from property taxation under this
23 section are not cumulative; provided, however, that the
24 exemptions may be applied consecutively if subsequent
25 exemptions relate to the financing of a new project or new

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1 health-related equipment."

2 Section 6. Section 62-16A-5 NMSA 1978 (being Laws 2007,
3 Chapter 3, Section 5) is amended to read:

4 "62-16A-5. RENEWABLE ENERGY TRANSMISSION BONDS--
5 APPROPRIATION OF PROCEEDS.--

6 A. The authority is authorized to issue and sell
7 revenue bonds, known as "renewable energy transmission bonds",
8 payable [~~solely~~] from the renewable energy transmission bonding
9 fund and other sources as the authority may designate, in
10 compliance with the New Mexico Renewable Energy Transmission
11 Authority Act, for the purpose of entering into a project when
12 the authority determines that the project is needed.

13 B. The net proceeds from the bonds are appropriated
14 to the authority for the purpose of financing or acquiring
15 eligible facilities."

16 Section 7. Section 62-16A-6 NMSA 1978 (being Laws 2007,
17 Chapter 3, Section 6) is amended to read:

18 "62-16A-6. RENEWABLE ENERGY TRANSMISSION BONDING FUND
19 CREATED--MONEY IN THE FUND PLEDGED.--

20 A. The "renewable energy transmission bonding fund"
21 is created in the [~~state treasury~~] authority. The fund shall
22 consist of revenues received by the authority from operating or
23 leasing eligible facilities, fees and service charges collected
24 and, if the authority has provided financing for eligible
25 facilities, money from payments of principal and interest on

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1 loans. Earnings of the fund shall be credited to the fund.
2 Balances in the fund at the end of any fiscal year shall remain
3 in the fund, except as provided in this section.

4 B. Money in the fund shall be deposited in a bank
5 designated by the authority in an account or accounts as the
6 authority may establish. Money in accounts shall be withdrawn
7 on the order of persons whom the authority may authorize. All
8 deposits of money shall be secured in such manner as the
9 authority may determine. The state auditor and the state
10 auditor's legally authorized representatives may periodically
11 examine the accounts and books of the authority, including its
12 receipts, disbursements, contracts, leases, sinking funds,
13 investments and any other records and papers relating to its
14 financial standing. The authority shall pay a reasonable fee
15 for the examination as determined by the state auditor.

16 [~~B.~~] C. Money in the renewable energy transmission
17 bonding fund is first pledged for the payment of principal and
18 interest on all bonds issued pursuant to the New Mexico
19 Renewable Energy Transmission Authority Act. Money in the fund
20 is appropriated to the authority for the purpose of paying debt
21 service, including redemption premiums, on the bonds and the
22 expenses incurred in the issuance, payment and administration
23 of the bonds.

24 [~~C.~~] D. On the last day of January and the last day
25 of July of each year, the authority shall estimate the amount

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1 needed to make debt service and other payments during the next
2 twelve months from the renewable energy transmission bonding
3 fund on the bonds plus the amount that may be needed for any
4 required reserves. The authority shall transfer to the
5 renewable energy transmission authority operational fund any
6 balance in the renewable energy transmission bonding fund above
7 the estimated amounts.

8 ~~[D-]~~ E. Bonds issued pursuant to the New Mexico
9 Renewable Energy Transmission Authority Act shall be payable
10 ~~[solely]~~ from the renewable energy transmission bonding fund
11 or, with the approval of the bondholders, such other special
12 funds as may be provided by law and do not create an obligation
13 or indebtedness of the state within the meaning of any
14 constitutional provision. No breach of any contractual
15 obligation incurred pursuant to that act shall impose a
16 pecuniary liability or a charge upon the general credit or
17 taxing power of the state, and the bonds are not general
18 obligations for which the state's full faith and credit is
19 pledged.

20 ~~[E-]~~ F. The state does hereby pledge that the
21 renewable energy transmission bonding fund shall be used only
22 for the purposes specified in this section and pledged first to
23 pay the debt service on the bonds issued pursuant to the New
24 Mexico Renewable Energy Transmission Authority Act. The state
25 further pledges that any law requiring the deposit of revenues

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1 in the renewable energy transmission bonding fund or
2 authorizing expenditures from the fund shall not be amended or
3 repealed or otherwise modified so as to impair the bonds to
4 which the renewable energy transmission bonding fund is
5 dedicated as provided in this section."

6 Section 8. Section 62-16A-9 NMSA 1978 (being Laws 2007,
7 Chapter 3, Section 9) is amended to read:

8 "62-16A-9. PROCEDURE FOR SALE OF RENEWABLE ENERGY
9 TRANSMISSION BONDS.--

10 A. Bonds shall be sold by the authority at such
11 times and in such manner as the authority may elect, either at
12 private sale for a negotiated price or to the highest bidder at
13 public sale for cash at ~~[not less than]~~ par, above par or below
14 par and accrued interest.

15 B. In connection with any public sale of the bonds,
16 the authority shall publish a notice of the time and place of
17 sale in a newspaper of general circulation in the state and
18 also in a recognized financial journal outside the state. The
19 publication shall be made once each week for two consecutive
20 weeks prior to the date fixed for such sale, the last
21 publication to be two business days prior to the date of sale.
22 The notice shall specify the amount, denomination, maturity and
23 description of the bonds to be offered for sale and the place,
24 day and hour at which sealed bids therefore shall be received.
25 All bids, except those of the state, shall be accompanied by a

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1 deposit of two percent of the principal amount of the bonds.
2 Deposits of unsuccessful bidders shall be returned upon
3 rejection of the bid. At the time and place specified in such
4 notice, the authority shall open the bids in public and shall
5 award the bonds, or any part thereof, to the bidder or bidders
6 offering the best price. The authority may reject any or all
7 bids and readvertise.

8 C. The authority may sell a bond issue, or any part
9 thereof, to the state or to one or more investment bankers or
10 institutional investors at private sale."

11 Section 9. Section 62-16A-10 NMSA 1978 (being Laws 2007,
12 Chapter 3, Section 10) is amended to read:

13 "62-16A-10. NEW MEXICO RENEWABLE ENERGY TRANSMISSION
14 AUTHORITY ACT IS FULL AUTHORITY FOR ISSUANCE OF BONDS--BONDS
15 ARE LEGAL INVESTMENTS.--

16 A. The New Mexico Renewable Energy Transmission
17 Authority Act is, without reference to any other act of the
18 legislature, full authority for the issuance and sale of
19 renewable energy transmission bonds, which bonds shall have all
20 the qualities of investment securities under the Uniform
21 Commercial Code and shall not be invalid for any irregularity
22 or defect or be contestable in the hands of bona fide
23 purchasers or holders thereof for value.

24 B. The bonds are legal investments for any person
25 or board charged with the investment of any public funds,

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1 including, without limitation, the state investment council
2 when making investments on behalf of the state permanent fund
3 or the severance tax permanent fund or other funds in its
4 control and the state treasurer when making investments of the
5 general fund or other funds in the state treasurer's control
6 and are acceptable as security for any deposit of public
7 money."

8 Section 10. Section 62-16A-12 NMSA 1978 (being Laws 2007,
9 Chapter 3, Section 12) is amended to read:

10 "62-16A-12. RENEWABLE ENERGY TRANSMISSION BONDS TAX
11 EXEMPT.--All renewable energy transmission bonds are exempt
12 from taxation by the state or any of its political
13 subdivisions. Additionally, all mortgages or other security
14 instruments executed as security for the bonds, all personal or
15 real property acquired through use of bond proceeds, all lease
16 agreements made pursuant to the bonds and revenue derived from
17 any lease or sale of an eligible facility developed pursuant to
18 the bonds are exempt from all taxation by the state or any of
19 its political subdivisions."

20 Section 11. Section 62-16A-13 NMSA 1978 (being Laws 2007,
21 Chapter 3, Section 13) is amended to read:

22 "62-16A-13. RENEWABLE ENERGY TRANSMISSION AUTHORITY
23 OPERATIONAL FUND.--The "renewable energy transmission authority
24 operational fund" is created in the [~~state treasury~~] authority.
25 The fund shall consist of money appropriated and transferred to

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1 the fund. Money in the fund shall be deposited in a bank
2 designated by the authority in an account or accounts as the
3 authority may establish. Money in accounts shall be withdrawn
4 on the order of persons whom the authority may authorize. All
5 deposits of money shall be secured in such manner as the
6 authority may determine. The state auditor and the state
7 auditor's legally authorized representatives may periodically
8 examine the accounts and books of the authority, including its
9 receipts, disbursements, contracts, leases, sinking funds,
10 investments and any other records and papers relating to its
11 financial standing. The authority shall pay a reasonable fee
12 for the examination as determined by the state auditor.

13 Earnings from investment of the fund shall be credited to the
14 fund. Money in the fund is appropriated to the authority for
15 the purpose of carrying out the provisions of the New Mexico
16 Renewable Energy Transmission Authority Act. Any unexpended or
17 unencumbered balance remaining at the end of a fiscal year
18 shall not revert. [~~Disbursements from the fund shall be made~~
19 ~~upon warrants drawn by the secretary of finance and~~
20 ~~administration pursuant to vouchers signed by the executive~~
21 ~~director of the authority.]"~~

22 Section 12. TEMPORARY PROVISION--TRANSFER OF MONEY AND
23 RECORDS.--On the effective date of this act:

24 A. all money in the renewable energy transmission
25 bonding fund and records relating to the renewable energy

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underscoring material = new
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1 transmission bonding fund in the state treasury shall be
2 transferred to the renewable energy transmission bonding fund
3 in the New Mexico renewable energy transmission authority; and

4 B. all money in the renewable energy transmission
5 authority operational fund and records relating to the
6 renewable energy transmission authority operational fund in the
7 state treasury shall be transferred to the renewable energy
8 transmission authority operational fund in the New Mexico
9 renewable energy transmission authority.

10 Section 13. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2009.

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