

**NEW MEXICO
FINANCE AUTHORITY
OVERSIGHT COMMITTEE**

FINAL REPORT



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

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

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**2009 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

Members

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Elias Barela
Sen. Sue Wilson Beffort
Rep. Richard J. Berry
Sen. Kent L. Cravens
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Tim Eichenberg
Sen. Stephen H. Fischmann

Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil

Advisory Members

Rep. Janice E. Arnold-Jones
Rep. Jose A. Campos
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Stuart Ingle
Sen. Timothy M. Keller

Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Rep. Andy Nuñez
Rep. Edward C. Sandoval
Sen. John M. Sapien
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

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, the spaceport authority and the New Mexico renewable energy transmission authority (NMRETA) to the committee.

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

To carry out these tasks and statutory duties during the 2009 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, procurement, policies, goals, funds and loan programs;
- (2) receive progress reports on capital projects funded through the NMFA and receive testimony from state and local officials on capital needs;
- (3) review and oversee the use of stimulus funding authorized by the American Recovery and Reinvestment Act of 2009 that is administered by the NMFA and the New Mexico department of transportation;
- (4) take testimony and evaluate economic development projects proposed for funding or funded through the federal new market tax credit program and tax increment financing;
- (5) review the NMFA's implementation of the Statewide Economic Development Finance Act, examine the economic development revolving fund, including 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;
- (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 and on House Memorial 5 recommendations and examine options for sustainable funding for transportation infrastructure;
- (8) monitor and oversee the operations of the border authority, review and analyze the border authority's short-term and long-term goals, including an assessment of infrastructure needs in the border region and a review of the effectiveness of the border authority and its projects;
- (9) monitor and oversee the operations of the spaceport authority and review and analyze the spaceport authority's budget, short-term and long-term goals and the methods, proposals, programs and initiatives involving the spaceport;
- (10) monitor and oversee the operations of the NMRETA, including a review of the NMRETA's funding, structure, goals and objectives, proposed work plan, policy statements, rulemaking and budget, and take testimony on renewable energy recommendations from the New Mexico First Town Hall energy conference; and
- (11) report to the legislature and recommend necessary changes in law or policy.

MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
June 10 (Wed)	Santa Fe
July 1-2 (Wed, Thurs)	Taos
August 3-4 (Mon, Tues)	Gallup
September 3-4 (Thurs, Fri)	Albuquerque
October 1-2 (Thurs, Fri)	Las Cruces
November 2-3 (Mon, Tues)	Santa Fe
December 1 (Tues)	Santa Fe

2009
NEW MEXICO FINANCE AUTHORITY OVERSIGHT
COMMITTEE
INTERIM SUMMARY

Doris Faust, Staff Attorney
Legislative Council Service
January 5, 2010

New Mexico Finance Authority Oversight Committee 2009 Interim Summary

The committee carried out its statutory duty to monitor and oversee the New Mexico Finance Authority (NMFA), to monitor the public project financing program and to oversee and monitor state and local government capital planning and financing. Toward that end, the committee convened on seven occasions in diverse areas of the state to take testimony from state and local officials on state and local capital needs. The committee met in Santa Fe, Taos, Gallup, Albuquerque, Las Cruces and Sunland Park and received progress reports on projects funded through the NMFA in those areas.

The committee focused on an in-depth examination of the organizational structures and operations budgets of the NMFA, the Border Authority, the Spaceport Authority and the New Mexico Renewable Energy Transmission Authority (RETA). In the course of reviewing the four authority budgets, it became apparent that receiving all budget reports in a uniform format would greatly assist the committee in evaluating those budgets. The committee proposed and endorsed a bill to require uniform reporting of budgets and programs by the four authorities that the committee oversees, in a format approved by the committee. The bill also requires the four authorities to prepare and update five-year strategic budgets. If passed, the bill will allow the committee to perform its oversight functions better in future interim sessions.

The committee also heard testimony regarding the activities and projects of all four authorities. The Border Authority reported on its efforts to expand economic development of the border region, and the committee toured the Border Authority's new building. The Spaceport Authority updated the committee on spaceport construction and on the status of its efforts to attract new business and industry to New Mexico. The RETA briefed the committee on the results of its House Memorial 44 study, outlining the RETA project to map renewable energy corridors, the barriers to developing electric transmission infrastructure, the RETA's opportunities to facilitate infrastructure and recommendations to expedite the construction of renewable energy transmission infrastructure.

The NMFA briefed the committee on its procurement policies, bond ratings, investments and the numerous NMFA financing programs, including the Public Project Revolving Fund (PPRF), the Economic Development Revolving Fund, the Local Transportation Infrastructure Fund, the Water Project Fund and the New Markets Tax Credit Program.

The committee approved the NMFA's rules allowing for the funding of charter schools through the PPRF and allowing the NMFA to implement its authority under the Statewide Economic Development Finance Act to issue conduit bonds. This will allow the NMFA to assist smaller counties with issuance of recovery zone bonds under the federal American Recovery and Reinvestment Act of 2009.

The committee received a report regarding the Navajo Gallup water project and endorsed a bill to transfer administration of Water Trust Board funds awarded by the 2008 legislature to the City of Gallup from the NMFA to the New Mexico Department of Environment.

Another major issue under consideration was the status of transportation funding. The

committee heard about the status of Governor Richardson's Investment Partnership (GRIP) projects and received a report on the work being undertaken pursuant to the House Memorial 5 study. The Department of Transportation reported on the serious funding shortfalls in the GRIP program and in maintenance funding for state roads. The committee considered various measures to increase transportation funding but did not endorse any bills to raise revenue.

At its last meeting, in addition to the previously mentioned proposals, the committee endorsed several pieces of legislation for introduction during the 2010 legislative session. The committee endorsed bills proposed by the NMFA, including:

- a bill to strike the requirement that securities purchased by the NMFA include a certification of no pending litigation;
- a \$2.6 million appropriation from the PPRF to the Drinking Water State Revolving Loan Fund;
- a bill for project authorizations from the PPRF; and
- a bill for project authorizations from the Economic Development Revolving Fund.

The committee endorsed a bill proposed by the Spaceport Authority to require informed consent by participants and, if the informed consent is obtained, to limit liability for space flight entities. The RETA's requested bill making multiple amendments to the RETA statutes was also endorsed.

AGENDAS

Revised: May 26, 2009

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

**June 10, 2009
Room 307, State Capitol
Santa Fe**

Wednesday, June 10

- 10:00 a.m. **Call to Order**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 10:05 a.m. **Interim Legislative Meeting Protocols**
—Paula Tackett, Director, Legislative Council Service (LCS)
- 10:30 a.m. **New Mexico Renewable Energy Transmission Authority (NMRETA)
Legislation Summary**
—Jeremy Turner, Executive Director, NMRETA
- 11:00 a.m. **2009 Legislation Summary**
—William C. Sisneros, Chief Executive Officer, New Mexico Finance Authority
(NMFA)
- 12:00 noon **Working Lunch**
- 12:30 p.m. **NMFA Board of Directors: Board Membership and Subcommittees**
—Stephen R. Flance, Chair, NMFA Board of Directors
- 1:30 p.m. **Overview of NMFA Programs**
—William C. Sisneros, Chief Executive Officer, NMFA
—Marquita Russell, Chief of Programs, NMFA
- 3:00 p.m. **NMFA Role in Federal Stimulus Funding Under the American Recovery and
Reinvestment Act of 2009**
—Marquita Russell, Chief of Programs, NMFA
—John Brooks, Director of Commercial Lending, NMFA
- 4:15 p.m. **Review and Discussion of Work Plan, Meeting Dates and Locations
for 2009 Interim**
—Doris Faust, Staff Attorney, LCS
- 4:30 p.m. **Adjourn**

Revised: June 30, 2009

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

**July 1-2, 2009
Taos Convention Center
Rio Grande Hall, Section A
121 Civic Plaza Drive
Taos**

Wednesday, July 1

- 9:00 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
- 9:05 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Darren Cordova, Taos
—Daniel R. Barrone, Chair, Taos County Commission
—Governor Ruben Romero, Pueblo of Taos (Invited)
- 10:30 a.m. **New Mexico Finance Authority (NMFA) Role in Federal Stimulus Funding Under the American Recovery and Reinvestment Act of 2009 (ARRA)**
—Marquita Russell, Chief of Programs, NMFA
—John Brooks, Director of Commercial Lending, NMFA
- 11:30 a.m. **Lunch and Attendance at the Dedication of the UNM Solar Array Project**
- 1:30 p.m. **Proposed NMFA Rules for Funding Charter Schools Through the Public Project Revolving Fund**
—Marquita Russell, Chief of Programs, NMFA
- 2:15 p.m. **New Mexico Renewable Energy Transmission Authority (RETA) — Budget, Regional Issues, Financing Diagram and Discussion of Legislative Proposal**
—Jeremy Turner, Executive Director, RETA
- 3:15 p.m. **Update on House Memorial 5 Study**
—Representative Roberto "Bobby" J. Gonzales
- 3:45 p.m. **NMFA Programs — Status Update on the Public Project Revolving Fund and the Drinking Water State Revolving Loan Fund**
—Marquita Russell, Chief of Programs, NMFA
- 4:15 p.m. **Recess**

Thursday, July 2

- 8:00 a.m. **Call to Order**
- 8:05 a.m. **Overview of NMFA Compensation and Employee Classification**
—Dora C de Baca, Chief of Support Services, NMFA
- 8:35 a.m. **A Policy Discussion of the NMFA's Status as a Quasi-Governmental Agency and the Implications of the State Budget Act on the NMFA**
—William C. Sisneros, Chief Executive Officer, NMFA
- 9:45 a.m. **Transportation Funding — GRIP Update and ARRA Funding**
—Gary Giron, Secretary of Transportation
- 11:00 a.m. **Overview and Direction of NMFA Investments in a Volatile Market Environment**
—John Duff, Chief Finance Officer, NMFA
- 12:00 noon **Approval of Minutes and Committee Business**
- 12:15 p.m. **Adjourn**

Revised: July 28, 2009

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

**August 3-4, 2009
Gallup-McKinley County Public Schools Administration Building
640 South Boardman
Gallup**

Monday, August 3

- 9:00 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
- 9:05 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Harry Mendoza, Gallup (Invited)
—Dave Dallago, Jr., Chair, McKinley County Commission
- 10:15 a.m. **New Mexico Finance Authority (NMFA) Updated Procurement Policy and Contract Approval Process**
—Ray Romero, General Counsel, NMFA
- 11:15 a.m. **Department of Transportation (DOT) Cambridge Systematics Update**
—Gary Giron, Secretary of Transportation
- 12:00 noon **Working Lunch**
- 12:30 p.m. **Sustainable Transportation — Keeping New Mexico Mobile**
—Bill Hartman, Chair, New Mexico First Sustainable Transportation Town Hall
—Charlotte Pollard, Deputy Director, New Mexico First
—Bob Kuipers, Planner, Northwest New Mexico Council of Governments
- 1:45 p.m. **Status of the Federal Highway Trust Fund and Its Impact on New Mexico Transportation Funding and the DOT Budget**
—Gary Giron, Secretary of Transportation
- 2:45 p.m. **Transportation Funding Issues:**
 ■ Methodology of Funding Distribution to State Transportation Commission Districts and the Role of Federal Rules on the Distribution Formula
 ■ History of STIP and GRIP Programs
—Gary Giron, Secretary of Transportation
- 3:45 p.m. **Tour of the Gallup Motor Transportation Division Port of Entry**

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

Tuesday, August 4

8:30 a.m. **Call to Order**

8:35 a.m. **Governmental Gross Receipts Tax (GGRT): A Historical Analysis and the Role of the GGRT in the Public Project Revolving Fund (PPRF) Program**
—Greg Campbell, Comptroller, NMFA

9:30 a.m. **PPRF Capacity Model**
—John Duff, Chief Financial Officer, NMFA
—Michael Zavelle, Chief of Investor Relations, NMFA

10:30 a.m. **The Role of the Public Regulation Commission (PRC) in Transportation Issues**
—Carol K. Sloan, PRC Commissioner, District 4

11:30 a.m. **NMFA Ratings Update**
—William C. Sisneros, Chief Executive Officer, NMFA
—Jerome L. Trojan, Chief Operating Officer, NMFA

12:45 p.m. **Committee Business**

1:00 p.m. **Adjourn**

Revised: September 1, 2009

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

**September 3-4, 2009
Mid-Region Council of Governments Building
809 Copper Ave. NW
Albuquerque**

Thursday, September 3

- 10:00 a.m. **Call to Order and Welcome**
—Representative Patricia A. Lundstrom, Chair
- 10:05 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Martin Chavez, Albuquerque
—Mayor Thomas Swisstack, Rio Rancho
—Alan Armijo, Chair, Bernalillo County Commission
—Thaddeus Lucero, Bernalillo County Manager
- 11:15 a.m. **Update on the New Mexico First Town Hall on Growing New Mexico's
Energy Economy**
—Jennifer Salisbury, New Mexico First Town Hall Implementation Team Chair
—Heather Balas, Executive Director, New Mexico First
- 12:15 p.m. **Lunch**
- 1:30 p.m. **Proposed Revisions to the New Mexico Finance Authority (NMFA) Public
Project Revolving Fund Rules to Address Charter School Financing**
—Marquita Russell, Chief of Programs, NMFA
—Dr. Lisa Grover, Executive Director, New Mexico Coalition for Charter Schools
—Paul Cassidy, Managing Director, RBC Capital Markets
—Patricia Matthews, Attorney, Matthew Fox Law Firm
- 3:00 p.m. **Spaceport Authority Update and Legislative Summary**
—Steve Landene, Executive Director, Spaceport Authority
- 4:15 p.m. **NMFA Budget**
—William C. Sisneros, Chief Executive Officer, NMFA
—Jerome L. Trojan, Chief Operating Officer, NMFA
—Greg Campbell, Comptroller, NMFA
- 5:00 p.m. **Recess**

Friday, September 4

- 8:30 a.m. **Call to Order**
- 8:35 a.m. **Update on Rail Runner Budget and Operations**
—Lawrence Rael, Executive Director, Mid-Region Council of Governments
- 9:15 a.m. **Metropolitan Planning Organization, Regional Planning Organization and Council of Government Functions**
—Lawrence Rael, Executive Director, Mid-Region Council of Governments
- 9:45 a.m. **Renewable Energy Transmission Authority (RETA) — Proposed Project Selection Policy and Proposed Legislation**
—Jeremy Turner, Executive Director, RETA
- 11:30 a.m. **Proposed Legislation to Transfer Money in the Water Project Fund for a Water Distribution Project**
—Lance Allgood, Executive Director, Gallup Joint Utilities
—Mark DePauli, DePauli Engineering
- 12:25 p.m. **Committee Business**
- 12:30 p.m. **Adjourn**

Revised: September 29, 2009

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

**October 1-2, 2009
NMSU Pan Am Center, Barbara Hubbard Room
Las Cruces**

Thursday, October 1

- 9:00 a.m. **Call to Order**
—Representative Patricia A. Lundstrom, Chair
—Senator Mary Kay Papen, Vice Chair
- 9:05 a.m. **Overview of Local Capital Projects and Capital Needs**
—Mayor Pro-Tempore Dolores Archuleta, Las Cruces
—Mayor Michael Cadena, Mesilla
—Leticia Duarte-Benavidez, Chair, Dona Ana County Commission
—Jamie Michael, Assistant Director, Dona Ana Health and Human Services
- 10:00 a.m. **Spaceport Authority Budget and Proposed Legislation**
—Steve Landeene, Executive Director, Spaceport Authority
—Steve Amland, General Counsel, Spaceport Authority
- 11:30 a.m. **Tour of the Taylor-Barela-Reynolds-Mesilla State Monument**
—John Paul Taylor
- 1:00 p.m. **Tour of Sunland Park Race Track (Working Lunch)**
—**Welcoming Remarks** — Bruce Brubaker, Sunland Park Race Track
—**Border Region Economic Development Issues** — Jerry Pacheco, Executive Director, New Mexico International Business Accelerator
—**Dairy Issues** — Sharon Lombardi, Executive Director, Dairy Producers of New Mexico
—**Lower Rio Grande Public Works Authority Update** — Martin Lopez, Registered Agent, Lower Rio Grande Mutual Domestic Water Association
—**Update on Verde Realty Development Projects** — Juan Massey, Regulatory Affairs Director, Verde Group
- 3:30 p.m. **Tour of New Mexico Border Authority Facilities, Santa Teresa**
—Andrew Morales, Executive Director, Border Authority
—Emma Johnson Ortiz, Deputy Director, Border Authority
- 4:45 p.m. **Return to Las Cruces and Recess**

Friday, October 2

- 8:30 a.m. **Call to Order**
- 8:35 a.m. **New Mexico Finance Authority (NMFA) Budget**
—William C. Sisneros, Chief Executive Officer, NMFA
—Jerome L. Trojan, Chief Operating Officer, NMFA
—Greg Campbell, Comptroller, NMFA
- 10:00 a.m. **New Mexico Renewable Energy Transmission Authority (RETA)
Proposed Legislation**
—Jeremy Turner, Executive Director, RETA
- 10:45 a.m. **New Mexico Border Authority Update and Budget**
—Andrew Moralez, Executive Director, Border Authority
—Emma Johnson Ortiz, Deputy Director, Border Authority
- 12:00 noon **Committee Business**
- 12:15 p.m. **Adjourn**

Revised: October 20, 2009

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

**November 2-3, 2009
Room 307, State Capitol
Santa Fe**

Monday, November 2

- 9:00 a.m. **Call to Order**
—Representative Patricia A. Lundstrom, Chair
- 9:05 a.m. **Statewide Economic Development Fund Update and Policy Issues**
—William Sisneros, Executive Director, New Mexico Finance Authority (NMFA)
—Marquita Russell, Chief of Programs, NMFA
- 10:15 a.m. **Stimulus Funding Authorized by the American Recovery and Reinvestment Act of 2009 That Is Administered by the NMFA**
—Marquita Russell, Chief of Programs, NMFA
—John Brooks, Director of Commercial Lending, NMFA
- 11:00 a.m. **New Mexico Finance Authority (NMFA) Conduit Bond Rules**
—Marquita Russell, Chief of Programs, NMFA
—Richard Virtue, Virtue, Najjar and Brown, P.C.
- 12:00 noon **Proposed Spaceport Authority Legislation (Working Lunch)**
—Steve Landeene, Executive Director, Spaceport Authority
- 1:00 p.m. **NMFA Proposed Legislation**
—William Sisneros, Executive Director, NMFA
—Matthew Jaramillo, Governmental Affairs, NMFA
- 2:00 p.m. **Public Project Revolving Fund Update and Policy Issues**
—William Sisneros, Executive Director, NMFA
—Marquita Russell, Chief of Programs, NMFA
- 4:00 p.m. **Proposed Charter School Rules**
—Marquita Russell, Chief of Programs, NMFA
—Matthew Jaramillo, Governmental Affairs, NMFA
- 4:30 p.m. **Recess**

Tuesday, November 3

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

9:05 a.m. **Executive Session — Policy Issues**
—Doris Faust, Staff Attorney, Legislative Council Service (LCS)
—Tom Pollard, Legislative Fiscal Analyst, LCS

10:30 a.m. **New Markets Tax Credit Update**
—William Sisneros, Executive Director, NMFA
—Marquita Russell, Chief of Programs, NMFA

11:30 a.m. **Tax Increment Development District Issues**
—Bob Hearn, President, Quality Growth Alliance
—Michael Daly, President, Mesa del Sol

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

Revised: October 20, 2009

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

**November 2-3, 2009
Room 307, State Capitol
Santa Fe**

Monday, November 2

- 9:00 a.m. **Call to Order**
—Representative Patricia A. Lundstrom, Chair
- 9:05 a.m. **Statewide Economic Development Fund Update and Policy Issues**
—William Sisneros, Executive Director, New Mexico Finance Authority (NMFA)
—Marquita Russell, Chief of Programs, NMFA
- 10:15 a.m. **Stimulus Funding Authorized by the American Recovery and Reinvestment Act of 2009 That Is Administered by the NMFA**
—Marquita Russell, Chief of Programs, NMFA
—John Brooks, Director of Commercial Lending, NMFA
- 11:00 a.m. **New Mexico Finance Authority (NMFA) Conduit Bond Rules**
—Marquita Russell, Chief of Programs, NMFA
—Richard Virtue, Virtue, Najjar and Brown, P.C.
- 12:00 noon **Proposed Spaceport Authority Legislation (Working Lunch)**
—Steve Landeene, Executive Director, Spaceport Authority
- 1:00 p.m. **NMFA Proposed Legislation**
—William Sisneros, Executive Director, NMFA
—Matthew Jaramillo, Governmental Affairs, NMFA
- 2:00 p.m. **Public Project Revolving Fund Update and Policy Issues**
—William Sisneros, Executive Director, NMFA
—Marquita Russell, Chief of Programs, NMFA
- 4:00 p.m. **Proposed Charter School Rules**
—Marquita Russell, Chief of Programs, NMFA
—Matthew Jaramillo, Governmental Affairs, NMFA
- 4:30 p.m. **Recess**

Tuesday, November 3

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

9:05 a.m. **Executive Session — Policy Issues**

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

—Tom Pollard, Legislative Fiscal Analyst, LCS

10:30 a.m. **New Markets Tax Credit Update**

—William Sisneros, Executive Director, NMFA

—Marquita Russell, Chief of Programs, NMFA

11:30 a.m. **Tax Increment Development District Issues**

—Bob Hearn, President, Quality Growth Alliance

—Michael Daly, President, Mesa del Sol

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

Revised: November 25, 2009

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

**December 1, 2009
Room 307, State Capitol
Santa Fe**

Tuesday, December 1

- 9:00 a.m. **Call to Order**
—Representative Patricia A. Lundstrom, Chair
- 9:05 a.m. **Proposed Legislation of the New Mexico Finance Authority (NMFA)**
—William Sisneros, Executive Director, NMFA
—Matthew Jaramillo, Governmental Affairs, NMFA
- 10:15 a.m. **Proposed Legislation of the Spaceport Authority**
—TBA
- 10:35 a.m. **Proposed Legislation Regarding Oversight of the NMFA, New Mexico
Renewable Energy Transmission Authority, Border Authority and
Spaceport Authority**
—Doris Faust, Staff Attorney, Legislative Council Service
- 11:00 a.m. **Approval of Conduit Bond Rules**
—Marquita Russell, Chief of Programs, NMFA
- 12:00 noon **Lunch**
- 1:30 p.m. **Department of Transportation Report on House Memorial 5**
—Secretary Gary Giron, New Mexico Department of Transportation
- 2:30 p.m. **Water Project Fund Update**
—Marquita Russell, Chief of Programs, NMFA
—Jana Amacher, NMFA

- 3:30 p.m. **Laboratory Partnership with Small Business Tax Credit Program**
—Mariann Johnston, Team Leader, Economic Development, Los Alamos
 National Laboratory
—Jackie Kerby Moore, Manager, Technology and Economic Development,
 Sandia National Laboratories
—Jim Manatt, President, Providence Technologies, Inc.
- 4:00 p.m. **New Mexico Renewable Energy Transmission Authority (RETA) Report on
Senate Memorial 44**
—Jeremy Turner, Executive Director, RETA
- 4:45 p.m. **Approval of Minutes and Committee Business**
- 5:00 p.m. **Adjourn**

MINUTES

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

**June 10, 2009
Room 307, State Capitol**

The first meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 10:15 a.m. on Wednesday, June 10, 2009, in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papan, Vice Chair
Sen. Sue Wilson Beffort
Rep. Richard J. Berry
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Tim Eichenberg
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil

Absent

Rep. Elias Barela
Sen. Kent L. Cravens

Advisory Members

Rep. Janice E. Arnold-Jones
Rep. Jose A. Campos
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Timothy M. Keller
Rep. Ben Lujan
Rep. W. Ken Martinez

Sen. Stuart Ingle
Sen. Richard C. Martinez
Sen. John M. Sapien

Rep. Andy Nuñez
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

Staff

Doris Faust
Renée Gregorio
Sandy Mitchell
Tom Pollard

Wednesday, June 10

Interim Legislative Committee Protocols

Paula Tackett, director, Legislative Council Service (LCS), advised the committee of the interim committee protocols, including those relating to the establishment of a quorum. She said that a quorum consists of 50 percent plus one of the voting members assigned to the committee. Once a quorum is established, it is presumed to exist until the question of whether a quorum exists is raised by a voting member or a roll call vote is taken. She said the New Mexico Legislative Council authorizes the speaker of the house and the president pro tempore to adjust the membership of the committees. Members may resign at any time. Ms. Tackett addressed issues related to the sound system in the committee rooms, saying that the sound system adjusts automatically and is easily disrupted by background noise. If a committee member is having trouble hearing, she suggested checking for excessive background noise (e.g., side conversations, paper rustling, typing, etc.). Ms. Tackett discussed the interim committee calendar and 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. Finally, Ms. Tackett addressed per diem and mileage forms and conference attendance. She also explained that complaints have arisen over the use of cell phones during committee meetings and that it is up to the committee chairs to address those concerns. Representative Lundstrom then instructed the committee that cell phones should be kept on vibrate, and calls should be taken outside. At the request of a member, Ms. Tackett then discussed the blocking provision, which states that no action shall be taken if a majority of the members from one house vote against a measure; however, she noted that this provision does not apply to the New Mexico Finance Authority Oversight Committee.

New Mexico Renewable Energy Transmission Authority (NMRETA) Legislation Summary

Jeremy Turner, executive director of the NMRETA, and Robert Busch, chairman of NMRETA, provided background information on the NMRETA and a summary of legislation from the 2009 legislative session. Mr. Turner explained that the primary focus of the NMRETA is to develop renewable energy-related transmission infrastructure and storage projects. Thirty percent of the energy in the NMRETA-acquired or -constructed transmission infrastructure must be renewable. The NMRETA is able to finance transmission and storage projects through the issuance of revenue bonds payable from the revenues generated by the development.

Mr. Turner then discussed the two pieces of legislation introduced last session concerning the NMRETA (Senate Bill 35, by Senator Harden, and House Bill 563, by

Representative Campos). The bills were identical by the end of the session, but neither was passed by the legislature. The legislation was designed to allow the NMFA to issue bonds on behalf of the NMRETA or to purchase them from the Public Project Revolving Fund (PPRF) and to grant developers of renewable energy transmission and storage facilities the same tax benefits currently available for renewable energy generating facilities.

Mr. Turner discussed the first NMRETA project, a 100-megawatt wind farm in Torrance County known as High Lonesome Wind Ranch. The estimated financing from the NMRETA is \$34 million, with total revenue over the life of the project estimated at approximately \$580 million and total operating expenses over the life of the project estimated at \$219 million.

Mr. Busch explained some of the difficulties facing the NMRETA. Transmission lines are very expensive, and renewable energy projects tend to get built in small pieces rather than all at once. He stated that it would be preferable to have bigger projects, but there are not enough people who want to aggregate.

Mr. Turner was asked to explain why Senate Bill 35 was tabled during the 2009 legislative session. Mr. Turner explained that an amendment on the senate floor had provided for the bonds to go through the State Board of Finance. He stated that the time delays associated with that process warranted the tabling of the bill.

In response to a question concerning the NMRETA's use of the power of eminent domain, Mr. Turner explained that while the NMRETA has the ability to use eminent domain to place transmission lines, it prefers not to use that power but to work with the landowners instead.

NMFA Legislation Summary

Matthew A. Jaramillo, financial advisor of the NMFA, and William C. Sisneros, chief executive officer of the NMFA, gave an overview of legislation from 2009. All six bills supported by the NMFA were passed and signed by the governor. They include:

- House Bill 76 — authorizes the NMFA to make loans from the PPRF to 95 public entities and nine charter schools for capital projects;
- House Bill 77 — appropriates \$2 million from the PPRF to the Drinking Water State Revolving Loan Fund for construction of drinking water systems throughout the state;
- Senate Bill 23 — appropriates \$2 million from the PPRF to the Local Government Planning Fund for water or wastewater system development, economic development or long-term water management and water conservation strategies;
- Senate Bill 90 — authorizes financing assistance from the Economic Development Revolving Fund in the form of loan participation with private lenders (smart money loan participation program);
- Senate Bill 405 — authorizes the NMFA to make loans or grants from the Water Project Fund for 61 qualifying water projects and to make grants from the Acequia Project Fund for 20 acequia water projects; and
- Senate Bill 584 — expands the list of "qualified entities" and public projects for purposes of the PPRF.

The question was raised as to whether all the bills were endorsed by the committee. Doris

Faust, staff attorney, LCS, replied that some were not committee-endorsed legislation.

Mr. Sisneros was asked to discuss the smart money program as it relates to the anti-donation clause of the state constitution. Mr. Sisneros stated that the NMFA partners with banks to provide loans for smart money projects and does not give money to particular businesses.

NMFA Platform

Mr. Sisneros, presented the NMFA's platform for the future. The platform includes:

- a client focus strategy that analyzes and projects the capital needs of its clients and strengthens customer service;
- an operations management evolution that emphasizes management and leadership and assures that policies and systems are current and adequate;
- management of market volatility by more frequent cost-effective bond issues, monitoring the interest rate environment daily, evaluating competitive bond sales, selling bonds on a flexible schedule, determining the most cost-effective means of selling bonds and developing an investor relations program and strategy;
- a portfolio strategy for loans and investments that includes regular review and refinement of loan and investment policies, evaluating financing options, monitoring investments daily and evaluating consultant performance;
- safeguards that include regular meetings with the debt management committee, thorough reviews of the loan portfolio, strengthening internal controls, monitoring the leverage debt/equity ratio, ensuring proper risk mitigation for loan programs and developing collateral monitoring systems;
- executive/legislative interaction management that provides support to the governor, legislature and oversight committee, develops and maintains external relationships with offices and entities and implements legislative initiatives;
- policies and practices that maintain client focus and support and that critically assess program performance; and
- an office of the general counsel that reviews actions, policies, objectives and legislative initiatives.

Mr. Sisneros answered questions concerning the nature of derivative products and how the NMFA is positioned to handle the recent economic turmoil. He stated that the NMFA is positioned very well for the future and that the policies, rules and procedures of the NMFA give it strength in the marketplace. He also answered questions concerning the NMFA's policies with regard to charter schools. He said that they are still working on rules for when the NMFA can do business with charter schools.

NMFA Board of Directors: Board Membership and Subcommittees

Stephen R. Flance, chair of the NMFA board of directors, discussed the membership and committees of the NMFA board. The committees include the executive committee, finance/loan committee, economic development committee, investment committee, contracts committee and audit committee. He said that the investment committee was extremely active last year due to the volatility in the market. Even though the NMFA was invested in derivative products, the committee was able to prevent the authority from suffering serious losses. Mr. Flance also commented about the federal investigation of CDR, a company that the NMFA paid to handle

part of the state transportation bonds for Governor Richardson's Investment Partnership (GRIP) in 2004. He said the investigation is completed, and the NMFA will not be found to have engaged in any inappropriate activity in the investment of its funds. Mr. Flance concluded his presentation by stating that the NMFA board is the best organized, best structured and most highly qualified board on which he has ever served.

Mr. Flance was asked to comment about common membership between the NMFA board and the Water Trust Board and whether it is a good idea to have the same people who approve projects also approving financing. Mr. Flance replied that the overlap is a creation of the legislature but that, in his opinion, the two boards are not tripping over each other. Each has its own focus. The Water Trust Board is looking at community need. The NMFA is looking at feasibility. Senator Harden requested committee staff to prepare a list of other boards on which the NMFA board members serve.

In response to questioning, Mr. Flance provided more details on how the NMFA became involved with derivative products. He stated that fixed-rate bond issues would not have been sufficient to fund the GRIP transportation project. Financial advisors at J.P. Morgan suggested the use of alternative financing methods and brought CDR to the table.

Overview of NMFA Programs

Mr. Sisneros and Marquita Russell, chief of programs for the NMFA, provided the committee with an overview of NMFA programs. The NMFA is a governmental entity created in 1992 to coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects. NMFA funds and programs include the following:

- **Infrastructure Programs**
 - PPRF — the authority's "flagship" program;
 - stand-alone bond programs;
 - Energy Efficiency and Renewable Energy Bonding Act;
 - GRIP;
 - Local Transportation Infrastructure Fund; and
 - Local Government Transportation Fund (GRIP II).
- **Water Programs**
 - Drinking Water State Revolving Loan Fund;
 - Water and Wastewater Grant Fund;
 - Water Project Fund; and
 - Local Government Planning Fund.
- **Private Lending Programs**
 - Primary Care Capital Fund;
 - Behavioral Health Capital Fund;
 - Child Care Facility Revolving Loan Fund;
 - Statewide Economic Development Finance Act;
 - smart money loan participation program; and
 - new markets tax credit program.

Mr. Sisneros and Ms. Russell addressed questions from the committee concerning programs for mom-and-pop operations and small towns, criteria for determining what programs to fund, eligibility for particular programs and methods for providing outreach on programs that are available.

NMFA Role in Federal Stimulus Funding

John Brooks, director of commercial lending for the NMFA, and Ms. Russell discussed the American Recovery and Reinvestment Act of 2009 (ARRA). The ARRA provides a special \$19.5 million capitalization grant to New Mexico's Drinking Water State Revolving Loan Fund and requires that at least 50 percent of the funds be delivered as additional subsidization. Under the ARRA, "shovel-ready" projects are considered a priority, green infrastructure projects must receive at least 20 percent of funds, and projects will be subject to the federal Davis-Bacon Act. Due to time constraints, the presenters were asked to come back another time to provide more information on stimulus funding and to answer questions from committee members.

Review and Discussion of Work Plan, Meeting Dates and Locations for the 2009 Interim

Ms. Faust reviewed the proposed work plan and meeting schedule with the committee. The proposed work plan, dates and locations are in the meeting file.

On a motion made, seconded and approved, the committee work plan was adopted.

There being no further business, the committee adjourned at 4:15 p.m.

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

**July 1-2, 2009
Taos Convention Center
Rio Grande Hall, Section A
121 Civic Plaza Drive
Taos**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 9:25 a.m. on Wednesday, July 1, 2009, at the Taos Convention Center in Taos.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Elias Barela
Sen. Sue Wilson Beffort
Rep. Richard J. Berry
Sen. Kent L. Cravens
Rep. Anna M. Crook
Rep. Brian Egolf
Sen. Tim Eichenberg
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil (July 2)

Absent

Sen. Stephen H. Fischmann
Sen. George K. Munoz
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra

Advisory Members

Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Timothy M. Keller
Rep. Ben Lujan
Rep. Andy Nunez
Rep. Edward C. Sandoval
Rep. Luciano "Lucky" Varela

Rep. Janice E. Arnold-Jones
Rep. Jose A. Campos
Rep. Ernest H. Chavez
Sen. Stuart Ingle
Sen. Richard C. Martinez
Rep. W. Ken Martinez
Sen. John M. Sapien
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor

Guest Legislators

Rep. Ray Begaye (July 1)
Rep. Roberto "Bobby" J. Gonzales

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

Staff

Sebastian Dunlap
Doris Faust
Sandy Mitchell
Tom Pollard

Wednesday, July 1

Call to Order

Representative Lundstrom called the meeting to order and asked the committee members to introduce themselves.

Overview of Local Capital Projects and Capital Needs

Mayor Darren Cordova discussed current and upcoming capital projects in Taos. The most significant project is a geothermal energy plant that will use effluent from the town's wastewater treatment plant to create steam that will power a turbine for energy production. The goal is to make Taos energy independent. Other current and upcoming projects include a multiphased recreational park (Salazar Eco-Park), a biosolid composting facility, a membrane bioreactor system for the wastewater treatment plant, a nitrate reduction project for wastewater treatment, a pediatric clinic, expansion of Fire Station #2 and water system improvements.

The most important capital needs of the town include construction of the Weimer Area Waterline for an area annexed over 10 years ago that still has no water service, renovation of the Mary Medina Building to house a new police station, construction of the Salazar Road extension, construction of phase 2 of the Alexander and Reed Roadway project, replacement of a deteriorated fire truck and expansion of the public library.

The town has received \$500,000 in federal funding for its Transportation Division and has an application pending for a \$500,000 grant to install solar applications at town facilities. The town applied for but was denied funding under the American Recovery and Reinvestment Act of 2009 (ARRA) Drinking Water and Clean Water Revolving Loan Funds to upgrade its wastewater treatment plant and construct the Weimer Area Waterline.

Regional capital needs include providing broadband service and extending the Rail Runner to north central New Mexico. Mayor Cordova said he is collaborating with mayors throughout the region to conduct a feasibility study on extending the Rail Runner.

Daniel R. Barrone, chair, Taos County Commission, discussed the capital projects and needs for Taos County. The county is planning to replace its current administrative complex, which was built in 1979. The current facility has become too expensive to operate, maintain and renovate. The county's next priority is to upgrade roads and road equipment. Mr. Barrone described how moisture and thaw in the area cause roads in the county to deteriorate faster than in other areas of the state. The county has received 10 acres of land from the DOT. The county would like to work in partnership with governmental or private entities to develop the land as a rest area or a visitor center. The county would also like to replace antiquated sheriffs' vehicles.

Sammy Pacheco, county manager, Taos County, spoke briefly on earthship biotecture and how Taos County has been at the forefront in this environmental initiative. He also commented on how legislation passed a few years ago in New Mexico has contributed to these efforts. Mr. Pacheco thanked the committee for supporting the NMFA in its efforts to support Taos County.

Mayor Cordova was asked to explain why the town's funding request for its water project was denied. He said that he does not know why it was denied, but that the project was ranked very high. Representative Lundstrom asked that a letter be drafted to ask how projects were awarded.

In response to questioning about a veteran's cemetery, Mr. Pacheco stated that Taos County has donated approximately 25 acres for such a purpose.

Mayor Cordova was asked about the number of residents that would be served by the Weimer Area Waterline. He said that currently 600 residents are without water service in the area.

Mayor Cordova was also asked about the town's relationship with Pueblo of Taos. The mayor responded that they had a good relationship, and he described the progress they were making on an airport expansion project that had been held up because of pueblo concerns but was now moving ahead.

Approval of Minutes

The minutes from the committee's first meeting were approved without objection.

NMFA Role in Federal Stimulus Funding Under the ARRA

Marquita Russell, chief of programs, NMFA, and John Brooks, director of commercial lending, NMFA, discussed the NMFA's role with the ARRA funding. Under the ARRA, the state will receive \$19.5 million for water infrastructure projects. The law requires that grant recipients must deliver at least 50 percent of the funds as additional subsidization. The ARRA has funding parameters that also must be met. These parameters include serving small and disadvantaged systems, giving priority to shovel-ready projects, giving at least 20 percent of the funds to green infrastructure projects and subjecting the projects to the federal Davis-Bacon Wage Act and "Buy American" requirements. All the ARRA-funded projects must be under construction by February 17, 2010; otherwise, the funds will revert back to the federal government.

To implement the additional subsidization requirement, each applicant will receive 40 percent in principal forgiveness for compliance with the Buy American provisions of the ARRA and a 10 percent subsidy for compliance with the Davis-Bacon Wage Act. An additional 20 percent of principal forgiveness will be provided to green projects and an additional subsidy (determined through an affordability ratio) will be provided to certain disadvantaged systems. No project will receive more than 80 percent in total principal forgiveness.

Reporting requirements under the ARRA are significant. Projects are subject to both regular reporting and federal reporting requirements. All dollars spent on economic recovery will be subject to unprecedented levels of transparency and accountability.

Ms. Russell and Mr. Brooks went over the eight projects awarded funding, the amount of money they will receive, the subsidies they will receive and the amount of money they will pay back.

Ms. Russell was asked whether the NMFA will have to verify that it takes 40 percent of the cost estimate to satisfy the Buy American requirements. She replied that the NMFA only has to ensure that the Buy American requirements are being met; it does not have to verify the cost of meeting those requirements.

Ms. Russell was asked to explain the purpose of technical set-asides and whether the set-asides are required by the federal government. She replied that they are not required, but rather discretionary, and that the state applied for the maximum amount. Andy Edmondson, technical services manager, Drinking Water Bureau, New Mexico Department of Environment (NMED), addressed the committee concerning the use of technical set-asides. He said the money is needed to support staff. Representative Lundstrom asked Mr. Edmondson to provide the committee with information showing what the technical set-asides are used being for.

Members of the committee asked why money is going to municipalities rather than rural areas and small communities and what can be done to help smaller areas. Ms. Russell explained that the timing and planning requirements under the ARRA made it difficult for small communities to receive funding. She said the NMFA directs them to use a uniform funding application and Water Trust Board funding to receive assistance.

Senator Ulibarri and Representative Lundstrom asked that the NMFA provide a list of the project requests that were submitted but did not get funded.

Dedication of UNM Solar Array Project

The committee toured the UNM solar array project during lunch.

Finance Tools for Economic Development Through the ARRA

Ms. Russell discussed the bonds made available through the ARRA. These include new recovery zone facility bonds, Build America bonds, recovery zone economic development bonds, "new" clean renewable energy bonds (CREBs), qualified energy conservation bonds, qualified zone academy bonds and qualified school construction bonds. All bonds must be issued by December 31, 2010. The NMFA will need to establish rules and policies to implement use of the bonds.

Ms. Russell explained that the recovery zone facility bonds are tax-exempt private activity bonds. They can be sold to banks and will be used for business projects in recovery zones.

The Build America bonds are tax credit bonds that may be issued by state and local governments. The recovery zone economic development bonds are a subset of the Build America bonds and may be issued to finance development within a recovery zone.

A recovery zone is an area: (1) with significant poverty, unemployment, home foreclosures or general distress; (2) that is economically distressed because of a military base closure or realignment; or (3) that has previously received a designation as an empowerment zone or renewal community. In June, the treasury released its guidance on the use of recovery zone

allocations and provided final figures to be suballocated to counties and large municipalities based upon actual job loss in 2008. One-third of New Mexico's counties did not receive a suballocation because they did not have job loss as defined by the treasury. New Mexico was among 31 states and territories that received the minimum amount required under the ARRA.

The new clean renewable energy bonds will be issued for projects that generate electricity. Allocations will be split among cooperatives, governments and public power providers.

Qualified energy conservation bonds will be issued to finance: (1) improvements that reduce energy consumption in public buildings; (2) green community programs and green technologies and infrastructure; (3) electricity production from renewable energy resources for rural areas; and (4) grants to support development of green technologies.

The ARRA extends and expands qualified zone academy bonds, which are tax credit bonds issued to support public school programs and improvements. Qualified school construction bonds are a new category of tax credit bonds, which will be issued to fund construction, rehabilitation or repair of public school facilities.

Ms. Russell was asked whether there is an appeal process for counties that did not receive a suballocation. Ms. Russell said that she was not sure, but she would find out.

Ms. Russell was asked about the marketability of CREBs. She said that they are too difficult to use in the current market. Representative Lundstrom asked Ms. Russell to research how CREBs could be made more marketable.

Ms. Russell was also asked about providing guidance to counties and municipalities on designating recovery zones. Ms. Russell said that the NMFA is working on developing that information, and that the NMFA will get it to the committee when the guidance is completed.

Representative Lundstrom asked Ms. Russell if she could prepare a list of critical questions to share with the committee concerning the financing tools she discussed. She also asked for a paragraph explaining the purpose of these tools and whether there is an appeals process for zero allocations. Representative Lundstrom said that she would like to discuss program development at the November meeting.

William Sisneros, chief executive officer, NMFA, was asked how these funding tools would work without the NMFA. Mr. Sisneros said that maybe the NMED could offer some of the products, but there would not be one centralized place such as the NMFA. The response time would also be very slow.

Proposed NMFA Rules for Funding Charter Schools Through the Public Project Revolving Fund (PPRF)

Ms. Russell presented to the committee the proposed amendments to the PPRF rules to incorporate charter school lease-purchase financing. She explained that there is a need for such financing because state law requires that, on or after July 1, 2015, a new or renewed charter school be in a public building or in a facility that meets adequacy standards and that is subject to a lease-purchase agreement. She explained how Senate Bill 584 made amendments to the New Mexico Finance Authority Act to expand the definition of a qualified entity to allow charter

schools to be eligible for PPRF loans, and how House Bill 76 requires the NMFA to adopt rules establishing criteria for determining the eligibility for funding of a charter school. House Bill 76 authorized loans for nine charter school projects.

The proposed rules for charter school funding require a charter school to include as part of its application for funding a business plan, current audits, evidence of annual lease payments budgeted in the chartering school district, certification by the applicant of a good faith effort to identify another qualified school to lease the facility if the charter school's charter is revoked or not renewed, an appraisal acceptable to the NMFA, the last five years of quarterly reports to the Public Education Department and certification of the Public Education Department's approval of the terms of the proposed lease-purchase agreement. The lease-purchase agreements shall not exceed 30 years. The charter school will be required to meet accountability standards and to establish and maintain a repair and replacement fund. The charter school must also notify the NMFA of any adverse action taken by the Public Education Department.

Committee members expressed an interest in hearing from the charter schools on how the proposed rules will affect them. Ms. Russell was questioned on how the nine pilot projects under House Bill 76 were chosen. She stated that she was not sure how the legislature decided on those particular school projects, but that the NMFA did not screen them. Senator Cravens and Representative Lundstrom said that they would like more information on what criteria was used for that selecting the pilot projects. Representative Sandoval shared his knowledge on the background of House Bill 76. He said that schools that were ready and qualified were chosen as the pilot projects. Representative Lundstrom requested that Ms. Russell and Mr. Sisneros appear at the next meeting with charter school representatives to further discuss this topic.

Committee members expressed concern about the financial risks involved with these projects. Mr. Sisneros admitted that there is a risk, but that the NMFA will be careful about addressing it. He said that this is a pilot project, and they may need to modify the rules later.

New Mexico Renewable Energy Transmission Authority (RETA) — Budget, Regional Issues, Financing Diagram and Discussion of Legislative Proposal

Jeremy Turner, executive director, RETA, presented the operating budget for the RETA, which is included in the meeting file. He then talked about regional issues. He said that New Mexico, with proper planning, is in a good position to export power. He said that Arizona is looking for wind power, and New Mexico could provide it. He said that the state needs to identify corridors where power can be provided to the public and where high-voltage transmission lines could be built.

The Western Governors' Association completed its phase I report in June 2009, which plans for the development of high-voltage transmission lines. Several high-voltage lines are being studied. They include the High Plains Express line from Wyoming into New Mexico, the SunZia line from Arizona into New Mexico and the Santa Fe line from Kansas through New Mexico to Nevada. Participation by the RETA is contingent on capacity for New Mexico power.

Mr. Turner also discussed the green grid initiative, which is eligible for \$100 million of stimulus funding. The initiative requires a state match of 50 percent. It is a long-term approach to a smart grid.

In response to a question concerning the mapping of wind velocity, Mr. Turner explained that maps can cost approximately \$60,000. He was then asked whether the RETA will be using existing easements for the routing of transmission lines or going after new easements. He said that the RETA will try to use existing easements when possible.

Mr. Turner was asked about the development of wind power in Texas and whether New Mexico should follow its example. Mr. Turner responded that New Mexico does not have as much capacity as Texas.

Update on House Memorial 5 Study

Representative Gonzales provided the committee with an overview of House Memorial 5. The memorial provides for the secretary of transportation to appoint a technical committee to develop data on the future outlook of transportation in New Mexico, to identify alternative funding strategies and to study tying together land use and transportation improvements to manage growth in jobs and housing. He said that construction costs have continued to rise, but state and federal revenues have not kept up. Therefore, new funding options need to be addressed.

Robert Ortiz, deputy secretary, DOT, said the technical committee will hold a meeting in mid-July, two meetings in August and two in September. He said the committee will prepare a draft report in October and present its final report in November.

Representative Lundstrom stated that transportation issues and funding options will be further addressed by the committee at its August meeting.

The committee recessed at 5:05 p.m.

Thursday, July 2

The meeting was called to order by the chair at 8:00 a.m. Representative Lundstrom turned the meeting over to Representative Gonzales to act as chair.

Overview of the NMFA Compensation and Employee Classification

Dora C de Baca, chief of support services, NMFA, provided an overview of the compensation program of the NMFA. She discussed hiring procedures and employee evaluations. She informed the committee that it does not give employees cost-of-living adjustments or monetary bonuses. It does, however, provide merit pay based on performance evaluations. The merit increases are between three and five percent. If an employee's performance rating is 60 percent or below, no increase is awarded. She said that the authority maintains a classification and compensation plan. Job descriptions are the core of the plan, serving as the basis for recruitment, training, promotion, advancement within a pay range and evaluation of job performance. Job descriptions are revised as needed and salary surveys are conducted every two years by an outside consultant. Benefits provided by the authority include health, dental, life, vision, employee assistance, short- and long-term disability and tuition reimbursement.

In response to questions concerning merit pay increases, Ms. C de Baca informed the committee that there is no limit on the number of employees who may receive a merit increase.

She was asked to provide the committee with the number of employees who have received a ranking of "superior performance" or "exceeds expectations". She was also asked how salaries of employees of the NMFA compare with that of state employees. She said that they are fairly comparable. Ms. C de Baca was asked to provide the committee with the job descriptions and pay grades of its 38 employees.

Representative Varela asked Gene Moser, analyst for the Legislative Finance Committee (LFC), to look at the compensation plans of quasi-governmental agencies. Representative Varela said that he would like to know what types of protections those employees have if they are being dismissed.

Policy Discussion of the NMFA's Status as a Quasi-Governmental Agency and the Implications of the State Budget Act on the NMFA

Mr. Sisneros discussed the ramifications of subjecting the NMFA to the state budget act. The ramifications include: (1) potential state liability on NMFA bonds; (2) undermining rating agency and investor confidence; and (3) creating constitutional problems with some NMFA bond programs.

Mr. Sisneros provided the committee with a letter drafted by Robert G. Heyman, a lawyer with Sutin, Thayer and Browne, explaining these potential problems. The state is currently protected from liability on NMFA bonds because of statutory language creating the authority as a governmental instrumentality separate and apart from the state. The letter argues that the statutory language would not be sufficient to shield the state from liability if the state exercised substantial control over the NMFA's operations. By subjecting the NMFA to the budget act, both the executive and legislative branches would gain power over the operations of the NMFA, including the power over the portion of the NMFA's budget relating to the payment of debt service on the NMFA bonds.

Mr. Sisneros was asked to explain why this topic was being brought before the committee. He replied that the topic was being discussed because last session the legislature considered making the NMFA subject to the state budget act. Representative Varela explained to the committee that last session the legislature considered requiring quasi-governmental agencies to provide plans of operation for the following year. He said the intent was not to interfere with bonding. He said it is important for the legislature to see the authority's plan for the future. Mr. Sisneros replied that the NMFA provides budgets to the LFC and the NMFA Oversight Committee. He said it is not trying to conceal anything. Representative Lujan stated that the NMFA needs to have some independence to work. He said the NMFA has been functioning well, and he has concerns about the legislature trying to fix something that is not broken. Representative Lundstrom made a motion to form a small working group consisting of her, Senator Papan, Representative Varela and Senator Beffort to work with the NMFA on a rule to address the budget issue and bring it before the committee. The motion was seconded and adopted without objection.

Overview and Direction of NMFA Investments in a Volatile Market Environment

John Duff, Chief finance officer, NMFA, provided the committee with a briefing on the investment environment as it affects the authority and on the authority's investment strategies, policies and procedures. The recession has confronted the authority primarily with debt management issues rather than investment issues. Investment is long-term in focus and has as its

goal the growth of funds from investment returns. Cash management is short-term in nature and focuses on making sure cash will be available to make future payments as required. Cash management, not investment principles, is applicable to the vast majority of funds managed in public finance situations. The authority's investment strategies are highly conservative. The investment policy focuses on three objectives: safety, liquidity and yield. The authority may invest only in investments permitted by statute. All authority investments must be made on a competitive basis.

Mr. Duff was asked how the authority was able to prevent losses when others were not. He said the NMFA's policies are very conservative and prevent any serious losses from occurring.

Mr. Duff was asked whether there has been any economic impact modeling done on Governor Richardson's Investment Partnership (GRIP) bonds. He said that the DOT may have models. Mr. Sisneros said that the authority is developing a comprehensive model right now, and once it is completed, he will provide it to the committee.

The committee asked questions concerning commissions to brokers. Mr. Duff said that the authority does not pay commissions to brokers.

Transportation Funding — GRIP Update and ARRA Funding

Gary Giron, secretary of transportation, Tamara P. Haas, deputy chief engineer, DOT, and Mr. Ortiz provided an update on GRIP and the ARRA funding. Mr. Giron discussed the budget reductions that the department has experienced. He said that each of the six highway districts will have fewer operational dollars.

Mr. Ortiz described GRIP funding issues. He discussed how inflation has greatly increased the cost of construction. He said that the DOT wants to get projects out as quickly as possible to combat the effects of inflation. He explained that the department is using a line of credit rather than issuing bonds for its projects because it is cheaper. He said that the priorities of the department are to maintain the safety of the traveling public, finish GRIP projects and maintain the highway infrastructure.

The committee was provided a handout showing the federal stimulus funding for the department and the projects that are being funded.

Mr. Ortiz was asked how the department will handle future budget reductions. He said that the department can no longer do more with less. The DOT is at the point where it will just have to do less. It will probably make cuts on things like highway rest areas.

Mr. Giron was asked about the method for distributing funds to the districts. He said that it was based on a formula, and he will get that information to the committee. Committee members expressed concern that rural areas are not getting enough money.

Mr. Giron was also asked about using lines of credit rather than issuing bonds. In response to questioning, he informed the committee that the Bank of Albuquerque provides the lines of credit. He described the benefits of using lines of credit and the costs involved. He described how it is more economical because they are only paying interest on the money they have drawn.

The presenters were also asked about GRIP projects that will not be completed and how those projects were determined. The presenters informed the committee that the State Transportation Commission made the list of projects that will not be completed based on the availability of funds. Senator Harden expressed concern that the commission rather than the legislature is deciding which projects will not be completed, and he asked staff to look into the issue.

There being no further business, the committee adjourned at 12:15 p.m.

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

**August 3-4, 2009
Gallup-McKinley County Public Schools Administration Building
640 South Boardman
Gallup**

The third meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 9:27 a.m. on Monday, August 3, 2009, at the Gallup-McKinley County Public Schools Administration Building.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Sen. Sue Wilson Beffort (8-3)
Rep. Richard J. Berry
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez (8-3)
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler
Sen. David Ulibarri

Absent

Rep. Elias Barela
Sen. Kent L. Cravens
Sen. Tim Eichenberg
Rep. Dona G. Irwin
Rep. Richard D. Vigil

Advisory

Rep. Janice E. Arnold-Jones
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia (8-3)
Sen. Timothy M. Keller
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. W. Ken Martinez (8-3)
Rep. Andy Nuñez
Rep. Edward C. Sandoval (8-3)
Rep. Thomas C. Taylor (8-3)

Rep. Jose A. Campos
Rep. Candy Spence Ezzell
Rep. Mary Helen Garcia
Sen. Stuart Ingle
Sen. John M. Sapien
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Guest Legislators

Sen. Rod Adair (8-3)
Rep. Sandra D. Jeff (8-3)
Sen. Cisco McSorley (8-4)

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

Staff

Doris Faust (8-4)
Renee Gregorio
Sandy Mitchell
Tom Pollard

Monday, August 3

Call to Order

Representative Lundstrom called the meeting to order and asked the committee members to introduce themselves.

Overview of Local Capital Projects and Capital Needs

Mayor Harry Mendoza discussed the 2009 capital improvement plan for the City of Gallup. Facility projects include Americans with Disabilities Act (ADA) improvements for the city hall annex, El Moro Theater and Red Rock State Park; repairs to Red Rock State Park arena; and artificial turf for the Washington Park football field. Infrastructure projects include the 2nd Street and Park Avenue traffic light, 2nd Street sidewalk construction, Clay Street bridge replacement and Sky City public housing street rehabilitation.

Judi Starkovich, executive director of administrative services, City of Gallup, discussed city revenue and expenditures. In 2009, revenues increased 5.35 percent. Even though it is a small community, Gallup is a retail hub for surrounding areas. Most of the city's revenue is derived from gross receipts taxes. The population is approximately 20,000, but facilities in the city must be able to accommodate about 1.5 times that number. Expenditures in 2009 increased 2.79 percent. The city has experienced an increase in personnel expenses over the last few years.

Lance Allgood, executive director, Gallup Joint Utilities, discussed the Navajo-Gallup water supply project, a collaborative project to supply water to outlying communities. The Water Trust Board has approved funding for the project, but now that non-city components of the system are ready for funding and development, the Navajo Nation needs to be accorded a central role in construction and eventual ownership of the non-municipal facilities that are being constructed. Statutory restrictions, however, have prevented the award of Water Trust Board grants to the Navajo Nation. There would not be the same problem with grants administered by the Department of Environment. Therefore, the city would like administration of the funds to be transferred to the Department of Environment.

Representative Lundstrom asked Ray Romero, general counsel, NMFA, to share his knowledge on this issue with the committee. Mr. Romero said that the law requires an entity receiving grants from the Water Trust Board for a water system to maintain the system for 20 years. Imposing this restriction on the Navajo Nation would infringe on its sovereignty. Possible legislative solutions are to remove the 20-year requirement or to transfer administration of the funds to the Department of Environment. One committee member suggested that Mr. Romero bring these options to the attention of the Water and Natural Resources Committee. Representative Lundstrom asked the mayor of Gallup to work with the NMFA and committee

staff to prepare a bill to deal with this issue.

NMFA Updated Procurement Policy and Contract Approval Process

Mr. Romero and William C. Sisneros, executive director, NMFA, discussed the procurement, contract and reimbursement policies of the NMFA. The NMFA is not governed by the Procurement Code. It has adopted its own procurement policies. The authority uses a competitive process for the procurement of all tangible property, services and professional services, with the exception of certain small purchases, emergency procurement, sole-source procurement and existing contract procurement. The steps for competitive proposals are: (1) request for proposals (RFP); (2) public notice of the RFP; (3) receipt of proposals; (4) evaluation of proposals; (5) post-submission negotiations; (6) award of a contract; (7) execution of a contract; and (8) protest. Procurement may also be made through several other methods. Cooperative procurement occurs when the NMFA piggybacks on an existing contract between a contractor and another governmental entity or state instrumentality. The NMFA may also make a procurement through a memorandum of understanding or joint powers agreement. The NMFA maintains a procurement file for each procurement for a minimum of six years.

Committee members asked questions on the procedures for amending the procurement process, on whether there are any written criteria for emergency procurement and on auditing procedures. Mr. Sisneros then introduced Matthew Jaramillo, the new director of governmental affairs for the NMFA. Mr. Jaramillo said that he was available to help the committee at any time.

New Mexico Department of Transportation (DOT) Cambridge Systematics Update

Gary Giron, secretary of transportation; Estevan Gonzales, chief of staff, DOT, and Max Valerio, deputy secretary, Programs and Infrastructure, DOT, discussed the Cambridge Systematics report on transportation issues in New Mexico. House Memorial 5, which was passed last session, requested that a technical committee be formed to develop data and information regarding influences on the future outlook of transportation in New Mexico and alternative funding strategies. The committee has concluded the first of five meetings. It will submit its recommendations to the legislature and the governor by November 15. The DOT and Cambridge Systematics are providing technical support to the technical committee.

The presenters provided the committee with charts showing a 50-state comparison of state highway and local transportation funding. The major revenue sources for the DOT are the gasoline tax, the special fuels tax, the weight-distance tax and vehicle registration fees. Current transportation needs outweigh the available funding. Federal revenue streams are decreasing, and more pressure is being placed on the states to cover shortfalls. The current level of funding will not sustain New Mexico's transportation needs into the future. The gasoline tax in New Mexico is among the lowest in the nation; however, gasoline prices in New Mexico are among the highest. The presenters stated that there is no correlation between the gasoline tax and the price at the pump.

The presenters were asked about the amount of money that the gasoline tax brings into the state. They said that for each cent of gasoline tax, the state receives \$6.3 million. The presenters were asked to explain the difference in the price of gasoline in different parts of the state. The presenters speculated that distribution costs might explain part of the difference, but they did not know the answer to this question. Representative Lundstrom asked staff to find out if there was

a study by the attorney general on this issue.

The presenters were asked to provide an estimate on the cost of performing maintenance on secondary roads. They said the DOT needs about \$284 million per year for road maintenance, but the department budget for maintenance is only \$100 million. The DOT has a gap in maintenance funding of about \$184 million. They said that New Mexico roads are suffering because of the lack of money for maintenance.

The presenters were asked what is the largest revenue generator for the DOT. They said it is the gasoline tax. Senator Harden said that he would like to see historical data on the various taxes and fees and the amount of money generated by those sources of funding.

Approval of Minutes

The minutes from the committee's second meeting were approved without objection.

Sustainable Transportation — Keeping New Mexico Mobile

Charlotte Pollard, deputy director, New Mexico First; Bill Hartman, chair, New Mexico First Sustainable Transportation Town Hall; and Bob Kuipers, planner, Northwest New Mexico Council of Governments, discussed the results of a town hall on sustainable transportation in New Mexico. The town hall was convened by the DOT and the New Mexico Association of Regional Councils. Participants included state policymakers, local leaders and citizens, business and industry leaders, technical specialists and people with a special interest in transportation.

Recommendations resulting from the town hall included: (1) increasing public awareness of the costs and benefits of a sustainable transportation system; (2) enabling public/private partnerships to identify and implement beneficial projects; (3) spending transportation-related revenues on transportation needs and redirecting currently diverted funds; (4) redirecting gross receipts taxes on transportation projects to support transportation needs; (5) increasing transportation infrastructure funding by redirecting the current motor vehicle excise tax to the State Road Fund; (6) establishing a state transit fund by increasing the motor vehicle excise tax; (7) indexing specific transportation revenue sources to account for inflation; (8) creating a permanent transportation trust fund that can be drawn on in the future for transportation needs; and (9) continuing to evaluate funding options and tax collection compliance.

Mr. Kuipers explained how revenues are declining at the same time that material and construction costs are rising. Without sufficient funds, transportation facilities in the state will deteriorate. He shared how regional planning organizations (RPOs) support state and local leaders in generating solutions to these problems. RPOs provide a unified voice to local member governments, improve statewide collaboration and communication, create effective partnerships with the DOT and help research and leverage matching funds for transportation development. New Mexico has seven RPOs. He stated that the statewide RPO network wants the NMFA Oversight Committee and the state legislature to consider the consequences of inaction (i.e., further deterioration of highways and bridges, more congestion and a decline in product movement) and to prepare for the future.

Committee members asked the presenters for further information concerning RPOs and metropolitan planning organizations (MPOs), including how they are funded, how they are designated, who their members are, what they do, how they prioritize projects, whether the

membership of MPOs and council of governments (COGs) are the same and what happens when the priorities of RPOs and COGs conflict. Representative Lundstrom asked Patricia Oliver Wright, director, Planning Division, DOT, to provide the committee with information concerning the responsibilities of MPOs and their recommendations.

Committee members also asked about the solutions the town hall generated. Ms. Pollard explained that the ideas that came out of the town hall were practical solutions generated by a group of citizens, not technical specialists.

Status of the Federal Highway Trust Fund and Its Impact on New Mexico Transportation Funding and the DOT Budget

Mr. Giron, Mr. Gonzales, Mr. Valerio and Robert Ortiz, deputy secretary, DOT, discussed the federal Highway Trust Fund. They reported that Congress has approved a bill to fix the shortfall in the Highway Trust Fund and that President Obama is expected to sign it. They discussed the uncertainty over future federal transportation money. The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) expires September 30, 2009, and reauthorization legislation or an extension bill has yet to be passed. The presenters said Congress needs to be urged to act quickly on reauthorization and to provide funding levels that address the needs of New Mexico. Representative Lundstrom asked committee staff to work with the DOT to draft a letter to New Mexico's congressional delegation concerning federal transportation funding.

The presenters discussed the visit to New Mexico on August 19 of Congressman James L. Oberstar, who chairs the U.S. House Committee on Transportation and Infrastructure. They said he is sponsoring a bill to increase transportation funding, but it needs to be amended to benefit rural states like New Mexico. Nine rural western states will not receive any large urban funds because they do not have a city with a population greater than 200,000.

The presenters were asked about the authority of the MPOs to affect DOT policy and about whether the state has given the MPOs that authority. Committee members discussed the role state and local officials play in deciding what transportation projects get funded. Committee members also discussed the funding formula used for distributing federal highway money and whether the state has discretion to alter the formula.

Transportation Funding Issues

Mr. Giron, Mr. Gonzales, Mr. Valerio and Mr. Ortiz discussed the methodology for funding distributions. The federal government apportions transportation money to the states using a formula based on population, vehicle miles traveled and lane miles. The New Mexico DOT uses this same formula for its distribution of transportation funds. The federal government also requires mandatory allocations to large urban areas with a population greater than 200,000 and to certain mandatory programs that provide for research and planning.

The presenters provided the committee with a chart showing the distribution of federal highway funds. Thirty-four percent of the money comes right off the top for state mandatory debt service. Fourteen percent goes toward other state mandatory uses (safety, consultants and construction contingencies). Forty-one percent is distributed to the six transportation districts. Because of the federal requirements, six percent goes to large urban areas (Albuquerque and Las Cruces) and five percent goes toward state research and planning (RPOs and MPOs).

The presenters also discussed the status of Governor Richardson's Investment Partnership (GRIP) and the American Recovery and Reinvestment Act of 2009 (ARRA) projects. GRIP is facing a funding shortfall estimated at \$300 million to \$350 million. Eight ARRA projects have been awarded since February, representing approximately \$125 million. The State Transportation Commission (STC) will be identifying projects for the remaining ARRA funds available for DOT discretion.

Committee members commented on the advantage that metropolitan areas have under the federal funding formula. The presenters agreed that urban areas do have an advantage. They said that the STC could alter the formula the state uses to distribute the federal highway dollars somewhat, but it cannot alter the money that comes off the top for large urban areas. Representative Lundstrom instructed committee staff to write a letter to the DOT asking for its recommendation concerning the use of a rural density factor. Committee members also asked the DOT to provide the committee with a breakdown of the actual distribution of federal funds based on how the formula is utilized.

The chair instructed staff to invite the director of the Mid-Region Council of Governments (MRCOG), the COG policy chair and the MPO policy chair to appear before the committee to discuss the selection of projects and the operation of MPOs.

Committee members were invited to tour the Gallup Motor Transportation Division Port of Entry.

Tuesday, August 4

Representative Lundstrom called the meeting to order at 8:50 a.m. She turned the meeting over to Senator Munoz to act as chair.

Governmental Gross Receipts Tax (GGRT): A Historical Analysis and the Role of the GGRT in the Public Project Revolving Fund (PPRF) Program

Mr. Sisneros introduced to the committee Greg Campbell, comptroller, NMFA; John Duff, chief financial officer, NMFA; Michael Zavelle, chief of investor relations, NMFA; and Jerome L. Trojan, chief operating officer, NMFA. Mr. Sisneros described the changing strategy taking place at the NMFA. It is becoming an employee-driven system rather than consultant-driven. The NMFA now has the technical expertise to do reviews of products. Products are reviewed by its finance and loan committee. Then, in an open discussion, the NMFA board goes through the testing of products.

Mr. Campbell discussed the GGRT in relation to the NMFA. By law, 75 percent of the net receipts attributable to the GGRT is distributed to the PPRF administered by the NMFA. The ratings agencies ask the NMFA to supply information as to the top payers of the tax. The top payor of the GGRT is the Albuquerque Bernalillo County Water Utility Authority. The majority of the tax is paid on water. The GGRT is pledged as revenue under the bond indentures for the PPRF program. This provides strong credit enhancement.

In response to questions about the decline in money received from the larger payers of the GGRT, the presenters reported that smaller payers have become a larger portion of the total GGRT collected. They said this is probably healthy and does not affect the total amount of

money collected. The committee also asked about the increase in money collected from the Albuquerque Bernalillo County Water Utility Authority shown for 2008. The presenters said that the sharp rise shown on their chart is because of a reporting issue, not because of a huge increase in money collected in 2008.

The presenters answered questions regarding the reporting of information concerning the GGRT to the NMFA. The presenters said they are looking for entities to provide more reporting to the NMFA. Representative Lundstrom made a motion, seconded by Senator Keller and approved by the committee, instructing staff to send a letter to the Taxation and Revenue Department asking the department to provide information to the NMFA regarding the makeup of the GGRT.

PPRF Capacity Model

Mr. Duff and Mr. Zavelle discussed how the PPRF program works. The NMFA makes loans to cities, counties and other governmental entities to finance infrastructure projects. For small loans, the NMFA funds the loans and then periodically issues bonds to replenish its cash. The loans are pledged as security to the bondholders. For large loans (\$5 million or more), the NMFA does not fund the loans until bonds are sold and the borrowers pay the same interest rate on the loans as the NMFA pays on the bonds it has sold. The NMFA is limited in the number of loans it can make by prudent business principles and by the need to maintain high bond ratings. Currently, PPRF bond ratings are just one notch below triple-A. The presenters discussed the factors affecting the PPRF credit rating. The factors include:

- debt service coverage and credit quality of the pledged loans;
- credit enhancements, including:
 - the GGRT; and
 - a contingent liquidity account;
- the strength of the NMFA's management team;
- the breadth of depth of the NMFA's lending and financial management policies; and
- the overall financial health of the NMFA.

The presenters explained that the capital ratio is the most significant indicator of the NMFA's financial health. This figure is the relationship between the NMFA's total assets and its equity. By policy, the NMFA must maintain a ratio of between eight and 12 percent. The capital ratio times the NMFA share of the GGRT equals the amount of new loan volume that will maintain the same capital ratio. Therefore, if the NMFA has a 10 percent capital ratio and \$25 million in GGRT is received in a particular year, \$250 million in new loans will keep the ratio stable at 10 percent.

Committee members asked the presenters when and how the upgrades in the PPRF bond ratings occurred. The presenters said the upgrades occurred during the past five years. The NMFA would continually go back to the ratings agencies, determine what needed to be done to get upgraded and then work on those things. It averaged about one upgrade per year in the past five years. Mr. Sisneros told the committee that sovereignty issues make it difficult to obtain triple-A ratings. He said he would like to form a task force with tribal leaders to develop a proposal for dealing with the issue.

The presenters were asked about the increase in the terms of PPRF bonds in recent years. The presenters said that the determining factors in the length of a bond are the type of project

and who is the borrower. The average term for the bonds that the NMFA issues is in the 12- to 15- year range. The NMFA does very few 30-year bonds. Committee members discussed the pros and cons of longer term bonds.

The Role of the Public Regulation Commission (PRC) in Transportation Issues

Carol K. Sloan, PRC commissioner, District 4; Daniel Mayfield, chief of staff, PRC; Avelino A. Gutierrez, staff counsel, Legal Division, PRC; Bruno E. Carrara, general manager, Pipeline Safety Bureau, PRC; and David Baca, Jr., assistant prosecutor, New Mexico Insurance Fraud Bureau, PRC, discussed the role of the PRC in transportation issues.

The Constitution of New Mexico and the Motor Carrier Act delegate responsibility for the regulation of motor carriers for hire from point to point within the state to the PRC. The PRC also administers the Unified Carrier Registration Program (UCR). The UCR requires motor carriers operating commercial vehicles in interstate commerce to register in the state where the motor carrier maintains its principal place of business and to pay an annual fee. New Mexico is one of 41 UCR states. In 2009, the PRC collected approximately \$1.9 million in UCR money. All UCR money collected is deposited in the State Road Fund each month. The PRC is also responsible for the regulation of railroad and pipeline safety.

The presenters were asked about the fees that the PRC collects and where the fees are deposited. The presenters were also asked about the regulation of pipelines on tribal lands. The presenters said the PRC has no jurisdiction to regulate the safety of pipelines on tribal lands. Committee members suggested this issue be brought to the attention of the Indian Affairs Committee.

NMFA Ratings Update

Mr. Sisneros and Mr. Trojan provided an overview on the economy in New Mexico. The state is doing better than many of its neighbors. The state's economy has remained steady during the nation's economic downturn. The state's real estate market has held up better than other parts of the country. New Mexico has one of the lowest foreclosure rates in the country. Federal military operations in the state provide a stable source of employment and business activity. The PPRF program and its borrowers have been sheltered for the most part from economic instability. The NMFA's revenue streams have remained stable. The PPRF has maintained a strong credit rating because of the stability of the GGRT and strong program management and lending policies. The NMFA has conservative investment and debt management policies.

Mr. Sisneros provided the committee with an update on the release of funds to the Public Improvement District (PID) in Angel Fire. Litigation over the formation of the PID had halted the release of funds, but the NMFA is now prepared to go forward. Although state law prohibits the NMFA from using as security something that is the subject of litigation, Mr. Sisneros told the committee that he did not think the statute would apply to frivolous lawsuits. A committee member suggested that perhaps all the money should not be released at once. Mr. Sisneros agreed and said that the NMFA is taking that approach.

There being no further business, the committee adjourned at 12:20 p.m.

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

**September 3-4, 2009
Mid-Region Council of Governments Building
809 Copper Ave. NW
Albuquerque**

The fourth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 10:20 a.m. on Thursday, September 3, 2009, at the Mid-Region Council of Governments Building in Albuquerque.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Elias Barela (9-4)
Sen. Sue Wilson Beffort (9-3)
Rep. Richard J. Berry
Rep. Brian F. Egolf, Jr.
Sen. Tim Eichenberg (9-3)
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin (9-3)
Sen. George K. Munoz (9-3)
Rep. Benjamin H. Rodefer
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri (9-3)
Rep. Richard D. Vigil (9-3)

Absent

Sen. Kent L. Cravens
Rep. Anna M. Crook
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez

Advisory Members

Rep. Janice E. Arnold-Jones (9-4)
Rep. Jose A. Campos (9-4)
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Mary Helen Garcia (9-3)
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia (9-3)
Sen. Timothy M. Keller
Rep. Ben Lujan
Sen. Richard C. Martinez (9-4)
Rep. Andy Nuñez

Rep. Candy Spence Ezzell
Sen. Stuart Ingle
Rep. W. Ken Martinez
Sen. John M. Sapien
Rep. Thomas C. Taylor
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Luciano "Lucky" Varela

Guest Legislators

Rep. Ray Begaye (9-3)

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

Staff

Doris Faust
Sandy Mitchell
Tom Pollard

Thursday, September 3**Call to Order**

Representative Lundstrom called the meeting to order and asked the committee members and staff to introduce themselves.

Overview of Local Capital Projects and Capital Needs

Mayor Thomas Swisstack, Rio Rancho, discussed the population of Rio Rancho. He said the community's population now has an average age of 35. Seventy percent of the people who moved to Rio Rancho in the last four years were New Mexicans. Rio Rancho was established only 28 years ago, making it the youngest community in the state. He said the city should have a population of 85,000 in the next census. He said the city's primary needs are related to roads and water infrastructure.

Mark Valencia, CFO, City of Albuquerque, described the capital programs in Albuquerque. He said the Paseo del Norte/I-25 interchange project is the city's top priority in terms of infrastructure projects. It is a very expensive project. Other projects include the Tingley swimming lagoon project; a park to recognize police officers killed in the line of duty; and a program to plant 1,850 trees around the city. Mr. Valencia explained that the city's capital program is fiscally constrained.

Senator Keller asked how much money has been allocated by the City of Albuquerque for projects and not been spent. Mr. Valencia said the city is in the process of getting this figure, and he will get that information to Senator Keller. Representative Saavedra and Representative Rodefer asked about Explora, and Mr. Valencia said he would update them on that project. Mayor Swisstack updated the committee on the construction of Presbyterian Hospital and said it will be opening in the spring of 2012.

Alan Armijo, chair, Bernalillo County Commission, and Thaddeus Lucero, Bernalillo County manager, answered questions from committee members concerning capital projects and capital needs in Bernalillo County. Representative Lundstrom asked whether the county would be interested in federal stimulus funds. They said yes, if those funds are available to counties. Committee members asked numerous questions about the county jails and the housing of prisoners who should be in state prison. The presenters said that the county is not interested in reimbursement from the state. It is a safety issue, and those prisoners need to be removed from county jails. The presenters estimated that there are 300 prisoners in county jails who should be in state prison. In response to questioning, the presenters said the county's operating budget for jails is over \$60 million per year.

Update on the New Mexico First Town Hall on Growing New Mexico's Energy Economy

Heather Balas, executive director, New Mexico First, and Jennifer Salisbury, New Mexico

First Town Hall Implementation Team chair, discussed the results of a town hall conducted on energy issues. The town hall was conducted by New Mexico First, a nonpartisan, nonprofit group that helps to develop recommendations for the New Mexico Legislature on key issues. The town hall was held in May 2009.

The town hall participants concluded that New Mexico should be a leader in renewable energy. The main ideas coming out of the meeting were that the state should: (1) keep doing conventional energy and do it cleaner; (2) broaden its economic base, with a major emphasis on renewable energy production and research; (3) invest in conservation and efficiency; and (4) develop a comprehensive plan on energy. The town hall participants laid out 18 key recommendations for the legislature, which centered on cleaner power plants, building a robust transmission system, developing a renewable energy storage system, work force development and working toward energy conservation and efficiency. The town hall participants also noted the need for regulatory reform to streamline regulatory and permitting requirements so that they are uniform and comprehensive. The presenters commented on the fact that New Mexico is one of only two states that has not adopted the Administrative Procedure Act.

The presenters were asked about the price for attending the town hall. They said it cost \$150 for the three-day meeting, with meals included. They said no one was turned away because of cost. Participants can get a waiver from the fee.

The presenters were asked if they have a "price tag" for any of their recommendations. They said they do not. They are working on prioritizing their recommendations right now. Committee members discussed the recommendation for regulatory reform. One member commented that passage of the Administrative Procedure Act would not cost anything.

Committee members discussed various forms of energy and the economics of renewable energy. The presenters said that cost projections on energy in the future are sketchy. They believe that the cost of conventional energy sources will probably rise, and the cost of renewable energy sources will probably decrease, but they do not have any data on exact costs.

Proposed Revisions to the NMFA Public Project Revolving Fund (PPRF) Rules to Address Charter School Financing

Dr. Lisa Grover, executive director, New Mexico Coalition for Charter Schools, provided the committee with a brief history of charter schools. There are 73 charter schools in operation in 22 out of 89 school districts in the state. About 10 percent of the public school students in Albuquerque attend a charter school. Between 1999 and 2004, the legislature provided no funds for charter school facilities. In 2004, the legislature passed legislation establishing the Lease Assistance Fund, which provided for facility funding. Legislation passed last session provided for a pilot project to make charter schools eligible for loans under the NMFA's PPRF program. Dr. Grover discussed how the first seven pilot schools were chosen and provided a snapshot on charter school facilities. Representative Sandoval asked for that information to be provided in writing to the committee.

Marquita Russell, chief of programs, NMFA, provided the committee with a copy of the proposed changes to the rules governing the PPRF. The NMFA will require charter schools applying for PPRF money to provide as part of their application a business plan; current audits of the school; evidence of annual lease payments budgeted in the chartering school district or the

Public Education Commission (PEC); certification of a good faith effort to identify another qualified school to lease the facility if the charter school's charter is revoked; an appraisal acceptable to the NMFA; quarterly reports to the Public Education Department (PED) for the last five years; and certification of the PED's approval of the terms of the proposed lease-purchase agreement. The rules will provide that if the charter school is a component unit of a school district, the district will be the applicant and will act as the lessee.

Patricia Matthews, attorney, Matthew Fox Law Firm, said she was before the committee to explain the concerns of the charter schools. She said the charter schools are concerned about having the school district act as the applicant because the school district would have control over the building and the charter school would never acquire title to it.

Paul Cassidy, managing director, RBC Capital Markets, provided the committee with a chart comparing financing sources for charter schools. He said that an NMFA PPRF loan could save a charter school approximately \$30,000 per year on a \$1.3 million school purchase.

Representative Egolf said he would propose an amendment to the rules to allow a charter school itself to apply for a PPRF loan.

The presenters provided information to the committee on the two ways a charter school can get authorized in the state. They said that out of the 73 charter schools in the state, 10 are authorized by the PEC. The rest are authorized by local school districts. Two percent of a charter school's budget goes to the entity that authorized the school.

Dr. Grover was asked to provide the committee with the number of charter schools that have had audits. Ms. Russell was asked to provide the committee with a chart showing the pros and cons of the following issues raised by committee members:

- An amendment to Section 3, Subsection C, of the rules (page 1) allowing a charter school itself to be an applicant.
- An amendment to Section 3, Subsection R, of the rules (page 3) changing "governmental purpose" to "educational purpose".
- Was "school district" intended as the applicant, and what does "best efforts" mean (provide examples) in vi. (page 6)?
- Does "chartering authority" mean "school district" in Item C, Number (3) on page 10?
- Why no ceiling or cap on the contribution to the Repair and Replacement Fund?

Representative Lundstrom requested that Ms. Russell share the chart with the NMFA board. She also requested that Ms. Russell attach a copy of the Public School Buildings Act and Senate Bill 600 (2006), with the fiscal impact report, to the chart.

Spaceport Authority Update and Legislative Summary

Steve Landene, executive director, Spaceport Authority, explained to the committee that commercial space is coming of age, and the investment community is recognizing it as a worthy investment. He discussed Aabar's investment of \$280 million to \$380 million in Virgin Galactic. He also discussed the effects the spaceport can have on other industries and the economy. He went over the Spaceport Authority (SA) organization. In 2011, the SA is looking to fill three new positions: (1) financial/education development director; (2) industry/business development director; and (3) program manager. He said the financial/education development director will

allow the SA to pursue additional funding. The industry/business development director is necessary to focus on securing business partners. The program manager is necessary to ensure operational efficiency. Mr. Landene discussed the accomplishments of the spaceport, including the first educational launch in May, the groundbreaking in June and the installation of lunar lander pads in July. He said the SA's funding profile looks good and federal funding opportunities are being pursued.

In response to questioning, Mr. Landene stated that the first flights are expected to begin in March 2011. Mr. Landene also responded to questioning concerning roads to the spaceport and the water needs of the facility. Mr. Landene also responded to questioning concerning industry competition. He said that a robust industry will benefit all spaceports, but the unique elements in New Mexico, including its weather, climate and restricted air space, will always give the New Mexico spaceport an advantage.

Representative Lundstrom asked Mr. Landene to provide a more detailed operating budget tied to a strategic plan when he returns before the committee.

The committee recessed at 5:00 p.m.

Friday, September 4

The meeting was called to order by the chair at 8:45 a.m.

Update on Rail Runner Budget and Operations

Chris Blewett, project manager, New Mexico Rail Runner, and Lawrence Rael, executive director, Mid-Region Council of Governments, provided information on the operations of the New Mexico Rail Runner. They said the train has had 2.36 million riders since beginning operation. They provided graphs showing ridership by month and by week and the train's on-time performance. Customer surveys showed that close to 90 percent of Rail Runner riders are very satisfied or mostly satisfied with the train service. Less than one percent were very dissatisfied. The presenters also provided budget information for the Rail Runner, including revenues and expenditures for fiscal year 2010.

The presenters were asked about their pricing strategy for fares in the future, tax zones around Rail Runner stops and the purchase of buses. WiFi service was also addressed by the presenters. They said their goal is to have WiFi in place by the end of the calendar year. The need for more trains in the future was also addressed. The presenters said that as more stations are added, there may be a need for more trains in the future, but they are not needed right now.

Representative Barela asked that the committee be provided with a history of Rail Runner funding. Representative Barela also asked about upgrades at rail crossings. He said he would like to know how much money the Department of Transportation (DOT) has spent on improving rail crossings. He asked that the committee be provided with information on how Section 130 federal funds can be used, how the DOT is using those funds and what the Rail Runner's policy is on acquiring Section 130 funds on a going-forward basis.

Metropolitan Planning Organization (MPO), Regional Planning Organization (RPO) and Council of Governments Functions

Mr. Rael explained that each MPO is created and defined by federal law. The MPO is governed by a metropolitan transportation board (MTB) that is made up of elected officials, officials of agencies that administer or operate major modes of transportation and appropriate state officials. The MTB establishes regional transportation policy and decides on all capital and operational transportation projects and programs that use federal aid funds within the metropolitan planning area.

Committee members asked questions concerning the governance of MPOs and the process of getting project approval. Mr. Rael was asked if the MTB has the final say on a project. Mr. Rael said that the board does make the final decision if the project is a federally funded transportation project. The governor can veto the board's decision, but the governor cannot change the transportation plan.

Senator Keller asked how the Paseo Del Vulcan project got prioritized. Mr. Blewett explained that 15 years ago, the DOT performed a corridor study on the west side of Albuquerque, and, as a result of that study, the Paseo Del Vulcan project was incorporated into the DOT's long-range plan. The reason the project was prioritized so early was to preserve rights of way.

Mr. Rael and Mr. Blewett discussed the differences between an MPO and an RPO. RPOs are created by the DOT. The RPOs serve in an advisory role. They provide technical assistance in the transportation planning and project development process. The RPOs vote, but their votes are for or against a recommendation.

New Mexico Renewable Energy Transmission Authority (RETA) — Proposed Project Selection Policy and Proposed Legislation

Jeremy Turner, executive director, RETA, and Laura Sanchez, board member, RETA, discussed the RETA's project selection policy and provided an update on the RETA's progress under Senate Memorial 44. Mr. Turner said that several meetings have been held, and a first draft of the RETA's report was presented to the working group on August 19. A final draft of the report will be prepared by September 16.

Mr. Turner discussed legislation that the RETA would like passed in 2010. He said the RETA needs to be able to protect the confidentiality of maps and details on infrastructure siting from widespread disclosure for national security reasons. The RETA also needs to be able to protect the proprietary information of developers. He said the RETA's inability to protect the confidentiality of such information is limiting its ability to meet its mission. Mr. Turner said he would also like legislation expanding the RETA's authority to issue bonds. He would like the RETA to have ownership of energy initiatives in the state. Currently, the RETA has authority to issue bonds solely for transmission and storage. Expanding the RETA's authority to issue bonds would provide a revenue stream that would allow the RETA to become self-sufficient and not dependent on general revenue from the state.

Committee members discussed whether the RETA has the ability and expertise to issue additional types of bonds and the possibility that the RETA would be duplicating the efforts and expertise of the NMFA. Mr. Turner said he believed that the RETA would be able to give the time and attention to energy bonds that the NMFA cannot currently provide because of all the other programs the NMFA must handle. Ms. Sanchez offered to provide some modeling for the committee to address this issue.

Some members argued that because the NMFA already has the expertise and structure set up to issue bonds, the RETA should not be given additional bonding authority. Other committee members suggested that perhaps the RETA could be an entity under the NMFA or a separate department in the NMFA, where the structure is already set up to issue bonds, and revenue from energy bonds could be allowed to go to the RETA. Other committee members said they have no problem with the RETA expanding the authority it already has to issue bonds. Representative Lundstrom asked Mr. Turner to provide some charts with real scenarios when he presents his legislation drafts to the committee.

Approval of Minutes

The minutes of the third meeting of the NMFA Oversight Committee were approved without objection.

Proposed Legislation to Transfer Money in the Water Project Fund for a Water Distribution Project

Lance Allgood, executive director, Gallup Joint Utilities, Mark DePauli, DePauli Engineering, David Pederson, city attorney, City of Gallup, and Bryan Wall, city councilor, City of Gallup, discussed the proposed legislation to transfer administration of Water Trust Board funds awarded to the City of Gallup from the NMFA to the New Mexico Department of Environment. They told committee members that the transfer is needed because of sovereignty issues that arise under statutory restrictions imposed on grants administered by the Water Trust Board. Representative Lundstrom reminded members that the issue had been discussed earlier by the committee at its meeting in August.

Representative Arnold-Jones asked whether the bill had been examined by the attorney general. Representative Lundstrom said it had not, but a similar bill was passed last session without objection by that office. Committee members asked about the price of the project, the source of the water for the project and the source of funding for the project. A motion for the committee to endorse the bill (draft version .179301.1) was seconded and approved without objection.

There being no further business, the committee adjourned at 12:15 p.m.

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

**October 1-2, 2009
New Mexico State University Pan Am Center
Barbara Hubbard Room
Las Cruces**

The fifth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 9:20 a.m. on Thursday, October 1, 2009, at the New Mexico State University Pan Am Center.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr. (10-2)
Sen. Stephen H. Fischmann (10-2)
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri

Advisory Members

Rep. Janice E. Arnold-Jones (10-2)
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Rep. Mary Helen Garcia
Sen. Timothy M. Keller
Sen. Richard C. Martinez
Rep. Andy Nuñez
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton (10-2)
Rep. Thomas C. Taylor (10-1)

Absent

Rep. Elias Barela
Sen. Sue Wilson Beffort
Rep. Richard J. Berry
Sen. Kent L. Cravens
Sen. Tim Eichenberg
Sen. Clinton D. Harden, Jr.
Sen. George K. Munoz
Rep. Richard D. Vigil

Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. John M. Sapien
Rep. Luciano "Lucky" Varela

Rep. Jose A. Campos
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia

Guest Legislators

Rep. Andrew J. Barreras (10-2)

Rep. Debbie A. Rodella (10-2)

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

Staff

Doris Faust

Sandy Mitchell

Tom Pollard

Thursday, October 1

Call to Order

Representative Lundstrom called the meeting to order and asked the committee members and staff to introduce themselves. She then turned the meeting over to Senator Papan to act as chair.

Overview of Local Capital Projects and Capital Needs

Mayor Pro-Tempore Dolores Archuleta, Las Cruces, welcomed the committee members to Las Cruces. Robert Garza, assistant city manager, Las Cruces, provided the members with a quick overview of the city's projects. A regional recreation and aquatic center is under construction and is scheduled to open next summer. A new city hall is substantially completed and will be ready for move-in at the end of the year. The city has broken ground on a convention center on New Mexico State University (NMSU) property and has begun renovations to downtown Las Cruces. The city has received \$2 million from the federal government to help with the downtown renewal. The city has implemented a tax increment development district (TIDD) for the Las Cruces downtown and would like the state legislature to contribute a portion of the state's gross receipts tax (GRT) for it. Representative Lundstrom asked Mr. Garza to provide the committee with the TIDD's projected revenues. Mr. Garza was asked about the bus service between Las Cruces and El Paso. He said the bus service started September 1 and is being heavily used.

Mayor Michael Cadena, Mesilla, discussed the capital needs of the Town of Mesilla. The town is requesting funding for road, utility and drainage improvements. The mayor also asked for support from the legislature to preserve and maintain the Taylor-Barela-Reynolds State Monument. The mayor was asked if a needs assessment for the monument had been performed. He replied that it had. One hundred thousand dollars for each year through fiscal year 2014 is needed for electrical upgrades; \$75,000 is needed for the federal Americans with Disabilities Act compliance; \$50,000 is needed for the historic structure preservation plan; and \$75,000 is needed for preservation of the building. An informal motion by Representative Lundstrom was seconded and approved without objection to have the committee send a letter to the governor asking for \$175,000 from the governor's discretionary funds for capital improvements to the monument. A second informal motion by Representative Lundstrom was seconded and approved without objection to have the committee send a letter to the Department of Finance and Administration (DFA) asking it to do a query of available individuals to be placed on assignment at the monument for at least a year.

Leticia Duarte-Benavidez, chair, Dona Ana County Commission, and Chuck McMahon, director, Community Development Department, Dona Ana County, discussed the capital needs of Dona Ana County. The top five priorities are: a flood control and wastewater project for Chaparral Road, East Mesa flood control and roads, Anthony Drive flood control and drainage, a crisis triage center and Brown Farm flood control. Jamie Michael of the Dona Ana County Health and Human Services Department explained that the crisis triage center will provide a safe and secure environment for law enforcement officers to take detainees that are mentally ill or perceived to be mentally ill. The center would offer detainees a psychological assessment, medical treatment, stabilization and a referral to a program for continued services. The center would provide a place other than the emergency room at a hospital or a jail to take mentally ill detainees. Ms. Michael explained that the center would be used only for nonviolent and nonsubstance abuse cases.

Mr. McMahon discussed the county's proposed TIDD. He described it as a job creation and economic development tool. He said the unemployment rate in the county is high and the county needs jobs. Mr. McMahon said that the proposed TIDD would complement the foreign trade zone and the investments in the port of entry, Pete V. Domenici International Beltway and Dona Ana County Airport, and it would be consistent with the approved Santa Teresa area master plan. Representative Lundstrom said she would like to see revenue projections for the proposed TIDD. She also asked the county to provide information on what other funding sources the county has looked at for its capital projects.

Mr. McMahon was asked if there is any way to ensure that jobs at the port of entry go to New Mexicans rather than Texans. He replied that New Mexico will benefit in terms of property taxes and GRTs even if there is no assurance that the jobs go to New Mexicans. Committee members also asked about water rights in the proposed TIDD and procedures at the proposed crisis triage center. Representative Sandoval asked the county to provide the committee with the monetary amounts that are needed for its projects rather than the total costs of its projects.

Spaceport Authority Budget and Proposed Legislation

Steve Landeene, executive director, Spaceport Authority, and Geno Zamora, general counsel, New Mexico Economic Development Department, discussed the Spaceport Authority's budget and proposed legislation. Mr. Landeene said they are not prepared to present legislation to the committee because they were still working on changes to the bill. They are taking out immunity and putting in assumption of risk. The presenters discussed the importance of informed consent legislation in helping the spaceport remain competitive with other states that have supporting legislation.

Mr. Landeene presented the two business models he created in response to the committee's request at its last meeting. He said the models show that the spaceport will provide the state with a great return on its investment. By the spaceport's tenth year, 2,250 direct and 4,370 indirect jobs will be created, and approximately \$45 million in revenue to the state will be generated. Mr. Landeene described the spaceport's requested fiscal year 2011 operating budget. The spaceport wants an increase of \$372,000 for personnel, including a financial development director, industry/business development director and a program manager; an increase of \$418,000 for professional services, including educational program support, growth in marketing services and legal support for construction and operating activities; and an increase of \$341,000 for other costs, including rancher lease payments, an adjustment to reflect an increase in staff, an

increase in conference and symposium outreach, an increase in marketing costs and an account for office needs. The spaceport is also requesting a special appropriation of \$1.35 million for site startup and \$7.5 million for construction.

Mr. Landeene was asked about Virgin Galactic's financial contribution to the spaceport's construction costs. He said the state is paying for the infrastructure, but Virgin Galactic will be the anchor tenant and its lease agreement is how the state will get a return on its investment. Mr. Landeene was also asked how he computed the tourism money projections. Mr. Landeene said he used a conservative model, and the figure is based on tour fees and gift shop profits only. Representative Rodefer questioned Mr. Landeene on the informed consent legislation he is seeking. Representative Rodefer said he would like to see a balance between protecting the spaceport and being responsible to the participants.

Tour of the Taylor-Barela-Reynolds State Monument

John Paul Taylor, custodian of the Taylor-Barela-Reynolds State Monument, provided the committee members with a tour of the monument. The monument consists of three buildings (the residence, the Reynolds Store and the Barela Store) and dates back to the 1850s.

Tour of Sunland Park Race Track

Welcoming Remarks

Bruce Brubaker, Sunland Park Racetrack, welcomed the committee to Sunland Park. He said the gaming bill that was passed in 1997 has benefited New Mexico, and he wanted to thank the legislature for that legislation. He said that, locally, the economy is hurting and the bad economy has been reflected in the track's revenues, with numbers down for racing, gaming, food and beverages.

Border Region Economic Development Issues

Jerry Pacheco, executive director, New Mexico International Business Accelerator, discussed economic development issues in the border region. He described the current conditions along the border. He said the violence has not yet abated, the H1N1 virus is still a concern and the recession is still having a negative effect on border industry. Maquiladora employment is down 50,300 jobs since October 2007. A new catalyst in the Santa Teresa area is Foxconn. The company has greatly increased the traffic at the Santa Teresa Port of Entry. In southern New Mexico, the following companies have been recruited in the last three years: Lasershield, D.A., Inc., MCS, Schaefer Outfitter, JH Rose Logistics and Expeditors. They have brought 272 jobs to the area. Mr. Pacheco discussed the concept of a binational campus. He said New Mexico and Mexico have a chance to create something unique on the U.S.-Mexico border, a world-class production zone. He said this could be New Mexico's niche. He said that because there are no natural boundaries, such as rivers, a single campus is possible. Mr. Pacheco was asked if the employees would still have to go through customs. He said they would. He was asked who would pay for the infrastructure. He said on the U.S. side, it would be the county. On the Mexico side, the developer has paid for a lot of the costs. In response to questioning concerning the roads, Mr. Pacheco said Mexico is paying for a road from Ciudad Juarez to the port of entry.

Dairy Issues

Sharon Lombardi, executive director, Dairy Producers of New Mexico, Joe Gonzalez,

vice president, Dairy Producers of New Mexico, and Anthony J. Trujillo, Gallagher and Kennedy Law Offices, discussed the issues affecting the dairy industry in New Mexico. Approximately 75 percent of the state's milk production comes from eastern New Mexico and 15 percent from Dona Ana County. Dairies are family-owned businesses that require a major capital investment. Dairies in New Mexico are suffering because costs (feed, utilities, transportation, regulatory compliance) have increased to an all-time high, while milk prices have dropped to record lows. The dairies cannot pass on cost increases to consumers because the federal government sets benchmark prices. The cost of production for a New Mexico dairy is approximately \$16.50 to \$17.00 per 100 lbs. (cwt) of milk. Milk prices in 2009 were as low as \$9.00 per 100 lbs. (cwt) of milk. Mr. Gonzalez described his losses as a dairy owner to the committee. He has depleted his savings to stay in business. He receives barely enough money for his milk to pay for the cost to feed his cows. He does not earn enough to pay for all the other costs such as labor, property tax, etc. Mr. Gallagher said the dairy industry would like the state legislature to pass legislation providing incentives for the development of biomass projects.

The presenters were asked if New Mexico's congressional delegation understands the gravity of the situation. They said yes, but New Mexico has only five votes in Congress, and the southwest United States does not have the votes to set policy. Committee members wanted to know who is making money in this situation. Ms. Lombardi said the processors are the ones making a profit. Ms. Lombardi was asked whether the cost of production is lower elsewhere in the United States. She said it varies. In Maine, it is more expensive to produce milk. In Texas, the cost of production is lower on the east side of the state than on the west side. The presenters were asked if cheese makers in New Mexico are using out-of-state milk powder to supplement the milk. Mr. Gonzalez said that he did not know, but he would look into it.

Lower Rio Grande Public Works Authority Update

Martin Lopez, registered agent, Lower Rio Grande Mutual Domestic Water Association, provided an update to the committee on the Lower Rio Grande Public Water Works Authority (PWWA) created by House Bill 185 (2009). In June, the authority began construction on an interconnection project of five water systems and applied for community development block grant (CDBG) planning grants. In August, the Lower Rio Grande PWWA board had its first meeting and appointed its officers. In September, the authority was awarded a \$100,000 CDBG planning grant for creation of governance documents and implementation of the merger plan. In October, the authority will issue a request for proposals (RFP) for a CDBG planning grant for governance documents and the merger.

Representative Lundstrom commented to the committee that this is an example of the kind of project that the NMFA was established to do and should be working on. Other committee members asked questions on the ability to blend waters if arsenic removal is not possible, on the consolidation of debt and on assessments of ability to pay.

Update on Verde Realty Development Projects

Juan Massey, regulatory affairs director, Verde Group, provided an update on Verde Realty development projects. The Logistics Industrial Rail Park expansion is completing phase 1 improvements and initiating design of phase 2 improvements. The Verde Group is working with two large companies on the project (Johnson Plate and Tower and Mitsubishi). The Verde Group has issued an RFP to hire an operator for the rail park. The eSolar/NRG Energy project is an alternative energy project near the Santa Teresa Port of Entry. The facility will have

innovative technology. A field of over 400,000 sun-tracking mirrors will reflect light on 32 195-foot towers to create power. Construction should start in early 2010, and operations should start by July 2011. It will create jobs during the construction process, as well as approximately 20 permanent jobs after construction. Mr. Massey said the Verde Group also supports capital outlay projects for a wastewater treatment facility for Sunland Park and Santa Teresa, three facilities for arsenic removal from the water, a safety inspection facility, port-of-entry expansion to provide more lanes, an international railroad bypass, St. John's Road and a HAZMAT fire/police facility. Mr. Massey was asked whether DOT TIGER grants had been applied for since this area was designated as high priority. He said no. He said that the area has applied for Federal Emergency Management Agency (FEMA) funds for the HAZMAT facility, but FEMA has not announced its decision. An informal motion was seconded and approved without objection to have the committee send a letter to the Department of Homeland Security inquiring about homeland security funds for the HAZMAT facility.

Tour of New Mexico Border Authority Facilities, Santa Teresa

Andrew Morales, executive director, Border Authority, and Martin Resendiz, mayor of Sunland Park, welcomed committee members to the new Border Authority facility. Jerry Paz, Molzen-Corbin and Associates, described some of the issues facing Sunland Park. Arsenic in the water is a problem and needs to be removed. The north wastewater treatment plant has failed and needs to be replaced. The cost of the first phase of the wastewater treatment plant project is \$34 million. The city will be asking the legislature for \$3 million during the next legislative session. Representative Lundstrom commented that this is a project in which the NMFA should be participating. She wants to be sure that local communities are accessing programs run by the NMFA.

Friday, October 2

The meeting was reconvened by the chair at 8:45 a.m.

NMFA Budget

Jerome L. Trojan, chief operating officer, NMFA, reviewed the budgetary process of the NMFA. Daniel P. Silva, NMFA board member, thanked the committee for its work. He said the NMFA provides a tremendous service to municipalities around the state. Mr. Trojan began discussion of the NMFA's 2010 annual report, strategic plan and operating budget. He reported that the authority has moved to an employee-based operation instead of a consultant-based operation. The authority has built staff capability and now uses consultants in a more strategic role. This has allowed the authority to contain its costs. The efficient financial management of the NMFA has been recognized by the rating agencies that have given the authority six upgrades over the past five years.

Representative Lundstrom expressed concern that the NMFA is avoiding riskier projects, especially in rural areas. She said she wants to ensure that the authority is doing enough projects in rural areas. Mr. Trojan said that the NMFA tries, but there are fiscal constraints. Representative Lundstrom asked Mr. Trojan if the constraints are set by policy, and he said that they are. Representative Arnold-Jones asked if Mr. Trojan had information concerning the criteria for emergency procurement that she had inquired about during a previous meeting. He said he has been working on the budget and did not have this information for her at this time.

Mr. Trojan described the authority's portfolio strategy for loans and investments, its safeguards for preserving the integrity of the Public Project Revolving Fund (PPRF) and its policies and practices. He said the NMFA has an active investment committee. He also discussed the importance of the authority's Office of General Counsel. He reviewed the financial management policies of the authority, including its audit policies. The authority seeks to have a "clean" audit opinion each year. The auditor provides the report to the NMFA board. Mr. Trojan discussed management of the PPRF. He said the authority has underlying loans that it bonds against. The NMFA needs liquid funds to meet the demands of both new loans and existing debt. He described how the underlying security for its transactions are the underlying loans. The NMFA has not had a single loan default in its 15-year history. Its Moody's rating increased from A1 in 2003 to Aa2 in 2006. Its S&P rating went from A- in 2003 to AA+ in 2007. With the higher rating, the NMFA can loan money at a lower cost. Mr. Trojan said the NMFA is trying to improve further on its ratings.

Representative Lundstrom expressed concern that the NMFA may be getting too conservative in order to achieve a AAA rating. She asked Mr. Trojan to provide information on the NMFA's loan volume in rural areas versus urban areas. Senator Rodriguez asked that he also provide the committee with the NMFA's eligibility criteria, as well as a list of the projects it approved or rejected.

Mr. Trojan described the NMFA's program policies, including its loan monitoring policy, liquidity policy on the PPRF, interest rate policy and structuring policy. He also explained that the PPRF is supported by a processing fee. This enables the fund to be a self-sustaining operation, rather than dependent on general funds. He also explained the NMFA's leveraging and capital ratio policy. The authority manages its business activities to maintain a capital ratio for the PPRF program of not less than eight percent and not more than 12 percent.

Greg Campbell, comptroller, NMFA, discussed the NMFA's budget. For fiscal year 2010, the NMFA's budget is \$187 million. Of that amount, \$9 million is for operating expenditures. He compared the budgets for fiscal years 2009 and 2010 and provided budget projections for fiscal years 2010 through 2014. The budget for 2010 includes money for a public information person who will get information out to the communities, a financial advisor to help with the administration of federal stimulus funds and legal services personnel.

Committee members asked about the administration fee imposed by the NMFA. The NMFA is now charging a one-time upfront fee of one and one-half percent of the loan amount. For drinking water programs, the fee is up to one percent of the loan amount. The presenters were asked if the upfront fee limits or prohibits smaller communities from entering into the process. The presenters said that there has been no indication that this is an issue. Representative Arnold-Jones said she would like it looked at as a policy issue. Representative Lundstrom said she would like an examination of whether the upfront fees are too high. Senator Keller asked how the fees compare to the fees charged by competitors. Mr. Trojan said the NMFA's competitors in the marketplace are charging considerably more.

In response to questioning by Senator Fischmann, the presenters stated that only one renewable energy project loan has been issued by the NMFA. When asked about pursuing such projects, Mr. Trojan said that the NMFA provides financing and information on financing, but it cannot usurp the role of the Energy, Minerals and Natural Resources Department (EMNRD).

Senator Fischmann asked Mr. Trojan whether the NMFA has coordinated with the New Mexico Renewable Energy Transmission Authority (RETA) on this issue, and he said no. Senator Fischmann suggested that the NMFA, the RETA and the EMNRD confer with each other and determine where project opportunities exist.

The presenters were asked about the implications of a change in the NMFA's bond rating. Mr. Trojan explained that any change in the bond rating would change how bonds are priced in the marketplace. A committee member suggested that in these difficult economic times, the cost to the state of lowering the bond rating may be less than the cost to the state of making cuts to schools or other vital services. The presenters were also asked about the increase in contractor costs. Mr. Trojan said the increase is driven by legal costs for Water Project Fund programs, which have grown dramatically. Committee members spent considerable time discussing the burden imposed on small communities by requiring an audit. Mr. Trojan said it can be a problem for small communities to afford the cost of the audit and to attract auditors to do the work. He said the problem is not unique to New Mexico, and that in some other states, the state auditor may have an office to help small communities. Members questioned why an audit should even be necessary for such small entities. Mr. Trojan stated it is a statutory requirement. Some committee members believed legislation may have been passed last session dealing with this issue and that the state auditor may be considering tiered audit requirements at this time. Committee staff was asked to review whether legislation had been passed last session addressing this issue and to report back to the committee.

Approval of Minutes

The minutes of the fourth meeting of the NMFA Oversight Committee were approved without objection.

RETA Proposed Legislation

Jeremy Turner, executive director, RETA, presented legislation for committee endorsement. The legislation would allow the NMFA to purchase RETA bonds, allow bonds to be issued above and below par and provide for the confidentiality of proprietary technical and business information obtained by the RETA. Representative Arnold-Jones asked for clarification on what would constitute proprietary technical and business information. Mr. Turner said it would encompass meteorological data, cost estimates to produce power, detailed financials and power purchase agreements. Representative Arnold-Jones asked if the business name and location would be confidential under this legislation. Mr. Turner said it would not. Representative Arnold-Jones expressed concern that the draft language is too broad and requested that it be rewritten to make it clear that the business name and location are part of the record. Senator Keller suggested that the notice provision be expanded beyond notice by newspaper. A motion to endorse the legislation was seconded and approved without objection.

Mr. Turner also provided the committee with a status report of its activities under Senate Memorial 44 (2009). The RETA is working toward completion of its final report by October 31, 2009.

New Mexico Border Authority Update and Budget

Mr. Moralez and Emma Johnson Ortiz, deputy director, Border Authority, presented a list of its capital outlay requests and discussed developments at the state's three ports of entry. There is a seven-mile access road from Mexican Highway 2 to Berrendo that needs to be paved. The

Border Authority is advocating for Mexico to get that done. A Mexican highway linking northern Ciudad Juarez to the Santa Teresa/Jeronimo Port of Entry will generate much more passenger vehicle traffic. Mr. Morales discussed the various products that are being imported and exported through New Mexico's ports and reviewed some of the Border Authority's projects and successes. He said the Border Authority is working with Dona Ana County and Sunland Park on the wastewater treatment plant project. He said great collaboration is going on, but funds for the project are still needed.

Mr. Morales was asked to discuss the advantage of cattle crossing in New Mexico. He said Santa Teresa is a better port for cattle crossing because the cattle can cross quickly. Representative Nuñez asked about inspections to detect chili weevils. He expressed concern that they may be affecting the Hatch chili. Mr. Morales said he would look into it and provide follow-up information.

There being no further business, the committee adjourned at 12:00 noon.

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

**November 2-3, 2009
State Capitol
Room 307**

The sixth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 9:30 a.m. on Monday, November 2, 2009, at the State Capitol.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Elias Barela (11-3)
Sen. Sue Wilson Beffort
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Stephen H. Fischmann
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil (11-3)

Absent

Sen. Kent L. Cravens
Sen. Tim Eichenberg
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. George K. Munoz

Advisory Members

Rep. Janice E. Arnold-Jones
Rep. Jose A. Campos (11-3)
Rep. Ernest H. Chavez
Sen. Dianna J. Duran
Rep. Candy Spence Ezzell
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia (11-2)
Rep. Thomas A. Garcia
Sen. Timothy M. Keller
Sen. Richard C. Martinez
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela
Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Rep. Andy Nunez
Sen. John M. Sapien

Guest Legislator

Sen. Rod Adair (11-2)

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

Staff

Doris Faust

Sandy Mitchell

Tom Pollard

Monday, November 2

Call to Order

Representative Lundstrom called the meeting to order.

Statewide Economic Development Fund Update and Policy Issues

William Sisneros, executive director, and Marquita Russell, chief of programs, NMFA, discussed the Statewide Economic Development Finance Act. The law was enacted in 2003 to allow the NMFA and Economic Development Department (EDD) to partner together to help stimulate economic development in the state by providing greater access to capital in rural and underserved areas. Mr. Sisneros told the committee that amendments to the act in 2004 provided New Mexico with some of the same tools that other states have. The smart money loan participation program allows the NMFA to participate in up to 49 percent of a bank-originated loan. The NMFA share will generally not exceed \$2 million. The program prioritizes businesses that create jobs and has a minimum job creation target of one job created for each \$50,000 of smart money funds. One problem that the NMFA is still experiencing with the program is that the process for approval takes too long. Of the eight projects that have been approved, only four have been funded.

Ms. Russell was asked whether any of the projects the NMFA has invested in have gone sour. She said no. A committee member asked how much money still remains for new projects. Ms. Russell said there is \$7 million remaining. In response to questioning, she stated that money not invested remains in the Economic Development Revolving Fund.

Stimulus Funding Authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) That Is Administered by the NMFA

John Brooks, director of commercial lending, NMFA, and Ms. Russell provided an update on the drinking water state revolving loans funded through the ARRA. The loans are used for drinking water projects by public water systems. New Mexico has received approximately \$100 million in capitalization grants from the federal Environmental Protection Agency (EPA), which has been matched with \$18 million by the NMFA and \$2 million by the general fund. Policies for these loans are somewhat different in order to meet the mandates of the ARRA. These variations include a one percent interest rate and principal forgiveness for at least 50 percent of the loan amount.

Twenty-two ARRA drinking water projects have been identified and approved by the NMFA board, the New Mexico Office of Recovery and Reinvestment and the EPA and certified by the governor. The first of the ARRA funds is expected to be under contract in mid-

November. Mr. Brooks explained the status of the "green" water projects. There are 12 green projects totaling \$3,899,599. They are completing their environmental review and are currently being scheduled for loan closings. Mr. Brooks explained that green projects typically provide for either energy efficiency, water-loss prevention, water savings or green infrastructure.

The presenters provided charts showing the projects being funded, the amount of funding, the subsidy amounts and the loan component. Ms. Russell discussed the ARRA tracking and reporting requirements, which are quite extensive. She said these requirements have put a great deal of strain on the smaller water systems.

Committee members discussed the funding of projects in rural areas and whether someone at the NMFA could assist smaller entities. Mr. Brooks said the NMFA provides training to smaller communities. Representative Garcia recommended that a position be created at the state level to help smaller communities write their grant applications. The presenters were questioned about the total amount of loan forgiveness that an entity could receive. Ms. Russell said it is capped at 80 percent. The presenters were asked to explain the Davis-Bacon Wage Act and the Buy American compliance requirements under the ARRA. They were also asked to explain the consequences of projects not meeting deadlines. Ms. Russell explained that the federal money will be reallocated to other states if the projects do not meet the deadlines.

Ms. Russell was asked whether current audits are required to apply for these funds. Ms. Russell said the entities do not need current audits, but they do need to assure the NMFA of their financial competency. Representative Lundstrom recommended that the committee devote more time to a discussion on audits at a later meeting.

NMFA Conduit Bond Rules

Ms. Russell provided an overview of the bonding mechanisms available through the ARRA and reviewed the implementation of proposed rules for conduit bonding authority. The ARRA creates new categories of tax credit bonds (recovery zone economic development bonds) and tax-exempt bonds (recovery zone facility bonds). Recovery zone economic development bonds are government bonds used to finance development within a recovery zone. Recovery zone facility bonds are used to fund capital projects in recovery zones for businesses that typically would not qualify for tax-exempt financing. New Mexico was allocated \$90 million for recovery zone economic development bonds and \$135 million for recovery zone facility bonds. Suballocations were made to counties and large municipalities based upon the local government's job loss as a percentage of the state's aggregate job loss in 2008.

Because of the high cost of issuing tax-exempt bonds, many states are pooling recovery zone facility bonds to help share the cost of financing. Ms. Russell explained that having a statewide issuer helps facilitate the issuance of pooled bonds.

Ms. Russell provided charts showing the federal government's recovery zone allocations. Eleven of New Mexico's 33 counties did not receive a suballocation. Bonds must be issued no later than December 31, 2010. Issuers may elect to waive their allocation and allow it to be used elsewhere in the state.

Ms. Russell discussed the proposed rules for conduit bonding authority. The conduit bond program allows for the NMFA to sell tax-exempt bonds to a bank on behalf of a borrower

instead of the borrower going directly to the bank. The security for the loan becomes the security for the repayment of the bonds. The proposed rules:

- define eligible entities and projects;
- set forth application procedures for financial assistance;
- set forth the basis of the application evaluation;
- define the parameters of the project financing;
- provide policies for procedures;
- set forth the parameters of the financial assistance agreement;
- provide a framework for appeals;
- allow the NMFA to charge an administrative fee; and
- direct administration of the Economic Development Revolving Fund.

Committee members discussed the need for educating banks about the programs and getting them to issue loans. Mr. Sisneros explained that lending attitudes still have not shifted. The banks are very conservative in their lending practices. He projected that it might take another three years before the situation gets better. Ms. Russell suggested that smaller entities might have better luck getting loans from small community banks. Those banks were not as hard-hit by the economic crisis and are still lending.

The presenters were asked to discuss rates and fees. The fees have not yet been determined. Ms. Russell was asked whether the fees will be less for smaller communities. She anticipated that the fees will depend on the amount financed, making it likely that fees will be less for smaller communities.

Ms. Russell was asked about how the recovery zone allocations and suballocations were determined. She told the committee that the decisions were made by the treasury department and that the state had no input. Ms. Russell was asked whether different criteria are used for economic development and facility bonds. She said the method for designating recovery zone allocations for both types of bonds was the same.

Committee members requested changes to the proposed rules. They included: a definition of "rural and underserved areas"; disclosure of vendor and supplier arrangements; more metrics in the definition of "economic development goal"; financial viability language to constrain the ability of the NMFA to disapprove a project approved by the legislature; more specific time frames in the application process; a legal history requirement for applicants; "fair-market" language for fees; criteria for determining any nonrefundable fee; and an appeal process. The authority was also asked to review for consistency the use of the terms "eligible entity" and "entities suitable for financing".

Proposed Spaceport Authority Legislation

Steve Landeene, executive director, Spaceport Authority, and Geno Zamora, general counsel, EDD, discussed the Spaceport Authority's proposed legislation. It requires passengers to be informed of the risks associated with space travel before embarking on a space flight. Passengers can sign a waiver taking on the risks. The waiver will not apply to acts of gross negligence. Space flight operators will not be required to transport passengers who do not sign the waiver. The presenters discussed the importance of informed consent legislation to help the spaceport remain competitive.

The presenters were asked whether this legislation is similar to the protection provided in other states. They said it is, although some states go further and provide for protection in cases of gross negligence. Mr. Landeene stated that the proposed legislation will provide enough benefit to keep the spaceport competitive. Committee members asked about mentally incompetent persons who sign a waiver. Ms. Faust informed the committee that a waiver will be valid only if the person who signed it has the mental capacity to contract. The presenters stated that flight operators out of their own self-interest will develop a procedure for determining the mental capacity of passengers.

Committee members discussed the proposed legislation and asked for clarification of what is meant by "requirements" in the bill. They also requested that language be added to the bill providing that the space flight operator must deliver the waiver to passengers 20 days before a flight and that passengers must return the waiver to the operator 10 days before the flight.

NMFA Proposed Legislation

Matthew Jaramillo, director of governmental affairs, NMFA, discussed the authority's proposed legislation. The legislation includes an authorization for the NMFA to make loans from the Public Project Revolving Fund (PPRF) for 46 projects across the state and one charter school, an authorization for the NMFA to make loans from the Economic Development Revolving Fund for various projects across the state and an authorization for the NMFA to make loans from the Water Project Fund and Acequia Project Fund to community water organizations, acequias, cities and counties for various water system improvements. The authority is also asking for an appropriation of \$2 million from the PPRF to the Drinking Water State Revolving Loan Fund to provide state matching funds for the federal Safe Drinking Water Act of 1974 projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Mr. Jaramillo said the appropriation request may need to be increased to \$2.6 million to meet federal match requirements. The authority is also seeking an amendment to the New Mexico Finance Authority Act to deal with the potential problem of projects being held up because of frivolous lawsuits. Mr. Sisneros cited the recent example in Angel Fire where that issue came up.

The presenters were asked to provide committee members with a "cheat sheet" on the projects being authorized by the legislation. Committee members asked questions about the various projects. One member suggested that if financing is provided to the Santa Fe Indian School, an agreement providing for disclosure and transparency may be a good idea. The presenters were also asked questions about loaning money to foundations and universities. Mr. Sisneros offered to expand on the line items to provide more detail on each project.

PPRF Update and Policy Issues

Steve Flance, chair, NMFA board, told the committee members that he was there to answer the committee's questions about the board and its policies. He said it is a hands-on board and the NMFA is a hands-on organization. He said that the NMFA does not hire people to place its investments. Instead, it has in-house experts, and the authority has policies for everything. It reviews investments every month and reviews benchmarks at every meeting.

Mr. Flance was asked to describe the board makeup. He said it is mostly dictated by statute, except for a few at-large members. He said there are no politics on the board and no hidden agendas. He described the committee process for reviewing a project before it gets to the

board, which, he said, assures the quality of the project. Mr. F lance was asked to describe his single greatest constraint. He said part of it is funds and part is having projects that are ready to go.

Mr. F lance was asked about helping smaller communities. Mr. F lance said that 80 to 95 percent of the projects the NMFA considers are in communities with less than 10,000 people. He said a major focus of what it does is in smaller communities. Mr. Sisneros stated that the rural communities bring the NMFA business and there is no reason not to work with them. Representative Lundstrom suggested holding a work session with the NMFA to discuss rural areas. Mr. F lance was asked whether a certain amount of funds are set aside for riskier or rural projects. Mr. F lance stated that a few million dollars each year is set aside for disadvantaged funding for qualified communities at zero percent interest. The committee was provided with charts showing all the outstanding PPRF loans in each county.

Chip Pierce, partner, Western Financial Group, provided the committee with charts showing the shifts in municipal yield curves from September 2007 to October 2009. He described how the landscape for issuing bonds has changed. Five of the seven companies that sell bond insurance no longer have an investment-grade rating. Bond insurers are now very selective. This has had a big impact on local governments. In 2007, the credit spreads were tight. Since then, the credit spreads between AAA and BBB bonds have widened by multiples. Mr. Pierce explained that an issuer of \$2 million in bonds does not have access to bond insurance, and if it did, it would pay two to three basis points higher than in 2007. He said this underscores the importance of the PPRF. For many issuers, it is the only game in town. Committee members discussed the relative importance of credit spreads and how they can change with the economy. One member suggested that the spreads will narrow in a few years if the economy gets stronger.

Mr. Jaramillo described the PPRF application process to the committee. A flow chart was provided showing each stage of the process, including all of the NMFA committees that review projects and the types of analysis and follow-up processes that are involved. Senator Keller suggested that time frame ranges for each of the steps would be helpful. Mr. Jaramillo was asked if every PPRF project goes through the same process. He said yes. He was asked whether entities that are not approved are given an explanation for the denial. He said the NMFA is in constant contact with an applicant, which ensures that the applicant is aware of what is going on and the reasons for a denial.

Mr. Sisneros and Todd Schroeder, IT developer, NMFA, provided a quick overview of the process for determining how the gross receipts tax (GRT) is performing, how the NMFA captures that information and what it does with the information. The NMFA has an automated system that provides quick access to the data.

The committee was provided with charts showing the number of rural projects funded by the PPRF program in fiscal years 2004 through 2009 as well as a chart showing the portion of those loans that were considered disadvantaged funding. Greg Campbell, controller, and Jerome Trojan, chief operating officer, NMFA, explained the data reflected in the charts. Mr. Campbell was asked what the "state" category on the chart indicated. He said it usually indicates building projects. Committee members discussed the ratio of money going to rural areas versus urban areas and the fairness of how the money was distributed. Mr. F lance said the NMFA is actively

committed to serving rural areas. Representative Lundstrom stated that the committee may need to revisit the issue at a future meeting.

Michael Zavelle, chief of investor relations, NMFA, discussed the authority's investor relations plan. He said that when talking to rating agencies, transparency is key. The NMFA tries to get the rating agencies as much information as possible. He said the more they know about the NMFA, the more likely they are to buy its bonds.

The committee recessed at 5:20 p.m.

Tuesday, November 3

The meeting reconvened at 9:10 a.m.

Executive Session — Policy Issues

The committee met in executive session from 9:10 a.m. until 10:50 a.m.

Approval of Minutes

The minutes of the fifth meeting of the NMFA Oversight Committee were approved without objection. Representative Arnold-Jones asked whether the NMFA had provided the emergency procedures criteria she had requested at a previous meeting and was told that the NMFA had not provided them.

New Markets Tax Credit Update

Mr. Sisneros and Ms. Russell provided an update on the new markets tax credit program. It is a federal program established in 2000 to increase private capital investment in low-income areas, stimulate economic growth through job creation and provide low-income persons with jobs and services. Finance New Mexico is using its \$110 million allocation to fill temporary and small permanent financing gaps and to target job-creating companies, particularly in rural areas. It is not a grant program; it fills financing gaps in order to move projects forward. Banks must provide some of the capital. Projects that have closed include SCHOTT Solar in Albuquerque and the Savoy Travel Center in Deming. Projects approved include Parq Central Hotel in Albuquerque and Pros Ranch Market in Las Cruces. The presenters provided the committee with a chart showing the allocation amounts for those projects and the jobs to be created.

Ms. Russell was asked how the NMFA determines creditworthiness. She said some of the things it looks at include the entity's business plan, who is running the business and the market risks. Ms. Russell was asked to provide a written copy of the NMFA's lending policies. She was asked whether its policies include a requirement that the money be used in communities of different sizes. She said the NMFA have a goal of dedicating 40 percent of the money to nonmetropolitan areas.

Ms. Russell was asked about the importance of job creation in deciding on a project. She said it depends on the project. She said nobody has been turned down. The approval of projects often depends on who is ready and has a commercial lender. Committee members suggested that the NMFA look for projects that create more jobs. Ms. Russell was asked to provide the number of jobs that have been created to date.

Ms. Russell was asked about the banks participating in the program. She said the only New Mexico banks participating are First National Bank of Santa Fe and Los Alamos National Bank. She said she has been talking with banks in an effort to help them understand the program. She said the reasons banks do not participate are a lack of knowledge about the program and the small size of many of the projects.

Tax Increment Development District (TIDD) Issues

Bob Hearn, president, Quality Growth Alliance, and Michael Daly, president, Mesa del Sol, discussed issues surrounding TIDDs. Mr. Hearn provided some background on the history of TIDDs. They were invented in California in 1952, and every state but Arizona now has a TIDD law of some sort. Mr. Hearn provided information on some of the unique features of TIDDs in New Mexico. TIDDs are funded at the state level (rather than locally) by GRT (rather than by property taxes) and are based on economic development and jobs (rather than redevelopment of public areas and increasing local tax revenues).

Mr. Hearn said the contribution of TIDDs in recruiting industries from out of state is hard to measure. They may provide some help by spurring new developments, but they may not be critical compared with subsidies and other benefits from the state. He said the idea that TIDDs pay for themselves does not work out. It was his recommendation that New Mexico pull back from large, private, for-profit TIDDs and concentrate on public TIDDs managed by local governments and directed toward the redevelopment of older areas that encourage infill development around existing cities.

Mr. Daly discussed his experience with Mesa del Sol. He said that he has \$80 million in equity invested in the project and so far has only received \$2.5 million. He said that Mesa del Sol is losing money on every commercial deal so far, but it is a long-term investment project. He requested that the legislature not change the rules on existing TIDDs. He said that in the long-term, Mesa del Sol will create more jobs in New Mexico.

Committee members discussed the issue of determining which incentives of the various ones offered by the state have paid off and staff was asked to look into it. Mr. Daly was asked about the number of parks created and the availability of public transportation in Mesa del Sol. He said Mesa del Sol has created one 10-acre commercial park and two two-acre urban parks. He said he is working with the City of Albuquerque on public transportation. Mr. Daly was asked his opinion on whether the creation of new TIDDs threatens the success of Mesa del Sol. He said he does not think competition hurts. He said that more well-developed communities will create an environment people want to come to. Mr. Daly was asked what hurdles there are in bringing companies to New Mexico. He said a few years ago, the biggest obstacle was having to go to the legislature to get incentive money. Currently, it is debt. No one is making major relocation decisions right now. Positives for New Mexico are the cost of labor and the quality of life.

Proposed Charter School Rules

Ms. Russell presented an updated version of the NMFA's proposed rules concerning charter school lease financing. She provided the committee with a copy of the proposed rules, with a chart showing the changes the committee requested at the September meeting and the pros and cons of each change. The rules as amended were approved without objection.

There being no further business, the committee adjourned at 1:10 p.m.

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

**December 1, 2009
Room 307, State Capitol
Santa Fe**

The seventh meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, at 9:08 a.m. on Tuesday, December 1, 2009, in Room 307 of the State Capitol.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Elias Barela
Sen. Sue Wilson Beffort
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Rep. Benjamin H. Rodefer
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil
Rep. James P. White

Advisory Members

Rep. Janice E. Arnold-Jones
Rep. Jose A. Campos
Rep. Ernest H. Chavez
Rep. Candy Spence Ezzell
Rep. Thomas A. Garcia
Sen. Mary Jane M. Garcia
Sen. Timothy M. Keller
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Richard C. Martinez
Rep. Andy Nunez
Rep. Edward C. Sandoval
Rep. Luciano "Lucky" Varela

Absent

Sen. Kent L. Cravens
Sen. Tim Eichenberg
Rep. Dona G. Irwin

Sen. Dianna J. Duran
Rep. Mary Helen Garcia
Sen. Stuart Ingle
Sen. John M. Sapien
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor

Guest Legislator
Rep. Dennis J. Roch

Staff
Doris Faust
Renée Gregorio
Tom Pollard

Tuesday, December 1

The committee meeting began with an overview of proposed legislation of the NMFA, presented by Matthew Jaramillo, governmental affairs, and Ray Romero, general counsel, both of the NMFA, supported by William Sisneros, executive director, and Marquita Russell, chief of programs.

The first bill draft described by Mr. Jaramillo amends requirements for securities purchased by the NMFA. He described this change as eliminating frivolous litigation, explaining that the requirements contained in Subsection B of Section 6-21-10 NMSA 1978 are unusual in financial law. He added that the striking of language in this subsection is not to eliminate litigation as a whole. He stressed that marketing and purchasing bonds take time and that this sort of unnecessary litigation postpones bond issuance.

Mr. Romero stated that this subsection of law is actually superfluous and that a requirement already exists under the New Mexico Finance Authority Act that gives a 30-day period in which validity and readiness to proceed can be checked. He added that in order to be ready to proceed, bond counsel must certify that there is no litigation pending.

Representative Rodefer expressed concern about the definition of "frivolous" as well as the statute of limitations existing in a short time frame. The NMFA responded that it has to address the challenge to the validity of a security and that 30 or 40 days is plenty of time. In addition, Senator Harden, who described himself as closely involved in this issue, indicated that this is a needed fix. He brought up an example in Angel Fire, where objection was filed after the project had already gone through a public hearing. He stressed that this could happen anywhere and it prohibits the NMFA from issuing bonds.

The second bill presented by the NMFA staff was the authorization bill for "SMART" money projects, which authorizes the NMFA to make loans from the Economic Development Revolving Fund for up to 49 percent of the project funding. This bill includes authorization for 29 varied companies, including hospitality, renewable energy and manufacturing firms.

In response to questions from the committee regarding the application process for an entity to be included in this authorization bill, the NMFA indicated that the bill can certainly be amended to include more or other companies, but that it is complete as is at this point. Committee members also questioned how many loans had been made to date and how much money is in the fund. Ms. Russell indicated that there is a staff as well as a bank analysis of projects contained in this bill and that the NMFA has closed four loans to date. She added that during the recent special session, the governor vetoed \$5 million that was to be allocated to the fund and that the fund currently is at about \$2 million. She said that the project contracted in Alamogordo is well underway to creating 200 jobs there and the project in Raton has also

created jobs.

Representative White questioned whether the banks feel this is competition with them. The NMFA indicated that the banks do not consider it to be competition; rather, banks are the primary contact for the borrower, already have a borrowing relationship with the entity and do not lose the client to a larger bank through this arrangement.

Representative Arnold-Jones stated that the banks are telling her a different story and questioned whether the NMFA needs to look at narrowing the scope of the loans. She added that, in her estimation, there is a significant perception of competition. The NMFA remarked that banks respond very individually, depending on where the banks are located. In Farmington, the NMFA is seen as competition, but in other parts of the state, it is seen differently, depending on the bank's deposit level as compared to the amount of the loan. Representative Arnold-Jones suggested using qualifying language, stating that these are higher risk loans. Ms. Russell indicated that the NMFA has repeat borrowers; these banks do not see the NMFA as competition. She agreed with Senator Harden's statement that this is a form of enhanced economic development for areas that need the help.

Committee members questioned the vetoing of language during the special session that essentially took away the appropriation for \$5 million that would have been added to this fund. Senator Harden questioned what the veto message was, but Mr. Jaramillo said he did not have an answer. Representative Lundstrom asked staff to check on this. (In doing so, staff reports that in the veto message, although not specific to this particular project, the governor stated that "it would be imprudent to provide continued severance tax bond funding to capital projects that have made little or no progress using their original general fund appropriations..." and that "there is no reason to believe that providing new severance tax bond appropriations with extended expiration dates will result in immediate progress given the history of these particular projects". The veto message then goes on to delineate criteria that could have caused a project to be vetoed. These include projects for which there were no third-party agreements, projects that were inadequately funded, projects that are not ready to proceed and projects that have constitutional concerns.)

In response to committee members' questions on how long projects are on the list, as well as how much money the list of projects represents, the NMFA responded that, although there is not a time line, projects die off naturally on their own and typically have a three-year life. The NMFA added that this list represents about \$25 million of projects and that \$2 million is currently available to lend for these projects.

Representatives Crook and Saavedra expressed concern over the broadness of the language in this bill, with Representative Crook citing Subsection 28, which reads: "two manufacturing projects in New Mexico". The NMFA indicated that the language is broad because it is not often known exactly where a project will be located or the exact nature of the project in the beginning stages. The NMFA assured the committee that the criteria always centers around job creation and financial feasibility. As lenders, the NMFA looks at underlying collateral. All projects are vetted first by staff, next presented to an internal staff committee, then to a board committee and finally to the full board. Mr. Sisneros stated that any needed explanations about project specifics could be given to the committee when the final bill is presented.

Speaker Lujan noted the downtown revitalization projects that are included in this bill, asking what the difference is between these and the Santa Fe Railyard project that he wanted included in this authorization list. Representative Lundstrom said that legislators add projects to these authorization bills and asked what the preference of the committee is. The committee agreed that Subsection 28 be changed to two specific projects and that the Santa Fe revitalization project for the Railyard be added.

Two motions were made and seconded on endorsement of each of these bills, and the committee approved both bills without dissent.

Next, Mr. Jaramillo presented the Public Project Revolving Fund (PPRF) authorization bill. He highlighted language that was added to this bill in 2006 that states that loans of less than \$1 million do not require legislative authorization and therefore would not be included in this bill. He also added that entities authorized in this bill would have until the end of fiscal year 2013 to certify their desire to continue to pursue a loan with the NMFA or the authorization for that entity is void.

Representative Nunez, who will be solicited for his proofreading help during the upcoming legislative session, noted an error in Subsection 11, stating that Deming is in Luna county, not Dona Ana. Good job, representative!

Mr. Jaramillo clarified that this bill only authorizes projects to be eligible for application; it does not assure funding. Senator Fischmann admitted that he is confused by the purpose of this bill, questioning if there are other ways to address the authorization of projects. Mr. Sisneros said that there is historical precedent with this program. He added that the PPRF program is a child of the legislature whose concept was to identify eligible projects that could be funded throughout the coming year. He said that the efficiency of this process could be questioned, but once these projects are identified, the NMFA goes through fiscal analysis. Mr. Sisneros encouraged legislators to be more involved in projects in their areas. He suggested that because the legislature is the authorizing body, perhaps legislators should sign off on a project first. He suggested that since the oversight committee is such an active one, it should consider making this process more efficient and making legislators more involved on a project-by-project basis, which would also connect legislators to projects more readily.

Speaker Lujan indicated that historically in the capital outlay request process, local governments make requests, but there is often not enough money to address those needs. The NMFA was formed to help address capital needs by finding a revenue stream to address that need. Speaker Lujan added that whenever a request is made by a local entity to anyone, the entity should notify its local legislators. He added that this could be accomplished by regulation or rule through the NMFA.

Mr. Sisneros replied that this might be effective, suggesting that the NMFA could set up an application procedure that is signed off by the legislator in that area, which would allow legislators to advocate for the entity. Senator Papen asked what would be wrong with asking the entity to notify legislators about the project. Mr. Sisneros echoed that it is difficult when these projects come before the full legislature. The individual legislator may not know about a project in the legislator's district, and more communication is definitely needed.

Senator Ulibarri remarked on this being a good tool for local governments. In the committee's discussion that ensued on the broadness of the language, the NMFA spoke to the fine line between specifics and flexibility and a desire not to hinder smaller communities from being able to apply. The language is broad so that the NMFA can welcome a range of applications.

In response to Representative Lundstrom's question about the completeness of this list, Mr. Sisneros said that there will always be additions at session time. Mr. Jaramillo added that these are projects that do not have legislative authorization yet.

Representative Saavedra began a discussion that then gathered momentum regarding quality control on the work done on projects. Mr. Sisneros remarked that the issue is how the NMFA controls the contract and added that the NMFA does not have a contract compliance officer who would ensure that communities have done what they said they would do and review the quality of the work. Local governments are relied upon for this. Representative Powdrell-Culbert spoke about flooding in her district that was dealt with, but certain inspections had to be done. She stressed that these entities are in place, and the municipality knows who is participating in construction projects. She added that the NMFA is not going in and funding the entire project but functions as a bank, not an inspecting entity.

Mr. Sisneros agreed that this is exactly how the NMFA has operated, saying that the issue is that the NMFA finances the project and relies on local governments to do the rest.

Speaker Lujan elucidated the process whereby local governments make project requests and the NMFA has certain requirements in place before it will consider the project. He added that because these are just loans, and not state money, it is the responsibility of the receiving entity to ensure quality. He also said that the legislature has to respect local elected officials in this.

Representative Egolf questioned Subsection 43, which is an authorization for the Santa Fe Indian School. The NMFA indicated that this request came to it three years ago, and it is a request to construct buildings, in particular a gymnasium. Representative Egolf expressed consternation at the broadness of the language if it is really only for building construction, also indicating unresolved issues with the demolition and the possibility of exposure to asbestos and the lack of information coming from the school regarding these issues.

In response to a question from Senator Papen about Subsections 8 and 9, which are for refinancing projects, Representative Lundstrom suggested adding clarifying language in these subsections, to which the committee agreed.

In response to concern from Senator Garcia regarding giving authorization for a charter school to receive funding in Section 2 of the bill, discussion ensued with the result being that Section 2 be deleted from the bill because the NMFA rule change that allows this funding is not yet fully approved.

Mr. Sisneros noted that capital outlay is really going to struggle in this state and, given that fact, the NMFA will become even more important. He added that this has motivated the NMFA's thinking about efficiency with the process because more entities will be talking with the

NMFA, as it will be engaged in more debt capacity analysis in the coming years.

On a motion made and seconded, the committee voted unanimously to endorse this bill, as amended.

Mr. Jaramillo presented the final NMFA bill, which appropriates money from the PPRF to the Drinking Water State Revolving Loan Fund to provide the state match for federal Safe Drinking Water Act projects and carries out the purposes of the Drinking Water State Revolving Loan Fund Act. He stated that the NMFA wants to increase the appropriation amount from the stated \$2 million to \$2.6 million, which is the amount needed to match the \$13.573 million that came from federal sources for water infrastructure projects. John D'Antonio, state engineer, spoke about the uniform funding application (UFA) process now in place in which several entities, including the United States Department of Agriculture, the Department of Environment and the NMFA, discuss water projects to be funded throughout the year and look at putting funding together for projects. Representative Arnold-Jones asked that a written process be put in place that includes definitive criteria for project selection, and Mr. D'Antonio responded that he would check with his colleagues who work with the UFA to make this happen.

In response to a question from Speaker Lujan about what would happen if this appropriation does not go through, Mr. D'Antonio said that if the state match does not exist, \$13 million would be left on the table.

Committee members made a motion, which was seconded, and voted unanimously to endorse this bill with the amended money amount.

Geno Zamora, general counsel, Department of Environment, presented the committee with the Space Flight Informed Consent Act, in which he noted a change made in Section 5, Subsection A that requires a warning statement and release of liability be signed by participants in the flight at least seven days prior to the flight.

The primary questions brought forth by the committee regarding the spaceport bill encompassed the findings section of the bill as well as liability. Senator Garcia expressed discomfort at having the findings section in statute, adding that to qualify as legislative findings, a long process would have to be in place to determine their validity. Ms. Faust responded that findings were included to address case law from the supreme court. Representative Martinez stated that he believes that the judiciary committee would strike findings in any case.

Discussion ensued around liability and what the bill is trying to achieve in this regard. Mr. Zamora clarified that there are currently 300 people on the waiting list for space flights, that seats are assigned well in advance of seven days and that the bill addresses circumstances where a person who makes the decision not to take a risk or has conflict can back out within those seven days.

Senator Keller asked who is responsible for liability at the spaceport. Mr. Zamora indicated that this question is broad; the facility itself is a state facility, and the employees are state employees, much like an airport. It is a public facility used by private entities that are responsible for their own activity. In response to a question regarding why this needs to be in statute, Mr. Zamora replied that clarity is essential in a process that protects passengers and that

these laws provide a framework for liability. He added that Virginia, Florida and Texas have passed similar informed consent laws and that New Mexico is competing with these states and needs to stay abreast.

Senator Fischmann asked if there is a difference between liabilities of governmental entities at the spaceport as compared to operations at an airport. Mr. Zamora replied that both are covered by the Tort Claims Act and that as a general rule, entities are immune from all liability except as waived in Tort Claims Act. This applies from the state level down to the municipal level. In further discussion, Representative Martinez indicated that this bill limits liability only for space flight participants and that otherwise common law liability is in place, noting that this is a fairly limited piece of legislation in which participants and families waive any right to immunity.

Representative Egolf expressed discomfort with the language around the evidence of "gross negligence or wanton disregard" and questioned what is being waived and what is not in the bill. He stated that a lot has been taken for granted as the result of cases determining negligence and that if New Mexico and other states exempt this industry from all this, the state may not get the level of safety it wants. Therefore, he added that he could not support the bill.

Senator Beffort recommended that committee members review the statutes of Virginia, Florida and Texas to ensure that New Mexico does not get so restrictive that no one will want to come here to use its spaceport.

On a motion made and seconded, the committee unanimously endorsed the spaceport bill.

Ms. Faust presented legislation relating to uniform reporting of the NMFA, the Border Authority, the Spaceport Authority and the New Mexico Renewable Energy Transmission Authority (RETA). Discussion ensued between Mr. Sisneros and committee members around language in the bill that allows for the oversight committee to have not only review of but also approval of policies. Mr. Sisneros indicated that bankers want to know about the NMFA's policies before they buy its product, and that if this bill is passed, the NMFA could have a problem with selling bonds. Representative Lundstrom clarified that she could understand this if the committee had to first approve lending policies, but added that the changes are not concerned with internal decisions about how lending is done. She questioned how legislative approval of procurement could possibly affect bonding.

Senator Rodriguez advocated for the committee's involvement with policy that affects internal project reviews and final recommendations. Mr. Sisneros stressed that he would be happy to provide the committee with the policies, which amount to about eight inches high of text. To Senator Rodriguez' concern about how projects make it into the final authorization bills, Mr. Sisneros agreed that more transparency is needed and said that the NMFA is talking about having legislators sign off on projects in their districts. He added that this needs to be a requirement so that each legislator knows what projects are in his or her district. Mr. Romero reminded the committee that by statute the committee must approve rules and regulations, not policies, but that the NMFA could certainly bring them to the committee members to review.

Ms. Faust gave a brief historical perspective on the setup of the NMFA statute, indicating it was set up so that the oversight committee had approval of the rules. Mr. Pollard affirmed Mr.

Sisneros' statements, saying that he is right in terms of lending policies, that rating agencies need to know the security behind loans and that borrowers need to know if they qualify. He added that the NMFA always had policies and program requirements so that those applying would have an idea of how to proceed. He said that if there is an idea that self-serving or arbitrary decisions are being made, rating agencies will have a problem.

After much discussion, committee members agreed to amend the bill so that the oversight committee would review written policies on all programs and funds administered by the authority, hiring by the authority and investment of funds. The oversight committee would both review and approve a strategic budget as well as procurement.

On a motion, which was seconded, the committee voted to endorse the bill, as amended. The roll call vote was seven in the affirmative, six in the negative.

Ms. Russell presented revisions to the rules and regulations governing the economic development bond program, based on suggestions received at the November NMFA Oversight Committee meeting. In answer to Senator Keller's question about whether there were any suggestions not included, Ms. Russell said she did not believe she skipped over anything. Senator Keller suggested adding another metric to the "economic development goal", which would be return on investment. (Please refer to the NMFA handout on the approval of these revised rules and regulations for details as to the revisions made.) On a motion made and seconded, the committee voted unanimously to approve these rules.

Secretary Gary Giron, Department of Transportation (DOT), presented a report on House Memorial 5 from this year's regular session, which is a continuation of House Memorial 35 from the 2007 session that examined various State Road Fund (SRF) revenues and their performance over time, as well as the growth potential of SRF revenues. House Memorial 5 mandated that a technical committee be set up to develop data and information on the future outlook of transportation in New Mexico and funding strategies to aid in addressing sustainable transportation systems for the state.

Bill Mueller, chief economist, DOT, presented comparisons between the growth and source of revenues of the SRF and the general fund. He pointed out fundamentals of the SRF and how it is distinct from the general fund in that the user supports the SRF's revenue growth. In graphs showing the long-term trend between the two funds, Mr. Mueller indicated that the general fund has retreated about 20 percent in recent years, whereas the SRF has declined about 12 percent over a three-year period. In addition, he said, the general fund has grown at a six percent rate, whereas the SRF has grown at a three percent rate. He pointed out that, although the difference is small, over time it is a substantial one. He added that the general fund is growing at the rate of the economy's growth, whereas the SRF's growth is consistent with employment growth, highway and street construction, and the consumer price index.

Mr. Mueller spoke about how transportation investment drives economic growth through direct impact, business competitiveness and economics. He pointed out \$10.5 billion worth of needs over the next 20 years, with graphs showing existing road funds at \$6.1 billion and the additional needs at \$4.4 billion for that time frame. He added that annual need is at \$520 million, with \$300 million of that amount available from existing sources.

In a breakdown of sources for the SRF, Mr. Mueller showed current revenue coming from the gasoline tax, special fuels tax, vehicle registration and weight distance tax. He also presented an annual funding proposal to increase revenue, which includes legislation to raise registration per vehicle, improving technology for increased compliance in the weight distance tax and increasing enforcement.

Discussion ensued regarding the relationship between the general fund's recurring revenue and the SRF revenue. Representative Barela stated that the revenue-generating taxes, such as the weight distance and special fuels taxes, would affect a small group, whereas vehicle registration and gas taxes are more widespread. Mr. Mueller clarified that New Mexico's vehicle registration fee is significantly lower than other states.

In response to legislative concern over more taxes being applied, Mr. Mueller said that the DOT is not necessarily advocating for these measures; they are the outcome of the work in response to House Memorial 5. He stressed that the DOT is losing traction because of the sources of revenue.

Representative Rodefer stated that the DOT was being specious in saying it is losing traction because there is not a direct correlation between the general fund and the SRF. He added that he is not disputing that New Mexico's roads are underfunded, but he is not sure these charts get to the state's true needs.

The minutes for the last NMFA Oversight Committee meeting on November 2-3 were approved without opposition.

Jana Amacher, NMFA, supported by Ms. Russell and Mr. D'Antonio, gave an update on the Water Project Fund. Please see the handout for details of the fund, including the Water Trust Board's responsibilities for prioritizing recommended projects and adopting rules and regulations that govern the fund. Ms. Amacher spoke about the other two funds supported by the Water Trust Board — the Water Trust Fund and the Acequia Project Fund. She indicated that the Water Trust Board supports the adjudication process, for which 10 percent of the funds in the Water Project Fund are appropriated to the state engineer for this purpose. She also detailed the projects that the Water Trust Board funds by statute and told the committee that the application process is a year-long cycle. In response to a question from Representative Saavedra regarding potential Bernalillo County applications for water projects, Ms. Russell said that it is the policy of the Water Trust Board to move projects quickly. She added that if an entity presents a project for funding for which planning and design is not completed, then that phase is funded first. If a project is properly developed, it has more of a chance of getting funding for construction, she said. The progress of a project is individual, based on the nature of the project and how ready an applicant is to oversee the project, she reiterated.

Presenting on the state's national laboratories' partnership with the small business tax credit program were Mariann Johnston, economic development, Los Alamos National Laboratory (LANL); Jackie Kerby Moore, technology and economic development, Sandia National Laboratories; and Jim Manatt, Providence Technologies, Inc. Ms. Moore reported that 1,400 small businesses have been assisted since the inception of the laboratory partnership program. The Laboratory Partnership with Small Business Tax Credit Act's purpose was to bring the technology and expertise of the national laboratories to small businesses in the state to

promote economic development. As part of this, \$2.4 million per lab per year can be used to solve small business problems; \$10,000 per business per year to help companies located in Bernalillo County; and \$20,000 per business per year to help companies in rural areas of the state. Ms. Johnston reviewed several successful projects, as detailed in the annual report for the New Mexico small business assistance program. Projects she discussed included an energy matter conversion company and how LANL was able to assist the company in its quest for using a fusion power system for power generation, as well as a project using a reverse osmosis system to desalinate water produced from oil and gas production operations.

Mr. Manatt discussed a business model of ARCO's that would allow for a substantial number of jobs and infrastructure development in New Mexico. He said that private equity is currently being raised for about \$50 million. He thanked the legislature for such a visionary program, adding that there is a reef in southeastern New Mexico and west Texas that can be identified that has six million barrels of oil that the industry cannot recover for technical reasons. In identifying these reasons, there is a potential revenue of \$75 billion available to the state. He pointed out the primary target for technological development being in this southeast corner of the state. He added that there are technical reasons for not being able to access this oil and delineated their method, which uses mathematical data to accurately predict where the pods are and images the location of the bypassed oil. He said that his company has taken the technology from concept to reality to detect bypassed oil and that it has reached a point of demonstrated technological feasibility.

In response to a question on how the consortium decides how much an entity receives, Mr. Manatt replied that the decision is based on labor hours and the rate of the staff person at the national lab and that the statement of work is agreed upon by a lab staff person and the small business itself. He added that what is being provided to the small business is a tool to help it develop. The company is then responsible to be successful, to obtain the rest of the needed funding through investment and to make a profit.

Senator Keller lauded the model, stating that for decades the state has been trying to use technology transfers for economic development. He said that this program works, it is a great conduit and, in fact, the state ought to expand it and raise the limits so companies can get more than \$20,000.

In the final presentation of the day, Jeremy Turner, executive director; Joan Munsell, administrative manager; and Angela Gonzales-Rodarte, project coordinator; all from the RETA, spoke on Senate Memorial 44, sponsored by Senator Keller. Mr. Turner described the actions required by the memorial to be a good first step for renewable energy development. Passed during the 2009 regular session, the memorial requested the RETA to identify corridors for transmission lines and renewable energy zones in the state. Mr. Turner spoke of the existence of wind, geothermal and solar resources in New Mexico, but the lack of available transmission to take advantage of these resources.

In response to Senate Memorial 44, the RETA held several public meetings and compiled common themes from the responses received. Mr. Turner described what the memorial asks the RETA to accomplish, which includes developing maps for existing and potential transmission lines and corridors; identifying regions of low or minimal land development restrictions; seeking public input; and convening a working group to collaborate and make recommendations.

Mr. Turner reported that New Mexico has 20 to 25 times the amount of renewable energy it could be utilizing. Such energy could be exported to contribute to the economic development of the state, he added. He also stated that although New Mexico is not number one in the country for capacity, it is only because the state has not yet built transmission lines; if it does, it could be number one in the country.

Mr. Turner indicated that the Public Regulation Commission is part of the working group, but it also needs to go through its own public process as a parallel to the RETA's work. In the work to make it possible for New Mexico to compete as an energy exporter, the RETA asks the utility companies about regulatory issues. He said that the state's renewable resources will be realized with transmission and export to other states.

In response to a question about where the ports of entry need to be, Mr. Turner replied that the primary exporter location is the Four Corners region, which has a very limited capacity at present. He added that Sun Zia is also a major corridor.

For further details on the RETA's work, please refer to the RETA report, which is extensive in its explanation of the work resulting from the initiating influence of Senate Memorial 44. In addition to developing a map to identify existing generation and transmission lines and renewable energy resource zones in New Mexico, the report delineates other issues the RETA is researching, including prioritizing regions with low or minimal land development conflicts by coordinating with state and federal agencies to build lines in these areas; identifying and prioritizing viable options for potential transmission corridors to accommodate renewable energy exporting from the state; soliciting electric utilities and transmission companies to identify needed infrastructure to deliver energy production from these areas; identifying barriers to developing this infrastructure; finding opportunities to integrate utility infrastructure planning into federal, state and local planning initiatives in an effort to streamline the process of permitting and developing projects; proposing changes to the Federal Energy Regulatory Commission's pre-filing process to be more in line with other federal and state permitting processes; and making recommendations on steps that the state and federal governments could take to streamline the way in which renewable energy transmission infrastructure happens in New Mexico.

Representative Campos praised the good staff and product of the RETA's work and said that the window of opportunity is small and nearby states are pushing hard to get transmission lines to California. He added that with wind, solar and biomass projects, the issue is transmission, and if New Mexico does not have transmission, it will lose this opportunity. As a state, New Mexico has some of the best renewable energy opportunities, and timing is critical, he added. He said that New Mexico has the advantage over Wyoming, Idaho and Colorado, but it has to take it.

Senator Papen asked about the actual financing to do this work. Mr. Turner said that the line that starts in Wyoming and terminates here costs \$7.2 billion, for which the New Mexico portion is just over \$1 billion. In Clovis, the New Mexico portion is also over \$1 billion. The Tres Amigos project comes in at \$1.2 to 1.5 billion, for which phase 1 is just over \$1 billion. He added that wind and solar development would cost in the \$3 to 5 billion range. He stated that any jobs created by these opportunities would be short-term construction jobs, but that if the state creates the opportunity to export power, it will have gross receipts tax impact and that there

is a long-term goal to attract manufacturing firms that create jobs for citizens.

There being no further business, the committee adjourned at 4:40 p.m.

(Because these are minutes for the final NMFA Oversight Committee meeting, they have not been approved by the committee.)

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

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

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1 authority:

2 1. the city of Rio Rancho in Sandoval county for
3 equipment, building, infrastructure, land acquisition and
4 special assessment district projects;

5 2. Hidalgo county for equipment, building and
6 infrastructure projects;

7 3. the city of Raton in Colfax county for building,
8 equipment and infrastructure projects;

9 4. the north central solid waste authority in Rio
10 Arriba county for building, equipment, infrastructure, solid
11 waste and land acquisition projects;

12 5. the department of transportation for building,
13 equipment, infrastructure and land acquisition projects;

14 6. the southwest solid waste authority in Grant
15 county for debt refinancing, building, equipment and
16 infrastructure projects;

17 7. the board of regents of New Mexico state
18 university for building, equipment and infrastructure projects;

19 8. San Miguel county for debt refinancing projects;

20 9. the town of Estancia in Torrance county for debt
21 refinancing projects;

22 10. the board of regents of New Mexico state
23 university for the New Mexico department of agriculture for
24 building, equipment and infrastructure projects;

25 11. the city of Deming in Luna county for building,

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

3 12. the town of Mesilla in Dona Ana county for
4 building, equipment, infrastructure, water and wastewater
5 projects;

6 13. Sierra county for building, equipment,
7 infrastructure, land acquisition and solid waste projects;

8 14. the city of Artesia in Eddy county for
9 building, equipment, infrastructure, special assessment
10 district, public improvement district, refinancing, water
11 rights and land acquisition projects;

12 15. the city of Socorro in Socorro county for
13 building, equipment, infrastructure, water, wastewater, water
14 rights and land acquisition projects;

15 16. Albuquerque public schools in Bernalillo county
16 for building, equipment, infrastructure, debt refinancing,
17 road, land acquisition, water, water rights, wastewater and
18 solid waste projects;

19 17. the Carlsbad soil and water conservation
20 district in Eddy county for building, equipment,
21 infrastructure, debt refinancing, road, land acquisition,
22 water, water rights, wastewater and solid waste projects;

23 18. Catron county for building, equipment,
24 infrastructure, debt refinancing, road, land acquisition,
25 water, water rights, wastewater and solid waste projects;

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1 19. the village of Causey in Roosevelt county for
2 building, equipment, infrastructure, debt refinancing, road,
3 land acquisition, water, water rights, wastewater and solid
4 waste projects;

5 20. Cibola county for building, equipment,
6 infrastructure, debt refinancing, road, land acquisition,
7 water, water rights, wastewater and solid waste projects;

8 21. the Claunch-Pinto soil and water conservation
9 district in Torrance county for building, equipment,
10 infrastructure, debt refinancing, road, land acquisition,
11 water, water rights, wastewater and solid waste projects;

12 22. the town of Clayton in Union county for
13 building, equipment, infrastructure, debt refinancing, road,
14 land acquisition, water, water rights, wastewater and solid
15 waste projects;

16 23. the Pueblo of Cochiti in Sandoval county for
17 building, equipment, infrastructure, debt refinancing, road,
18 land acquisition, water, water rights, wastewater and solid
19 waste projects;

20 24. Cuba independent schools in Sandoval county for
21 building, equipment, infrastructure, debt refinancing, road,
22 land acquisition, water, water rights, wastewater and solid
23 waste projects;

24 25. De Baca county for building, equipment,
25 infrastructure, debt refinancing, road, land acquisition,

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1 water, water rights, wastewater and solid waste projects;

2 26. the village of Des Moines in Union county for
3 building, equipment, infrastructure, debt refinancing, road,
4 land acquisition, water, water rights, wastewater and solid
5 waste projects;

6 27. Dona Ana county for building, equipment,
7 infrastructure, debt refinancing, road, land acquisition,
8 water, water rights, wastewater and solid waste projects;

9 28. the village of Dora in Roosevelt county for
10 building, equipment, infrastructure, debt refinancing, road,
11 land acquisition, water, water rights, wastewater and solid
12 waste projects;

13 29. Farmington municipal schools in San Juan county
14 for building, equipment, infrastructure, debt refinancing,
15 road, land acquisition, water, water rights, wastewater and
16 solid waste projects;

17 30. Gallup-McKinley public schools in McKinley
18 county for building, equipment, infrastructure, debt
19 refinancing, road, land acquisition, water, water rights,
20 wastewater and solid waste projects;

21 31. Lordsburg public schools in Hidalgo county for
22 building, equipment, infrastructure, debt refinancing, road,
23 land acquisition, water, water rights, wastewater and solid
24 waste projects;

25 32. the city of Lovington in Lea county for

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

4 33. the village of Melrose in Curry county for
5 building, equipment, infrastructure, debt refinancing, road,
6 land acquisition, water, water rights, wastewater and solid
7 waste projects;

8 34. the city of Moriarty in Torrance county for
9 building, equipment, infrastructure, debt refinancing, road,
10 land acquisition, water, water rights, wastewater and solid
11 waste projects;

12 35. the border authority for building, equipment,
13 infrastructure, debt refinancing, road, land acquisition,
14 water, water rights, wastewater and solid waste projects;

15 36. the board of regents of the New Mexico
16 institute of mining and technology for building, equipment,
17 infrastructure, debt refinancing, road, land acquisition,
18 water, water rights, wastewater and solid waste projects;

19 37. the north central council of governments for
20 building, equipment, infrastructure, debt refinancing, road,
21 land acquisition, water, water rights, wastewater and solid
22 waste projects;

23 38. Otero county for building, equipment,
24 infrastructure, debt refinancing, road, land acquisition,
25 water, water rights, wastewater and solid waste projects;

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1 39. Quay county for building, equipment,
2 infrastructure, debt refinancing, road, land acquisition,
3 water, water rights, wastewater and solid waste projects;

4 40. the city of Ruidoso Downs in Lincoln county for
5 building, equipment, infrastructure, debt refinancing, road,
6 land acquisition, water, water rights, wastewater and solid
7 waste projects;

8 41. the village of San Jon in Quay county for
9 building, equipment, infrastructure, debt refinancing, road,
10 land acquisition, water, water rights, wastewater and solid
11 waste projects;

12 42. the community college board of Santa Fe
13 community college in Santa Fe county for building, equipment,
14 infrastructure, debt refinancing, road, land acquisition,
15 water, water rights, wastewater and solid waste projects;

16 43. Sierra county for building, equipment,
17 infrastructure, debt refinancing, road, land acquisition,
18 water, water rights, wastewater and solid waste projects;

19 44. the town of Silver City in Grant county for
20 building, equipment, infrastructure, debt refinancing, road,
21 land acquisition, water, water rights, wastewater and solid
22 waste projects;

23 45. Socorro county for building, equipment,
24 infrastructure, debt refinancing, road, land acquisition,
25 water, water rights, wastewater and solid waste projects;

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- 1 46. Taos county for building, equipment,
2 infrastructure, debt refinancing, road, land acquisition,
3 water, water rights, wastewater and solid waste projects;
4 47. the city of Texico in Curry county for
5 building, equipment, infrastructure, debt refinancing, road,
6 land acquisition, water, water rights, wastewater and solid
7 waste projects;
8 48. Truth or Consequences public schools in Sierra
9 county for building, equipment, infrastructure, debt
10 refinancing, road, land acquisition, water, water rights,
11 wastewater and solid waste projects;
12 49. the city of Tucumcari in Quay county for
13 building, equipment, infrastructure, debt refinancing, road,
14 land acquisition, water, water rights, wastewater and solid
15 waste projects;
16 50. Union county for building, equipment,
17 infrastructure, debt refinancing, road, land acquisition,
18 water, water rights, wastewater and solid waste projects;
19 51. the board of regents of the university of New
20 Mexico for building, equipment, infrastructure, debt
21 refinancing, road, land acquisition, water, water rights,
22 wastewater and solid waste projects;
23 52. Valencia county for building, equipment,
24 infrastructure, debt refinancing, road, land acquisition,
25 water, water rights, wastewater and solid waste projects; and

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

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 wood industry-related manufacturing project in
- 2 Cibola county;
- 3 2. a food manufacturing project in Taos county;
- 4 3. an LED/solar commercial manufacturing project in
- 5 Bernalillo county;
- 6 4. a downtown revitalization project/service
- 7 industry project in Bernalillo county;
- 8 5. ceramics manufacturing projects in Bernalillo
- 9 and Dona Ana counties;
- 10 6. renewable biofuels and solar fuel manufacturing
- 11 projects in southwest New Mexico;
- 12 7. an automotive parts manufacturing project in
- 13 Luna county;
- 14 8. a steel manufacturing project in the Pueblo of
- 15 Acoma;
- 16 9. a downtown preservation project in Valencia
- 17 county;
- 18 10. a hospitality industry project in San Miguel
- 19 county;
- 20 11. a biotechnology project in Los Alamos county;
- 21 12. a sustainable alternative water source
- 22 technology manufacturing project in Santa Fe county;
- 23 13. a downtown revitalization project in Socorro
- 24 county;
- 25 14. a service industry project in Socorro county;

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- 1 15. a digital motion picture animation project in
- 2 Sandoval county;
- 3 16. a workforce training center and incubator
- 4 project in Lea county;
- 5 17. an expanded polystyrene materials manufacturing
- 6 project in McKinley county;
- 7 18. a manufacturing project in Bernalillo county;
- 8 19. a food manufacturing project in Luna county;
- 9 20. a solar panel manufacturing project in Luna
- 10 county;
- 11 21. a food manufacturing project in Chaves county;
- 12 22. a panel production manufacturing project in
- 13 Bernalillo county;
- 14 23. a solar and solar parts manufacturing project
- 15 in Bernalillo county;
- 16 24. a hospitality industry project in Hidalgo
- 17 county;
- 18 25. a hospitality industry project in Luna county;
- 19 26. a hospitality industry project in Chaves
- 20 county;
- 21 27. a downtown revitalization project and service
- 22 industry project in Bernalillo county;
- 23 28. a manufacturing project in San Juan county;
- 24 29. a manufacturing project in San Juan county;
- 25 30. a renewable, green energy housing and service

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industry project in Taos county;

31. a food processing project in McKinley county;

32. a downtown revitalization project in Santa Fe county; and

33. a hospitality industry and historic renovation project in Santa Fe county.

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

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

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 six hundred thousand dollars (\$2,600,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2010 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance at the end of a fiscal year shall not revert to the public project revolving fund.

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

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; AMENDING
REQUIREMENTS FOR SECURITIES PURCHASED BY THE AUTHORITY.

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

Section 1. Section 6-21-10 NMSA 1978 (being Laws 1992,
Chapter 61, Section 10, as amended) is amended to read:

"6-21-10. PURCHASES IN NAME OF AUTHORITY--
DOCUMENTATION.--

A. All tangible and intangible property, real and
personal property and securities purchased, held or owned at
any time by the authority shall at all times be purchased and
held in the name of the authority or may be mortgaged, assigned
or otherwise encumbered as security for the repayment of bonds
issued by the authority.

B. All securities purchased at any time by the

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1 authority, upon delivery to the authority, shall be accompanied
2 by all documentation required by the authority and shall
3 include an approving opinion of recognized bond counsel and
4 certification and guarantee of signatures [~~and certification as~~
5 ~~to no litigation pending as of the date of delivery of the~~
6 ~~securities challenging the validity or issuance of such~~
7 ~~securities]~~."

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE
AND THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

AN ACT

RELATING TO TORT CLAIMS; REQUIRING INFORMED CONSENT OF SPACE
FLIGHT PARTICIPANTS; ESTABLISHING A PUBLIC POLICY THAT INFORMED
SPACE FLIGHT PARTICIPANTS WHO EXECUTE WAIVERS ASSUME THE RISKS
OF 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 Informed Consent Act".

Section 2. LEGISLATIVE FINDINGS AND STATEMENT OF PUBLIC
POLICY.--

A. The legislature finds that:

(1) 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

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1 economic and personal benefits from the development of a
2 successful and robust commercial human space flight industry,
3 while playing a significant role in its growth. Spaceport
4 development will create jobs and have a positive effect on the
5 state's tax base;

6 (2) commercial human space flight activities
7 involve inherent risks that cannot be eliminated or controlled
8 through the exercise of reasonable care; and

9 (3) space flight participants have the
10 bargaining position and the right to contract to assume the
11 risk of space flight activities.

12 B. The legislature declares that it is the public
13 policy of New Mexico that space flight participants who are
14 informed of the risk of space flight activities as required by
15 the Space Flight Informed Consent Act and who voluntarily
16 release space flight entities from liability have assumed the
17 risk of any space flight participant injury.

18 Section 3. DEFINITIONS.--As used in the Space Flight
19 Informed Consent Act:

20 A. "crew" means any employee of a space flight
21 entity, or of a contractor or subcontractor of a space flight
22 entity, who performs activities in the course of that
23 employment directly relating to the launch, reentry or other
24 operation of or in a launch vehicle or reentry vehicle that
25 carries human beings;

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1 B. "launch" means to place or try to place a launch
2 vehicle or reentry vehicle and any payload, crew or space
3 flight participant:

- 4 (1) in a suborbital trajectory;
5 (2) in earth orbit in outer space; or
6 (3) otherwise in outer space, including
7 activities involved in the preparation of a launch vehicle or
8 payload for launch;

9 C. "launch vehicle" means a vehicle built to
10 operate in or place a payload or human beings in outer space;
11 or a suborbital rocket;

12 D. "reentry" means to return or attempt to return a
13 reentry vehicle and any payload, crew or space flight
14 participant from suborbit, earth orbit or outer space to earth;

15 E. "reentry vehicle" means a vehicle designed to
16 return from suborbit, earth orbit or outer space to earth, or a
17 reusable launch vehicle designed to return from suborbit, earth
18 orbit or outer space to earth, substantially intact;

19 F. "space flight activities" means activities and
20 training in all phases of preparing for and undertaking space
21 flight, including:

22 (1) the preparation of a launch vehicle,
23 payload, crew or space flight participant for launch, space
24 flight and reentry;

25 (2) the conduct of the launch;

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1 (3) conduct occurring between the launch and
2 reentry;

3 (4) the preparation of a reentry vehicle,
4 payload, crew, or space flight participant for reentry;

5 (5) the conduct of reentry and descent;

6 (6) the conduct of the landing; and

7 (7) the conduct of post-landing recovery of a
8 reentry vehicle, payload, crew or space flight participant;

9 G. "space flight entity" means any public or
10 private entity holding, either directly or through a corporate
11 subsidiary or parent, a license, permit or other authorization
12 issued by the United States federal aviation administration
13 pursuant to the federal Commercial Space Launch Amendments Act
14 of 2004, including, but not limited to, a safety approval and a
15 payload determination. "Space flight entity" includes any
16 manufacturer or supplier of components, services or vehicles
17 that have been reviewed by the United States federal aviation
18 administration as part of issuing such a license, permit or
19 authorization. "Space flight entity" also includes an
20 employee, officer, director, owner, stockholder, member,
21 manager or partner of the entity, manufacturer or supplier;

22 H. "space flight participant" means an individual,
23 who is not crew, carried within a launch vehicle or reentry
24 vehicle; and

25 I. "space flight participant injury" means an

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1 injury sustained by a space flight participant, including
2 bodily injury, death, emotional injury or property damage or
3 any other loss arising from the individual's participation in
4 space flight activities.

5 Section 4. ASSUMPTION OF THE RISK BY SPACE FLIGHT
6 PARTICIPANTS.--

7 A. Except as provided in Subsection B of this
8 section, a written waiver of claims or release of liability
9 regarding the risks of space flight activities shall be
10 enforceable between a space flight entity and a space flight
11 participant; provided that the agreement was knowing and
12 voluntary and the space flight participant had the capacity to
13 contract.

14 B. A waiver of claims or release of liability shall
15 not release a space flight entity from liability for a space
16 flight injury caused by the space flight entity's gross
17 negligence that evidences reckless or wanton disregard for the
18 safety of the space flight participant.

19 C. Space flight entities are not required to
20 transport space flight participants who chose not to sign a
21 written waiver of claims or release of liability.

22 D. If a valid waiver of claims or release of
23 liability has been signed by a space flight participant, no
24 space flight participant, space flight participant's
25 representative, including the heirs, administrators, executors,

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1 assignees, next of kin and estate of the space flight
2 participant, or any other person may bring or maintain an
3 action against or recover from a space flight entity for a
4 space flight participant injury that resulted from the risks of
5 space flight activities.

6 Section 5. REQUIRED WARNING OF RISKS AND RELEASE OF
7 LIABILITY.--

8 A. A space flight entity providing space flight
9 activities shall inform each space flight participant of the
10 risks of the space flight activities and shall provide a
11 warning statement and release of liability for each space
12 flight participant's signature at least seven days prior to the
13 space flight activities, or as soon as practical for space
14 flight activities contracted for within seven days of the
15 activity. The warning statement and release of liability
16 shall, at a minimum, contain the following language plus any
17 additional language required by federal law:

18 "WARNING OF RISKS AND RELEASE OF LIABILITY:

19 1. I understand that the commercial human space flight
20 industry is an emerging industry and that private industry has
21 begun to develop vehicles capable of carrying human beings into
22 space.

23 2. I understand that commercial human space flight
24 activities involve inherent risks that cannot be eliminated or
25 controlled through the exercise of reasonable care.

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1 3. I therefore understand, acknowledge and agree that I
2 am waiving all claims for any loss, damage or injury, including
3 bodily injury, emotional injury, death or property damage, that
4 I sustain in space flight activities provided by a space flight
5 entity if the loss, damage or injury results from the risks of
6 the space flight activity.

7 4. I understand, acknowledge and agree that this waiver
8 shall also be binding on my representatives, including my
9 heirs, administrators, executors, assignees, next of kin and
10 estate, or any other person who attempts to bring a claim on my
11 behalf.

12 5. I have been informed of the risks of space flight
13 activities as required by federal law pursuant to 49 U.S.C.
14 Section 70105 and 14 C.F.R. Section 460.45, and I consent to
15 participate in space flight activities after receiving a
16 description of risks.

17 6. I acknowledge that the risks of space flight
18 activities include, but are not limited to, risks of bodily
19 injury, including death, emotional injury and property damage.
20 I understand, acknowledge and agree that I am participating in
21 space flight activities at my own risk.

22 7. I have been given adequate opportunity to consult with
23 an attorney of my own choosing before signing this warning of
24 risks and release of liability."

25 B. Failure to provide the warning of risks and

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1 release of liability required by Subsection A of this section
2 to a space flight participant and failure to obtain a fully
3 executed waiver from the space flight participant prior to
4 space flight activities shall prevent a space flight entity
5 from invoking the assumption of risk provisions of the Space
6 Flight Informed Consent Act with regard to that space flight
7 participant.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

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 RENEWABLE ENERGY
TRANSMISSION BONDS TO BE SOLD AT, ABOVE OR BELOW PAR; PROVIDING
FOR CONFIDENTIALITY OF CERTAIN PROPRIETARY INFORMATION.

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

Section 1. Section 6-21-3 NMSA 1978 (being Laws 1992,
Chapter 61, Section 3, as amended) is amended to read:

"6-21-3. DEFINITIONS.--As used in the New Mexico Finance
Authority Act:

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

B. "bond" means any bonds, notes, certificates of

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1 participation or other evidence of indebtedness;

2 C. "bondholder" or "holder" means a person who is
3 the owner of a bond, whether registered or not;

4 D. "emergency public project" means a public
5 project:

6 (1) made necessary by an unforeseen occurrence
7 or circumstance threatening the public health, safety or
8 welfare; and

9 (2) requiring the immediate expenditure of
10 money that is not within the available financial resources of
11 the qualified entity as determined by the authority;

12 E. "public project" means the acquisition,
13 construction, improvement, alteration or reconstruction of
14 assets of a long-term capital nature by a qualified entity,
15 including land; buildings; water rights; water, sewerage and
16 waste disposal systems; streets; airports; municipal utilities;
17 facilities eligible to be financed or acquired by the New
18 Mexico renewable energy transmission authority; public
19 recreational facilities; public transportation systems; parking
20 facilities; and machinery, furniture and equipment. "Public
21 project" includes all proposed expenditures related to the
22 entire undertaking. "Public project" also includes the
23 acquisition, construction or improvement of real property,
24 buildings, facilities and other assets by the authority for the
25 purpose of leasing the property;

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1 F. "qualified entity" means the state or an agency
2 or institution of the state; or a county, municipality, school
3 district, two-year public post-secondary educational
4 institution, charter school, land grant corporation, acequia
5 association, public improvement district, federally chartered
6 college located in New Mexico, intercommunity water or natural
7 gas supply association or corporation, special water, drainage,
8 irrigation or conservancy district or other special district
9 created pursuant to law, nonprofit foundation or other support
10 organization affiliated with a public university, college or
11 other higher educational institution located in New Mexico,
12 including a university research park corporation, an Indian
13 nation, tribe or pueblo located wholly or partially in New
14 Mexico, including a political subdivision or a wholly owned
15 enterprise of an Indian nation, tribe or pueblo or a consortium
16 of those Indian entities or the New Mexico renewable energy
17 transmission authority; or a consortium of any two or more
18 qualified entities created pursuant to law; and

19 G. "security" or "securities", unless the context
20 indicates otherwise, means bonds, notes or other evidence of
21 indebtedness issued by a qualified entity or leases or
22 certificates or other evidence of participation in the lessor's
23 interest in and rights under a lease with a qualified entity
24 and that are payable from taxes, revenues, rates, charges,
25 assessments or user fees or from the proceeds of funding or

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1 refunding bonds, notes or other evidence of indebtedness of a
2 qualified entity or from certificates or evidence of
3 participation in a lease with a qualified entity."

4 Section 2. Section 62-16A-1 NMSA 1978 (being Laws 2007,
5 Chapter 3, Section 1) is amended to read:

6 "62-16A-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~
7 ~~act]~~ Chapter 62, Article 16A NMSA 1978 may be cited as the "New
8 Mexico Renewable Energy Transmission Authority Act"."

9 Section 3. Section 62-16A-9 NMSA 1978 (being Laws 2007,
10 Chapter 3, Section 9) is amended to read:

11 "62-16A-9. PROCEDURE FOR SALE OF RENEWABLE ENERGY
12 TRANSMISSION BONDS.--

13 A. Bonds shall be sold by the authority at such
14 times and in such manner as the authority may elect, either at
15 private sale for a negotiated price or to the highest bidder at
16 public sale for cash at ~~[not less than]~~ par, above par or below
17 par and accrued interest.

18 B. In connection with any public sale of the bonds,
19 the authority shall publish a notice of the time and place of
20 sale in a newspaper of general circulation in the state and
21 also in a recognized financial journal outside the state. The
22 publication shall be made once each week for two consecutive
23 weeks prior to the date fixed for such sale, the last
24 publication to be two business days prior to the date of sale.
25 The notice shall specify the amount, denomination, maturity and

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1 description of the bonds to be offered for sale and the place,
2 day and hour at which sealed bids therefore shall be received.
3 All bids, except those of the state, shall be accompanied by a
4 deposit of two percent of the principal amount of the bonds.
5 Deposits of unsuccessful bidders shall be returned upon
6 rejection of the bid. At the time and place specified in such
7 notice, the authority shall open the bids in public and shall
8 award the bonds, or any part thereof, to the bidder or bidders
9 offering the best price. The authority may reject any or all
10 bids and readvertise.

11 C. The authority may sell a bond issue, or any part
12 thereof, to the state or to one or more investment bankers or
13 institutional investors at private sale."

14 Section 4. A new section of the New Mexico Renewable
15 Energy Transmission Authority Act is enacted to read:

16 "[NEW MATERIAL] PROPRIETARY INFORMATION.--Information
17 obtained by the authority that is proprietary technical or
18 business information shall be confidential and not subject to
19 inspection pursuant to the Inspection of Public Records Act."

20 Section 5. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2010.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO WATER INFRASTRUCTURE; CHANGING THE AGENCY
AUTHORIZED TO GRANT FUNDS FOR A PROJECT AUTHORIZED IN LAWS
2008, CHAPTER 45, SECTION 1; APPROPRIATING CERTAIN BOND
PROCEEDS TO THE DEPARTMENT OF ENVIRONMENT; DECLARING AN
EMERGENCY.

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

Section 1. Section 7-27-10.1 NMSA 1978 (being Laws 2003,
Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE
TAX BONDS--WATER PROJECTS PRIORITY.--

A. By January 15 of each year, the board of finance
division of the department of finance and administration shall
estimate the amount of bonding capacity available for severance
tax bonds to be authorized by the legislature. The division

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1 shall authorize ten percent of the estimated bonding capacity
2 each year, and the legislature authorizes the state board of
3 finance to issue severance tax bonds in the annually deducted
4 amount for use by the water trust board to fund water projects
5 statewide, except for projects authorized in Subsection D of
6 this section.

7 B. The water trust board shall certify to the state
8 board of finance the need for issuance of bonds for water
9 projects. The state board of finance may issue and sell the
10 bonds in the same manner as other severance tax bonds in an
11 amount not to exceed the authorized amount provided for in
12 Subsection A of this section. If necessary, the state board of
13 finance shall take the appropriate steps to comply with the
14 federal Internal Revenue Code of 1986, as amended. Proceeds
15 from the sale of the bonds are appropriated to the water
16 project fund in the New Mexico finance authority for the
17 purposes certified by the water trust board to the state board
18 of finance.

19 C. Money from the severance tax bonds provided for
20 in this section shall not be used to pay indirect project
21 costs. Any unexpended balance from proceeds of severance tax
22 bonds issued for a water project shall revert to the severance
23 tax bonding fund within six months of completion of the water
24 project. The New Mexico finance authority shall monitor and
25 ensure proper reversions.

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1 D. The board of finance division of the department
2 of finance and administration shall:

3 (1) void the authorization to the water
4 project fund held at the New Mexico finance authority to make
5 grants or loans of severance tax bond proceeds for projects
6 pursuant to Subsection U of Section 1 of Chapter 41 of Laws
7 2006 for the northwest New Mexico council of governments in
8 McKinley county for a water distribution project and Subsection
9 25 of Section 1 of Chapter 139 of Laws 2007 for the Navajo
10 Nation division of natural resources department of water
11 resources water management branch for a regional water project
12 in Rio Arriba, Sandoval, McKinley, San Juan and Cibola
13 counties; and

14 (2) authorize the department of environment to
15 make a grant of the unexpended proceeds of severance tax bonds
16 issued in fiscal years 2006 and 2007 for the purposes of the
17 water project fund to be used for the authorizations identified
18 in Paragraph (1) of this subsection and appropriate to the
19 department of environment five million three hundred seventy-
20 five thousand two hundred forty-four dollars (\$5,375,244) for
21 the Navajo Nation division of natural resources department of
22 water resources water management branch for a regional water
23 distribution project in Rio Arriba, Sandoval, McKinley, San
24 Juan and Cibola counties. Any unexpended balance of the funds
25 authorized for expenditure in this section shall revert to the

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1 severance tax bonding fund at the end of fiscal year 2013 or
2 upon completion of the project, whichever is earlier.

3 E. For purposes of the board of finance division of
4 the department of finance and administration action:

5 (1) the authorization to the water
6 project fund held at the New Mexico finance authority to make
7 grants or loans of severance tax bond proceeds for a project
8 pursuant to Subsection Q of Section 1 of Chapter 45 of Laws
9 2008 to the city of Gallup in McKinley county for a water
10 project is void; and

11 (2) the unexpended proceeds of severance tax
12 bonds issued in fiscal year 2008 for the purposes of the water
13 project fund to be used for the authorization identified in
14 Paragraph (1) of this subsection are appropriated to the
15 department of environment in the amount of five million eight
16 hundred eighty-five thousand eight hundred sixty-five dollars
17 (\$5,885,865) for the city of Gallup for a water project in
18 McKinley county. Any unexpended balance of the funds
19 authorized for expenditure in this subsection shall revert to
20 the severance tax bonding fund at the end of fiscal year 2014
21 or upon completion of the project, whichever is earlier.

22 [~~E.~~] F. As used in this section, "water project"
23 means a capital outlay project for:

24 (1) the storage, conveyance or delivery of
25 water to end users;

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1 (2) the implementation of federal Endangered
2 Species Act of 1973 collaborative programs;

3 (3) the restoration and management of
4 watersheds;

5 (4) flood prevention; or

6 (5) conservation, recycling, treatment or
7 reuse of water."

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

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCES; PROVIDING FOR UNIFORM REPORTING OF
THE NEW MEXICO FINANCE AUTHORITY, THE BORDER AUTHORITY, THE
SPACEPORT AUTHORITY AND THE NEW MEXICO RENEWABLE ENERGY
TRANSMISSION AUTHORITY; REQUIRING DISCLOSURE AND UNIFORM
REPORTING.

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

Section 1. A new section of the New Mexico Finance
Authority Act is enacted to read:

"[NEW MATERIAL] REPORTING REQUIREMENTS.--In addition to
its other duties, the authority shall:

A. prepare and update on an annual basis in
spreadsheet format approved by the New Mexico finance authority
oversight committee a report on the authority's operational
budget;

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1 B. prepare and update a quarterly report in
2 spreadsheet format approved by the New Mexico finance authority
3 oversight committee of all transactions from loan, grant or
4 lease-purchase programs or funds administered by the authority.
5 Except as otherwise prohibited by law, the spreadsheet shall
6 include the pertinent facts of each transaction, including the:

- 7 (1) program name or source of funding;
- 8 (2) name of the borrowing entity;
- 9 (3) original transaction amount;
- 10 (4) transaction balance;
- 11 (5) interest rate;
- 12 (6) total fees charged;
- 13 (7) purpose of funds; and
- 14 (8) status of the transaction;

15 C. prepare and update a quarterly report in
16 spreadsheet format approved by the New Mexico finance authority
17 oversight committee of all applications for loan, grant or
18 lease-purchase from programs or funds administered by the
19 authority that were turned down by the authority or that did
20 not qualify for funding. Except as otherwise prohibited by
21 law, the spreadsheet shall include the pertinent facts of each
22 application, including the:

- 23 (1) program name or source of funding;
- 24 (2) name of the applicant;
- 25 (3) requested transaction amount;

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1 (4) purpose of funds; and

2 (5) reason for the lack of qualification or
3 denial of application;

4 D. prepare and update a quarterly report in a
5 spreadsheet format approved by the New Mexico finance authority
6 oversight committee on each issuance of bonds by the authority,
7 including the:

8 (1) purpose of the bond issue;

9 (2) status of the utilization of bond
10 proceeds;

11 (3) interest rate on the bonds;

12 (4) itemized cost of bond issuance; and

13 (5) identity of each consultant, contractor
14 and investment banking firm utilized and fees paid to each;

15 E. prepare and update a quarterly report in
16 spreadsheet format approved by the New Mexico finance authority
17 oversight committee on the investment of all funds controlled
18 by the authority, including the:

19 (1) purpose of the fund;

20 (2) fund balance;

21 (3) benchmark interest rates;

22 (4) comparison of fund performance to peer
23 groups;

24 (5) identity of any investment consultants,
25 contractors and investment banking firms used; and

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1 (6) investment costs and fees paid;

2 F. prepare and update written policies, which shall
3 be subject to annual review by the New Mexico finance authority
4 oversight committee, regarding:

5 (1) all programs and funds administered by the
6 authority, including lending criteria and fund or program
7 priorities and goals;

8 (2) hiring by the authority;

9 (3) procurement by the authority; and

10 (4) investment of funds by the authority; and

11 G. prepare and update procurement policies and a
12 five-year strategic budget, which shall be subject to annual
13 review and approval by the New Mexico finance authority
14 oversight committee. The budget shall include information
15 regarding the assumptions on which the budget is based and the
16 policies relating to each budget section."

17 Section 2. A new section of the Border Development Act is
18 enacted to read:

19 "[NEW MATERIAL] REPORTING REQUIREMENTS.--In addition to
20 its other duties, the authority shall:

21 A. prepare and update on an annual basis in
22 spreadsheet format approved by the New Mexico finance authority
23 oversight committee a report on the authority's operational
24 budget;

25 B. prepare and update an annual report in

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1 spreadsheet format approved by the New Mexico finance authority
2 oversight committee on all border region infrastructure
3 development and economic development projects supported or
4 fostered by the authority, including:

5 (1) a description of the project and project
6 goals;

7 (2) authority resources allocated to the
8 project;

9 (3) except as otherwise prohibited by law,
10 private sector resources invested in the project;

11 (4) project status; and

12 (5) revenue bonds issued by the authority for
13 the project;

14 C. prepare and update written policies, which shall
15 be subject to annual review and approval by the New Mexico
16 finance authority oversight committee, regarding:

17 (1) project review and selection by the
18 authority;

19 (2) hiring by the authority;

20 (3) procurement by the authority; and

21 (4) bond issuance by the authority; and

22 D. prepare and update a five-year strategic budget,
23 which shall be subject to annual review and approval by the New
24 Mexico finance authority oversight committee. The budget shall
25 include information regarding the assumptions on which the

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1 budget is based and the policies relating to each budget
2 section."

3 Section 3. A new section of the Spaceport Development Act
4 is enacted to read:

5 "[NEW MATERIAL] REPORTING REQUIREMENTS.--In addition to
6 its other duties, the authority shall:

7 A. prepare and update on an annual basis in
8 spreadsheet format approved by the New Mexico finance authority
9 oversight committee a report on the authority's operational
10 budget;

11 B. prepare and update an annual report in
12 spreadsheet format approved by the New Mexico finance authority
13 oversight committee on all spaceport infrastructure development
14 and economic development projects supported or fostered by the
15 authority, including:

16 (1) a description of the project and project
17 goals;

18 (2) authority resources allocated to the
19 project;

20 (3) except as otherwise prohibited by law,
21 private sector resources invested in the project;

22 (4) project status; and

23 (5) revenue bonds issued by the authority for
24 the project;

25 C. prepare and update written policies, which shall

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1 be subject to annual review and approval by the New Mexico
2 finance authority oversight committee, regarding:
3 (1) project review and selection by the
4 authority;
5 (2) hiring by the authority;
6 (3) procurement by the authority; and
7 (4) investment of funds by the authority; and

8 D. prepare and update a five-year strategic budget,
9 which shall be subject to annual review and approval by the New
10 Mexico finance authority oversight committee. The budget shall
11 include information regarding the assumptions on which the
12 budget is based and the policies relating to each budget
13 section."

14 Section 4. A new section of the New Mexico Renewable
15 Energy Transmission Authority Act is enacted to read:

16 "[NEW MATERIAL] REPORTING REQUIREMENTS.--In addition to
17 its other duties, the authority shall:

18 A. prepare and update on an annual basis in
19 spreadsheet format approved by the New Mexico finance authority
20 oversight committee a report on the authority's operational
21 budget;

22 B. prepare and update an annual report in
23 spreadsheet format approved by the New Mexico finance authority
24 oversight committee on all infrastructure development and
25 renewable energy projects supported or fostered by the

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1 authority, including:

2 (1) a description of the project and project
3 goals;

4 (2) authority resources allocated to the
5 project;

6 (3) except as otherwise prohibited by law,
7 private sector resources invested in the project;

8 (4) project status; and

9 (5) revenue bonds issued by the authority for
10 the project;

11 C. prepare and update written policies, which shall
12 be subject to annual review and approval by the New Mexico
13 finance authority oversight committee, regarding:

14 (1) project review and selection by the
15 authority;

16 (2) hiring by the authority;

17 (3) procurement by the authority; and

18 (4) investment of funds by the authority; and

19 D. prepare and update a five-year strategic budget,
20 which shall be subject to annual review and approval by the New
21 Mexico finance authority oversight committee. The budget shall
22 include information regarding the assumptions on which the
23 budget is based and the policies relating to each budget
24 section."

25 Section 5. Section 58-31-1 NMSA 1978 (being Laws 2005,

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1 Chapter 128, Section 1) is amended to read:

2 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31
3 NMSA 1978 may be cited as the "Spaceport Development Act"."

4 Section 6. Section 62-16A-1 NMSA 1978 (being Laws 2007,
5 Chapter 3, Section 1) is amended to read:

6 "62-16A-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~
7 ~~act]~~ Chapter 62, Article 16A NMSA 1978 may be cited as the "New
8 Mexico Renewable Energy Transmission Authority Act"."

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