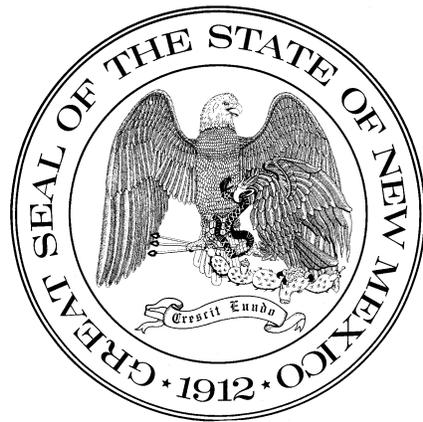


**NEW MEXICO  
FINANCE AUTHORITY  
OVERSIGHT COMMITTEE**

**FINAL REPORT**



New Mexico Legislative Council Service  
Santa Fe, New Mexico  
January 2013

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2012  
NEW MEXICO FINANCE AUTHORITY OVERSIGHT  
COMMITTEE  
INTERIM SUMMARY

Lisa Sullivan, Staff Attorney  
Legislative Council Service  
January 9, 2013

## **New Mexico Finance Authority Oversight Committee**

### **2012 Interim Summary**

The committee met five times in the 2012 interim to carry out its statutory duties to monitor and oversee the New Mexico Finance Authority (NMFA), the Border Authority, the Spaceport Authority and the New Mexico Renewable Energy Transmission Authority (RETA). The committee examined the mission, organizational structure, operations, budgets, programs, activities and projects of all four authorities.

The operations of the NMFA were heavily scrutinized following the discovery in July 2012 of a faked 2011 financial audit report. The committee was particularly concerned about the continuation of the NMFA's high bond ratings and financial integrity. The committee heard testimony from NMFA staff that no adjustment was made to the NMFA's high bond ratings by Standard & Poor's or Moody's. The committee also took testimony attributing the stability of the high bond ratings to the NMFA's regular disclosure and provision of up-to-date financial information; its timely bond payments; and the adequacy of its Debt Service Reserve Fund.

In response to the 2011 audit issue, the independent audit firm of Hewitt EnnisKnupp was retained by the New Mexico Legislative Council to: (1) analyze the scope and schedule of a forensic audit performed by PricewaterhouseCoopers at the direction of the Office of the State Auditor; (2) analyze the NMFA's governance, organizational structure, policies, procedures and practices; and (3) make recommendations about governance best practices. Hewitt EnnisKnupp presented its findings to the committee at its October and November meetings. The reports are posted as handouts on the legislative web site:  
<http://www.nmlegis.gov/lcs/committeedetail.aspx?CommitteeCode=NMFA>.

The Office of the State Auditor and the Securities Division of the Regulation and Licensing Department provided several updates and reports to the committee about their respective investigations of the NMFA due to the 2011 faked audit. Each agency issued its own final report.

The committee took testimony from the NMFA board and management about staffing levels and changes during the period leading up to and following the discovery of the faked 2011 audit. The committee also heard testimony about the anticipated completion of a valid 2011 financial audit in January or February 2013 and a valid 2012 financial audit in March or April 2013.

In its analysis of the loans, funds and programs administered by the NMFA under state law for the benefit of governmental entities and communities throughout the state, the committee took testimony from NMFA staff and board members regarding the NMFA's administration of and community outreach about such funds and programs as the new markets tax credits program, the Public Project Revolving Fund (PPRF), the Water Project Fund, the Local Transportation Infrastructure Fund and the Colonias Infrastructure Trust Fund. In addition, the committee heard a presentation from NMFA staff about the instances when the NMFA offers more favorable loan

rates than its competitors.

At its meeting in the southernmost part of the state, the committee took testimony about capital needs, border area infrastructure needs and economic development opportunities from Border Authority management, local officials and interested parties.

The RETA briefed the committee on Goldman Sachs' investment of \$380 million to \$400 million in renewable energy transmission lines and the RETA's need for an appropriation to continue its operations. The committee heard from RETA management and interested members of the public about the need for the RETA to remain an independent entity to pursue renewable energy transmission opportunities with its specialized experience and dedicated interest in renewable energy.

The committee heard from the Spaceport Authority regarding the crucial need for amendments to the Space Flight Informed Consent Act to compete with other states that have been able to pass such legislation to attract space flight companies.

The committee endorsed the following pieces of legislation for introduction during the 2013 legislative session:

- (1) a \$2 million appropriation from the PPRF to the Drinking Water State Revolving Loan Fund;
- (2) a \$2 million appropriation from the PPRF to the Local Government Planning Fund;
- (3) a bill authorizing 95 projects to be funded through the PPRF;
- (4) a \$2 million appropriation from the general fund to the RETA operational fund;
- (5) a bill changing the qualifications and appointment process for NMFA board members; and
- (6) a bill temporarily extending reporting requirements for, and temporarily suspending specific prior authorization of, Economic Development Revolving Fund projects.

The committee also heard presentations on the following pieces of legislation for introduction during the 2013 legislative session:

- (1) a bill clarifying and expanding the application of the Space Flight Informed Consent Act and removing the sunset clause; and
- (2) a bill authorizing funding from the Water Project Fund for projects to be approved after the conclusion of the 2012 interim.

**2012 APPROVED  
WORK PLAN AND MEETING SCHEDULE  
for the  
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**Members**

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

**Advisory Members**

Sen. William F. Burt	Rep. Ben Lujan
Rep. Ernest H. Chavez	Sen. Richard C. Martinez
Rep. Anna M. Crook	Rep. W. Ken Martinez
Rep. David L. Doyle	Sen. George K. Munoz
Rep. Mary Helen Garcia	Sen. Steven P. Neville
Sen. Mary Jane M. Garcia	Rep. Andy Nuñez
Rep. Thomas A. Garcia	Sen. William H. Payne
Sen. Eric G. Griego	Rep. Edward C. Sandoval
Rep. Rick Little	Rep. Sheryl Williams Stapleton
Sen. Lynda M. Lovejoy	Rep. Thomas C. Taylor

**Work Plan**

The New Mexico Finance Authority (NMFA) Oversight Committee was created with the enactment of New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31 NMSA 1978, to monitor and oversee the operations of the NMFA. 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 required by statute 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.

A. To carry out these tasks and statutory duties during the 2012 legislative interim, the NMFA Oversight Committee proposes to:

- (1) monitor and oversee the operations of the NMFA, including a review of the NMFA's operational budget, investments, procurement, policies, allocation of resources, funds and loan programs;
- (2) receive progress reports on capital and public projects funded through the NMFA;
- (3) review the status of funds that the NMFA has the statutory authority to administer;
- (4) review the status of bonds that the NMFA has the statutory authority to issue;
- (5) take testimony and make recommendations on the NMFA's administration of loans and grants;
- (6) take testimony and make recommendations on the NMFA's efforts to reach out to small, rural municipalities with information, loans or grants;
- (7) review economic development programs available through the NMFA;
- (8) review projects proposed for funding through the Colonias Infrastructure Project Fund and review and approve the policies and procedures of the Colonias Infrastructure Board;
- (9) monitor and oversee the operations and budget of the Border Authority and review and analyze the Border Authority's projects, goals and needs;
- (10) monitor and oversee the operations and budget of the Spaceport Authority and review its projects, goals and needs;
- (11) monitor and oversee the operations and budget of the NMRETA and its contracts, funding, goals and needs; and
- (12) report to the legislature and recommend necessary changes in law or policy.

B. The committee proposes the creation of a joint subcommittee with the Revenue Stabilization and Tax Policy Committee. If the subcommittee is created, the subcommittee will hear testimony on transportation infrastructure needs and identify sources of revenue that can be used to support transportation needs in New Mexico. The committee will hear a final report on subcommittee action.

**New Mexico Finance Authority Oversight Committee  
2012 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 7	Santa Fe
July 24-25	Santa Teresa and Sunland Park
August 20-21	Albuquerque
October 11-12	Santa Fe
November 29-30	Santa Fe

# AGENDAS

Revised: June 5, 2012

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

**June 7, 2012  
Room 307, State Capitol  
Santa Fe**

**Thursday, June 7**

- 11:00 a.m.     **Call to Order and Welcome**  
—Senator Mary Kay Papen, Chair  
—Representative Patricia A. Lundstrom, Vice Chair
- 11:05 a.m.     **New Mexico Finance Authority (NMFA) Update About Mission,  
Achievements, New Endeavors and Goals**  
—Richard E. May, Chief Executive Officer, NMFA
- 11:30 a.m.     **NMFA Views on Capital Outlay Process (Working Lunch)**  
—Richard E. May, Chief Executive Officer, NMFA  
—John T. Duff, Chief Operating Officer, NMFA
- 12:30 p.m.     **NMFA Public Project Revolving Fund — Project Funding Report**  
—Richard E. May, Chief Executive Officer, NMFA  
—Matthew Jaramillo, Director of Government Affairs, NMFA
- 1:30 p.m.     **Request Formation of a Transportation Infrastructure Subcommittee of the  
NMFA Oversight Committee and the Revenue Stabilization and Tax Policy  
Committee**  
—Representative Patricia A. Lundstrom, Vice Chair
- 2:00 p.m.     **Review and Discussion of Work Plan, Meeting Dates and Locations  
for 2012 Interim**  
—Lisa Sullivan, Staff Attorney, Legislative Council Service (LCS)
- 2:30 p.m.     **2012 Legislation Summary**  
—Matthew Jaramillo, Director of Government Affairs, NMFA  
—Doris Faust, Assistant Director for Drafting Services, LCS
- 3:00 p.m.     **Adjournment**

Revised: July 17, 2012

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

**July 24, 2012  
Santa Teresa Country Club  
75 Feather Moon Drive, Santa Teresa**

**July 25, 2012  
Sunland Park Racetrack & Casino  
1200 Futurity Drive, Sunland Park**

**Tuesday, July 24 — Santa Teresa Country Club**

- 8:15 a.m.     **Call to Order and Welcome (Continental Breakfast Provided)**  
—Senator Mary Kay Papen, Chair  
—Representative Patricia A. Lundstrom, Vice Chair
- 8:20 a.m.     **Regional Industrial Base Report**  
—Miriam Kotkowski, President, Border Industrial Association  
—Jerry Pacheco, Vice President, Border Industrial Association
- 8:45 a.m.     **Border Area Tour**  
—Cattle Crossing at Santa Teresa  
—Foxconn
- 12:00 noon    **Union Pacific Railroad Project Update (Lunch Provided)**  
—Zoe Richmond, Director of Public Affairs, Union Pacific Railroad
- 12:45 p.m.    **Border Area Tour Continued**  
—Union Pacific Railroad
- 1:30 p.m.     **Approval of Minutes and Committee Business**
- 1:45 p.m.     **New Mexico Finance Authority (NMFA) Audit Update**  
—Rick May, Chief Executive Officer, NMFA  
—John T. Duff, Chief Operating Officer, NMFA
- 3:30 p.m.     **Colonias Infrastructure Board Policies, Procedures and Progress**  
—Doug Moore, Chair, Colonias Infrastructure Board  
—Oscar Butler, Vice Chair, Colonias Infrastructure Board  
—Rick Martinez, Director of Business Development, NMFA

4:45 p.m.     **NMFA Update on Projects in the Southern Part of the State**  
—John Brooks, Director of Commercial Lending, NMFA  
—Matthew Jaramillo, Director of Governmental Affairs, NMFA

5:30 p.m.     **Recess**

**Wednesday, July 25 — Sunland Park Racetrack & Casino**

8:30 a.m.     **Border Authority Operations and Capital Outlay Needs (Breakfast Provided)**  
—William Mattiace, Executive Director, New Mexico Border Authority  
—Marco Herrera, International Logistics Manager, New Mexico Border Authority

9:45 a.m.     **Camino Real Regional Utility Authority Update**  
—Karen Perez, Dona Ana County Commissioner (invited)  
—Sue Padilla, Assistant County Manager, Dona Ana County, and Interim Executive Director, Camino Real Regional Utility Authority

10:45 a.m.    **Reports from Local Officials**  
—Ken Miyagishima, Mayor, City of Las Cruces  
—Arnulfo Castaneda, Mayor, Town of Anthony  
—Isabel Santos, Mayor Pro Tem, City of Sunland Park  
—Debra Lujan, Public Works Director, Town of Mesilla

11:45 a.m.    **Sunland Park Border Crossing Project**  
—Robert Diaz de Leon, Anapra Border Crossing Project Manager

12:15 p.m.    **Adjourn**

Revised: August 17, 2012

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

**August 20-21, 2012  
The Science and Technology Park Rotunda  
University of New Mexico  
801 University Blvd. SE, Park North  
Albuquerque, NM**

**Monday, August 20**

- 10:00 a.m.     **Call to Order and Welcome**  
—Senator Mary Kay Papen, Chair  
—Representative Patricia A. Lundstrom, Vice Chair
- 10:05 a.m.     **New Mexico Finance Authority (NMFA) Status Report on Bond Ratings**  
—Nann M. Winter, Chair, NMFA Board  
—John Gasparich, Interim and Acting Chief Executive Officer (CEO),  
                  NMFA
- 11:00 a.m.     **NMFA Status of \$37 Million Available Cash**  
—John Gasparich, Interim and Acting CEO, NMFA  
—Nann M. Winter, Chair, NMFA Board
- 11:20 a.m.     **NMFA Temporary Protocol for Public Project Revolving Fund Loans**  
—John Gasparich, Interim and Acting CEO, NMFA  
—Nann M. Winter, Chair, NMFA Board
- 11:40 a.m.     **NMFA Report on Interest Rates and Loan Terms Available to Municipalities**  
—John Gasparich, Interim and Acting CEO, NMFA  
—Michael Zavelle, Chief Financial Strategist, NMFA
- 12:00 noon     **Approval of Minutes, Committee Business and Staff Report**
- 12:15 p.m.     **Lunch (Provided)**

- 1:15 p.m.     **Forensic Examination and Investigation**  
—Hector Balderas, State Auditor  
—Daniel S. Tanaka, Director, Securities Division, Regulation and Licensing  
Department
- 2:45 p.m.     **Update on Legislative NMFA Governance Review**  
—Tom Pollard, Legislative Fiscal Analyst, Legislative Council Service (LCS)  
—Doris Faust, Assistant Director for Drafting Services, LCS
- 3:00 p.m.     **NMFA Response to Questions, Media Reports and Allegations**  
—Nann M. Winter, Chair, NMFA Board  
—John Gasparich, Interim and Acting CEO, NMFA
- 4:15 p.m.     **Recess**

**Tuesday, August 21**

- 9:30 a.m.     **NMFA Administration of New Markets Tax Credits**  
—Marquita D. Russel, Chief of Programs, NMFA
- 10:00 a.m.    **Water Trust Board Project Review Cycle**  
—Jana Amacher, Director of Water Resources, NMFA  
—TBD, Water Trust Board Member
- 10:20 a.m.    **Tribal Infrastructure Act Program and Colonias Infrastructure Act Program  
Reports**  
—Graham Knowles, Community Services Manager, New Mexico Department of  
Environment  
—Matthew Jaramillo, Director of Government Affairs, NMFA
- 11:15 a.m.    **NM Spaceport Authority Update and Proposed Legislation**  
—Christine Anderson, Executive Director, Spaceport Authority
- 12:30 p.m.    **Adjourn**

Revised: October 9, 2012

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

**October 11-12, 2012  
Room 307, State Capitol  
Santa Fe**

**Thursday, October 11**

- 8:30 a.m.     **Call to Order and Welcome**  
—Senator Mary Kay Papen, Chair  
—Representative Patricia A. Lundstrom, Vice Chair
- 8:35 a.m.     **Securities Division Update**  
—J. Dee Dennis, Jr., Superintendent, Regulation and Licensing Department  
              (RLD)  
—Daniel Tanaka, Director, Securities Division, RLD
- 9:25 a.m.     **Approval of Minutes and Committee Business**
- 9:30 a.m.     **Hewitt EnnisKnupp Preliminary Report**  
—Jeanna Cullins, Partner, Hewitt EnnisKnupp  
—Nancy Williams, Partner, Hewitt EnnisKnupp
- 10:45 a.m.    **Office of the State Auditor's (OSA) Update About Forensic Examination and  
Financial Audit Process**  
—Hector Balderas, State Auditor
- 11:45 a.m.    **OSA's Tiered Financial Reporting System**  
—Evan Blackstone, General Counsel, OSA  
—Natalie Cordova, Audit Director, OSA
- 12:30 p.m.    **Lunch (Provided)**
- 1:00 p.m.     **Spaceport Authority Budget and Proposed Legislation**  
—Christine Anderson, Executive Director, Spaceport Authority
- 2:00 p.m.     **New Mexico Renewable Energy Transmission Authority (RETA) Budget and  
Proposed Legislation**  
—Jeremy Turner, Executive Director, RETA

3:00 p.m.     **Border Authority Budget and Proposed Legislation**  
—William Mattiace, Executive Director, Border Authority  
—Erika De La O, Deputy Director, Border Authority  
—Marco Herrera, International Logistics Manager, Border Authority

4:00 p.m.     **Recess**

**Friday, October 12**

9:00 a.m.     **Governmental Gross Receipts Tax Allocation to New Mexico Finance Authority (NMFA) — Current and Proposed Policies, Procedures and Rules Regarding the Local Government Planning Fund, Public Project Revolving Fund Disadvantaged Funding Interest Rates and Cost of Issuance Subsidy**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Nann Winter, Chair, NMFA Board

10:15 a.m.    **NMFA Proposed Legislation**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Lisa Sullivan, Staff Attorney, Legislative Council Service (LCS)

10:45 a.m.    **NMFA Board and Internal Committees**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Nann Winter, Chair, NMFA Board  
—Marquita Russel, Chief of Programs, NMFA

11:45 a.m.    **Proposed Legislation Regarding NMFA Board Qualifications and Appointments**  
—Senator Timothy M. Keller  
—Doris Faust, Assistant Director for Drafting Services, LCS

12:30 p.m.    **Adjourn**

Revised: November 28, 2012

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

**November 29-30, 2012  
Room 322, State Capitol  
Santa Fe**

**Thursday, November 29**

- 9:00 a.m.     **Call to Order and Welcome**  
—Senator Mary Kay Papen, Chair  
—Representative Patricia A. Lundstrom, Vice Chair
- 9:05 a.m.     **Office of the State Auditor's (OSA) Report on Special Audit**  
—Hector Balderas, State Auditor
- 9:50 a.m.     **Hewitt EnnisKnupp Report on New Mexico Finance Authority (NMFA)  
Audit Process and Governance Best Practices**  
—Jeanna Cullins, Partner, Hewitt EnnisKnupp  
—Nancy Williams, Partner, Hewitt EnnisKnupp  
—Scott Miller, Associate Partner, Hewitt EnnisKnupp
- 11:15 a.m.    **NMFA Management and the Fraudulent Audit**  
—Rick May, Former Chief Executive Officer, NMFA
- 11:30 a.m.    **Approval of Minutes and Committee Business**
- 11:35 a.m.    **Legislation Regarding NMFA Board Qualifications and Appointments**  
—Senator Timothy M. Keller
- 12:00 noon    **Lunch**
- 1:15 p.m.     **NMFA Legislation**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA
- 1:45 p.m.     **NMFA Budget**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Donna Trujillo, Chief Financial Officer, NMFA
- 2:30 p.m.     **NMFA Staffing Update**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Nann Winter, Chair, NMFA Board

- 3:00 p.m.     **NMFA Procurement, Contract and Reimbursement Policies**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Nann Winter, Chair, NMFA Board  
—Dan Opperman, General Counsel, NMFA
- 3:45 p.m.     **NMFA Update on Department of Transportation GRIP Bonds**  
—Dan Opperman, General Counsel, NMFA  
—Michael Zavelle, Chief Financial Strategist, NMFA
- 4:00 p.m.     **Comparison of NMFA and Marketplace Costs to Issue Bonds and Loan Rates**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Michael Zavelle, Chief Financial Strategist, NMFA
- 4:30 p.m.     **Public Project Revolving Fund Loans Approved Under Temporary Protocol**  
—Michael Zavelle, Chief Financial Strategist, NMFA
- 4:55 p.m.     **Colonias Infrastructure Funds Award Recipients**  
—Rick Martinez, Director of Business Development, NMFA
- 5:00 p.m.     **Recess**

**Friday, November 30**

- 8:30 a.m.     **Programs for and Outreach to Rural Communities**  
—Marquita Russel, Chief of Programs, NMFA  
—John Brooks, Director of Commercial Lending, NMFA
- 9:00 a.m.     **Update on Proposed Changes to New Markets Tax Credits Policies**  
—Marquita Russel, Chief of Programs, NMFA
- 9:30 a.m.     **Approval of Revised Rules Governing the Local Government Planning Fund**  
—Marquita Russel, Chief of Programs, NMFA  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA
- 10:00 a.m.    **New Mexico Renewable Energy Transmission Authority (NMRETA) Legislation**  
—Jeremy Turner, Executive Director, NMRETA
- 10:30 a.m.    **Spaceport Authority Legislation**  
—Christine Anderson, Executive Director, Spaceport Authority
- 11:00 a.m.    **Water Project Fund Status Update and Project List**  
—John Gasparich, Interim and Acting Chief Executive Officer, NMFA  
—Jana Amacher, Director of Water Resources, NMFA  
—Scott Verhines, P.E., Chair, Water Trust Board (Invited)
- 12:00 noon    **Adjourn**

# MINUTES

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

**June 7, 2012  
Room 307, State Capitol  
Santa Fe, New Mexico**

The first meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on June 7, 2012 at 11:04 a.m. in Room 307 of the State Capitol in Santa Fe, New Mexico.

**Present**

Sen. Mary Kay Papen, Chair  
Rep. Patricia A. Lundstrom, Vice Chair  
Rep. Alonzo Baldonado  
Sen. Sue Wilson Beffort  
Rep. Candy Spence Ezzell  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Clinton D. Harden, Jr.  
Rep. Yvette Herrell  
Sen. Howie C. Morales  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella  
Sen. Nancy Rodriguez  
Rep. Henry Kiki Saavedra  
Rep. Richard D. Vigil  
Rep. James P. White

**Advisory Members**

Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Rep. Mary Helen Garcia  
Rep. Thomas A. Garcia  
Rep. Rick Little  
Sen. Lynda M. Lovejoy  
Sen. Steven P. Neville  
Rep. Andy Nuñez  
Rep. Edward C. Sandoval

**Absent**

Sen. Tim Eichenberg  
Sen. Stephen H. Fischmann  
Rep. Dona G. Irwin  
Rep. James R.J. Strickler  
Sen. David Ulibarri

Sen. William F. Burt  
Rep. David L. Doyle  
Sen. Mary Jane M. Garcia  
Sen. Eric G. Griego  
Rep. Ben Lujan  
Sen. Richard C. Martinez  
Rep. W. Ken Martinez  
Sen. George K. Munoz  
Sen. William H. Payne  
Rep. Sheryl Williams Stapleton  
Rep. Thomas C. Taylor

**Staff**

Lisa Sullivan, Legislative Council Service (LCS)

Doris Faust, LCS

Elizabeth Shaw, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

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

**Thursday, June 7****Welcome**

Senator Papen welcomed committee members, presenters and guests. She relayed to committee members plans for the July meeting in the area of the border with Mexico.

**NMFA Update About Mission, Achievements, New Endeavors and Goals**

Rick May, chief executive officer, NMFA, provided the committee with a handout and figures from loans and grants approved since July 2011, including 89 Public Project Revolving Fund (PPRF) loans for a total loan amount of \$305,590,672; 19 planning grants from the Local Government Planning Fund in the amount of \$716,000; nine loans from the Drinking Water State Revolving Loan Fund in the amount of \$9,024,226; 31 Water Trust Board loans or grants in the amount of \$34,212,127; and 13 loans within the programs of Smart Money, New Markets Tax Credits, Collateral Support and the Primary Care Capital Fund for a total loan amount of \$93,291,375.

Mr. May stated that the NMFA's AAA Standard & Poor's bond rating and AA+ Moody's bond rating were renewed recently, which he attributed to sufficient cash reserves during uncertain market conditions. Mr. May stated that the NMFA will work to maintain its Standard & Poor's bond rating and to raise its Moody's bond rating.

According to Mr. May, the NMFA's short-term goals include expanding the PPRF loan program; improving the distribution of information to NMFA board members, policymakers, local communities and New Mexico taxpayers through better public outreach such as improved newsletters, a redesigned web site and a better relationship with media outlets; improving its administration of the Drinking Water State Revolving Loan Fund program; increasing partnerships with local banks; expanding economic development resources; hosting a national conference for state bond banks and state financing agencies; and co-chairing a state conference regarding infrastructure financing.

In response to a committee member's question, Mr. May stated that the NMFA co-manages with the Department of Transportation the debt service on Governor's Road Improvement Program (GRIP) loans. It is the intention at the NMFA to refinance the GRIP debt under lower interest rates, according to Mr. May.

### **NMFA View on the Capital Outlay Process**

Mr. May offered some suggestions as to how the capital outlay process could be improved. First, capital projects need an appropriation for design and not just for planning and construction. Second, local communities need to contribute their funds to capital projects that have received state or federal funding, since doing so appears to improve the quality and speed the completion of such projects. Third, projects eligible for the Infrastructure Capital Improvements Plan (ICIP) need to be prioritized. Under the current ICIP process, many local communities are unable to participate. With the assistance of Roxanne Knight of the LCS, who staffs the Capitol Buildings Planning Commission, Sharon Ball of the LCS, who staffs the Public School Capital Outlay Oversight Task Force, and Linda Kehoe of the Legislative Finance Committee, committee members discussed capital improvement prioritization, appropriations for planning versus appropriations for design and the disposition of unused state buildings.

### **PPRF — Project Funding Report**

Mr. May informed the committee that there soon will be a new fee schedule for the PPRF that requires larger payments on larger loans and smaller payments on smaller loans. This should help smaller communities.

Matthew Jaramillo, director of government affairs, NMFA, distributed a handout titled "Public Project Revolving Fund Activity Report". The handout lists past and current PPRF loans as well as applications for PPRF loans that will be reviewed imminently.

### **Request Formation of a Transportation Infrastructure Subcommittee of the NMFA Oversight Committee and the Revenue Stabilization and Tax Policy Committee**

Representative Lundstrom addressed the formation of a Transportation Infrastructure Subcommittee to be composed of members from the NMFA Oversight Committee, the NMFA, the Economic and Rural Development Committee and the Revenue Stabilization and Tax Policy Committee. If approved, the subcommittee would meet four times throughout the interim to discuss and make recommendations on a consistent revenue stream for transportation infrastructure. Upon motion made and duly seconded, the formation of a Transportation Infrastructure Subcommittee passed without opposition.

### **Review and Discussion of Work Plan, Meeting Dates and Locations for 2012 Interim**

Ms. Sullivan led the members in a discussion regarding the committee's interim work plan. She told the members that the work plan is similar to what has been seen in past years with the addition of oversight of the colonias work plan and further outreach to rural communities. She then directed committee members to the last page of the work plan showing meeting dates and locations. A motion was made and duly seconded to approve the work plan and schedule. The motion passed without objection.

### **2012 Legislative Summary**

Mr. Jaramillo and Ms. Faust distributed a handout and summarized the 2012 legislative initiatives endorsed by the NMFA Oversight Committee, including authorizations and appropriations.

**Adjournment**

The meeting adjourned at 2:03 p.m.

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

**July 24, 2012  
Santa Teresa Country Club  
Santa Teresa**

**July 25, 2012  
Sunland Park Racetrack and Casino  
Sunland Park**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on July 24, 2012 at 8:45 a.m. in the conference room of the Santa Teresa Country Club in Santa Teresa.

**Present**

Sen. Mary Kay Papen, Chair  
Rep. Patricia A. Lundstrom, Vice Chair (7/24)  
Rep. Alonzo Baldonado  
Rep. Candy Spence Ezzell  
Rep. Dona G. Irwin  
Sen. Howie C. Morales  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella  
Sen. Nancy Rodriguez  
Rep. James P. White

**Advisory Members**

Rep. Mary Helen Garcia  
Rep. Rick Little  
Sen. Lynda M. Lovejoy  
Sen. Richard C. Martinez  
Rep. Sheryl Williams Stapleton (7/25)

**Absent**

Sen. Sue Wilson Beffort  
Sen. Tim Eichenberg  
Sen. Stephen H. Fischmann  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Clinton D. Harden, Jr.  
Rep. Yvette Herrell  
Rep. Henry Kiki Saavedra  
Rep. James R.J. Strickler  
Sen. David Ulibarri  
Rep. Richard D. Vigil

Sen. William F. Burt  
Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Rep. David L. Doyle  
Sen. Mary Jane M. Garcia  
Rep. Thomas A. Garcia  
Sen. Eric G. Griego  
Rep. Ben Lujan  
Rep. W. Ken Martinez  
Sen. George K. Munoz  
Sen. Steven P. Neville  
Rep. Andy Nuñez  
Sen. William H. Payne  
Rep. Edward C. Sandoval  
Rep. Thomas C. Taylor

**Guest Legislators**

Rep. Joni Marie Gutierrez

Rep. Joseph Cervantes (7/25)

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

**Staff**

Lisa Sullivan, Legislative Council Service (LCS)

Doris Faust, LCS

Tom Pollard, LCS

Elizabeth Shaw, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

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

**Tuesday, July 24**

Senator Papen welcomed committee members, presenters and guests and thanked everyone for making the trip to Santa Teresa. She then introduced the first presenter, Jerry Pacheco, and gave an overview of the agenda for the day.

**Regional Industrial Base Report**

Mr. Pacheco, vice president of the Border Industrial Association, provided the committee with a handout on facts and statistics regarding the growing maquiladora industry in Mexico and the opportunities that the industry provides to New Mexico. According to the handout, Mexico purchased \$464 million of products from New Mexico in 2011 and was New Mexico's largest trading partner. Mr. Pacheco stated that more than \$1 billion crosses the Santa Teresa port on a monthly basis, and while trade has steadily grown with Mexico because of the North American Free Trade Agreement, there is still room for improvement. According to Mr. Pacheco, the state needs to focus on developing a stronger supplier base for the Mexican maquiladora industry, which would ultimately create more production and jobs in New Mexico. He stated that the majority of the components that go into the products that are made in Mexico still need to be imported, and the vast majority of those imports come from the United States. Mexico's reliance on these imports has created a lot of opportunity for New Mexico.

Mr. Pacheco then addressed any potential concerns about drug cartel-related violence and stated that while Ciudad Juarez and the state of Chihuahua have suffered terrible violence due to the ongoing drug wars in Mexico, both locations will continue to be the largest production bases for Mexico's maquiladora industry in the future. He asserted that the maquiladora industry has not been affected by drug cartel action and has, in fact, been growing. This growth has been driven by the Foxconn plant in San Jeronimo, the Union Pacific Santa Teresa project, the Border

Industrial Association and legislative initiatives such as the six-mile overweight zone and the gross receipts tax abatement for trade support companies.

Mr. Pacheco then introduced Miriam Kotkowski, president of the Border Industrial Association, which Ms. Kotkowski stated is a 501(c)(6) nonprofit corporation that was formed in early 2009 and now has approximately 60 members. She asserted that the association represents approximately 2,000 jobs, millions of dollars in investments, millions of dollars in annual taxes and billions of dollars in production. She also discussed how far behind New Mexico is on capitalizing on the border region as compared with Texas, and she stated that one of the major benefits that the New Mexico border crossings have over Texas is the lack of bridge crossings, which impose certain weight limitations on goods crossing the border. The land port in New Mexico can be used to alleviate a few of these weight limitations by allowing a 15% increase in said limitations, thereby creating a more desirable border crossing in New Mexico.

According to Mr. Pacheco, some of the challenges that the Border Industrial Association are facing are a lack of infrastructure in the forms of fire suppression as well as water and wastewater system expansion and work force development. New Mexico needs to have a qualified work force for the jobs that will be brought to the state through the development of the border region and the development of more industrial and residential space. It can take up to nine months to build a new facility, and most companies do not have the time to wait; therefore, New Mexico needs to have these facilities in place before the companies move in. Mr. Pacheco and Ms. Kotkowski thanked the committee and stood for questions.

Concerns were raised by committee members regarding border security. Ms. Kotkowski said there are a number of procedures in place in order to maintain a high level of security, such as background checks and drug tests for people transporting the goods, robots that oversee the packaging of the goods, drug-sniffing dogs and 100% inspection of trucks through an x-ray machine. There were no further questions from the members, and the committee prepared to depart for Santa Teresa and a tour of the Santa Teresa cattle crossing and the Foxconn factory in Mexico.

### **Border Area Tour**

The committee toured the cattle crossing at Santa Teresa, New Mexico. The committee then toured the Foxconn factory facilities in San Jeronimo, Mexico.

### **Union Pacific Railroad**

Zoe Richmond, director of public affairs at Union Pacific Railroad (UP), addressed the committee. She stated that UP is currently in phase 1 of its building process, which involves readying the site for building to occur. This first phase consists mostly of construction work, for which UP is spending \$40 million on New Mexico subcontractors that use local employees. This first phase is expected to be finished by the end of summer 2012. The end of phase 1 will initiate phase 2, which will complete the remaining portion of the rail yard to include all the mechanical, electrical, architectural, utilities, track and civil portions of the project.

Ms. Richmond stated that one of the main contributing factors in bringing this project to New Mexico was the passage of the locomotive fuel tax deduction (Laws 2011, Chapter 60).

According to Ms. Richmond, this project will have an overall economic impact of \$500 million on the New Mexico economy. The facility is expected to create 3,000 jobs during the construction phase, from 2011 to 2015, and 600 permanent jobs once the facility has been finished.

Questions were raised by committee members as to the report that is due to the state on the subject of the tax benefits that UP has received. Ms. Richmond answered that the report will not be due until UP actually takes the deduction, but that it is currently compiling information for a presentation that will be made later during the interim. There was also discussion as to the investment in a rail line versus other forms of transportation. To this, Ms. Richmond replied that there are many factors that influenced this decision, including high gas prices, road congestion and the fact that rail is a more green form of transportation, all of which make it a very desirable form of shipping.

### **NMFA Audit Update**

Rick May, chief executive officer, NMFA, addressed the committee about the audit and the ongoing investigation of the NMFA. He stated that on the advice of his legal counsel and with two investigations currently under way, his ability to answer questions from the committee is limited. The committee presented Mr. May with a memorandum in which questions for the NMFA regarding the recent audit were outlined. Mr. May reviewed the memorandum and encouraged the committee members to submit any further questions that they may have to the NMFA in writing in order to facilitate a timely response.

There were concerns raised by committee members as to how the watch list would affect any bonds issued by the state treasurer, to which Mr. May stated that state-issued bonds would not be affected by any possible change in the NMFA's bond rating. The committee members then addressed the questions in the memorandum to Mr. May, who said that he was not at liberty to answer any of the questions in the memo at the time but that he would look over the questions and respond as soon as he is advised to do so.

A motion was then made and seconded requesting that the LCS be directed to determine the availability of funds to contract for an independent review of the NMFA audit issue, to request authorization from the New Mexico Legislative Council at its next meeting to contract for a review and to have the LCS staff work with the chair and vice chair of the NMFA Oversight Committee on the details of the scope of work of the contractor, who shall report to the NMFA Oversight Committee and to the LCS. Senator Papen requested that the roll be called, and the motion passed unanimously.

### **Colonias Infrastructure Board Policies, Procedures and Progress**

Rick Martinez, Oscar Butler and Doug Moore of the NMFA introduced themselves to the committee. Mr. Martinez directed the committee's attention to a handout and began an overview of the Colonias Infrastructure Project Fund. According to Mr. Martinez, the Colonias Infrastructure Act was created by the 2010 legislature. The law established the Colonias Infrastructure Board and dedicated 5% of the state's annual severance tax bonding capacity to a variety of infrastructure projects, including water projects, wastewater projects, solid waste

disposal projects, road and housing projects and flood control projects. The first severance tax distribution became available in July 2012.

As defined, a colonia is a rural community, with a population of 25,000 or less located within 150 miles of the United States-Mexico border, that has been designated a colonia by the municipality due to a lack of potable water, an adequate sewage system or decent, safe and sanitary housing and that has been in existence as a colonia prior to 1990. Colonia communities must provide documentation to the Colonias Infrastructure Board that supports the designation by the municipality or county.

The Colonias Infrastructure Board is composed of 12 members, seven voting and five advisory members. The duties of the board are to administer an outreach program, prioritize projects, make funding recommendations, make requests for reconsideration of funding, set policy, establish rules and oversee the project management team. Mr. Martinez then outlined a general time line and progress of the Colonias Infrastructure Project Fund , which ended in a prioritized list of projects to be funded as well as board recommendations for projects for consideration to the NMFA board in June 2012.

Concerns were raised by the committee as to how much of the 5% of the severance tax bond capacity is used for overhead, to which Mr. Martinez replied that none of the \$13 million received from the bond proceeds is used to pay staff. Mr. Moore further stated that the Colonias Infrastructure Board has received funding requests for approximately \$40 million worth of projects, but have only been given \$13 million with which to fund projects. Mr. Moore directed the committee's attention to a handout that detailed the colonias infrastructure projects that have been approved for funding in fiscal year 2012. He pointed out the total amount loaned as being over \$18 million and stated that by leveraging other dollars, the board was able to turn \$13 million in funding into over \$18 million.

#### **NMFA Update on Projects in the Southern Part of the State**

Matthew Jaramillo, director of governmental affairs, NMFA, and John Brooks, director of commercial lending, NMFA, introduced themselves to the committee. Mr. Jaramillo stated that the NMFA has been very active in sending out financial advisors to communities that could possibly benefit from NMFA funding. Mr. Jaramillo then referred the committee to a handout that depicted the funding to counties in southern New Mexico through the Public Project Revolving Fund. Mr. Brooks specifically pointed out that Eddy County has worked with the City of Carlsbad on a stimulus project that will replace many of the main streets in Carlsbad.

The committee discussed the availability of contingency money in the event of emergencies or natural disasters. Mr. Jaramillo stated that the NMFA currently does not have funds to be allocated for emergencies, but it is looking into such funding. There were also some concerns raised by the committee members regarding transportation and the GRIP projects, and it was decided that this would be an important topic for the next meeting.

With no further business for the day, the meeting recessed at 5:00 p.m.

**Wednesday, July 25**

**Border Authority Operations and Capital Outlay Needs**

William Mattiace, executive director, and Marco Herrera, international logistics coordinator, New Mexico Border Authority (NMBA), introduced themselves to the committee, and Mr. Mattiace introduced the rest of the NMBA staff that were in attendance. He informed the committee that there are currently three ports of entry in New Mexico: the Antelope Wells port of entry, the Columbus port of entry and the Santa Teresa port of entry. The NMBA is currently developing a five-year strategic planning document that will coincide with the Doña Ana County Border Plan, the Regional Vision 2040 Plan, the City of Juarez Vision 2020 Plan and the New Mexico Department of Transportation Border Area Plan.

Mr. Mattiace stated that Santa Teresa is a very busy port of entry for New Mexico and that the NMBA was a lead agency in the acquisition and design of a \$12 million expansion currently in progress at the Santa Teresa port of entry. This expansion will add two passenger lanes and one commercial lane to the existing lanes and is expected to cut the wait time to cross the border from one or one and one-half hours to 30 minutes. This project is scheduled for completion in December 2012. With the growing presence of the maquiladora industry, the Santa Teresa port of entry has the capacity to become one of the busiest ports of entry on the U.S.-Mexico border. An overweight allowance provision has made Santa Teresa a busier port of entry; however, there is still a great need for roads and gas, water and wastewater infrastructure.

Mr. Mattiace informed the committee about the new hazardous materials facility that is currently being constructed at the Doña Ana County Airport in Santa Teresa. This facility was built using a grant of \$1.2 million and is expected to greatly enhance the desirability of the Santa Teresa port of entry. Another vision of the NMBA is the high mesa truck bypass from four new commercial lanes west of Foxconn to I-10 in Las Cruces. This bypass would keep large trucks off of pedestrian roads while simultaneously making the Santa Teresa port of entry more attractive because the trucks would have a more direct route to Los Angeles.

Mr. Mattiace stated that Sunland Park is currently engaged in a feasibility study for a noncommercial port of entry. The proposed port study and presidential permitting process have been funded by a private enterprise, and the NMBA offers its full support to the passenger crossing from Anapra to the City of Sunland Park and has agreed to assist in the process if required.

The NMBA believes that the ability to link airports, highways and railways to the ports of entry is critical if the New Mexico border areas are to become efficient transshipment points. Utilities, water, wastewater and gas infrastructure pose both problems and opportunities for further economic development in New Mexico's border region.

**Camino Real Regional Utility Authority Update**

Sue Padilla, interim executive director of the Camino Real Regional Utility Authority (CRRUA), Karen Perez, Doña Ana county commissioner, and Josh Arrosco, incoming executive director of the CRRUA, introduced themselves to the committee. Ms. Padilla began the presentation by giving the committee background on the CRRUA, which was officially formed in

February 2012. The benefits of this utility are: the economic development for Sunland Park, Doña Ana County and the state; the presence of a strong utility; the ability of Sunland Park to access the combined water rights of both the city and the county; and the interconnection of systems, which will provide water service in case of emergencies.

The CRRUA also has a great many basic needs in order to maintain the current customer base. The handout provided to the committee showed the water needs to be \$2 million for an automated meter reading system, \$200,000 for water tank storage rehab, \$2 million for the installation of water transmission lines, \$300,000 for well development and \$7 million for an arsenic treatment plant. The wastewater needs are \$300,000 for a vacuum truck, \$10 million for a north treatment plant, \$3 million for lift station and collection system rehab and repairs, \$100,000 for odor control, \$1.5 million for Sunland Park Treatment Plant improvements and \$3.5 million for expansion of the West Mesa Treatment Plant.

Outside of the basic needs of the utility, the CRRUA has also experienced some issues that Ms. Padilla brought to the committee's attention. The CRRUA currently has four administrative compliance orders, three of which are for arsenic compliance in the water system, with the cost of remediation at approximately \$7 million. One system is complete, one is currently under construction, the last is currently in the design stage and funding is still needed for this third plant. The fourth compliance order is the violation of the Clean Water Act by the Sunland Park North Wastewater Treatment Plant, with a cost to remediate at approximately \$10 million. With all of the needs and issues in mind, the ultimate goal of the CRRUA is to manage an effective water and wastewater utility for its customers.

### **Approval of Minutes**

Upon a motion made and seconded, the minutes of the June meeting were approved.

### **Reports from Local Officials**

Mayor Ken Miyagishima of Las Cruces introduced himself to the committee and provided a status update regarding the city. He noted that 14 city-owned parcels in downtown Las Cruces have been rented in the last month. Las Cruces is currently partnered with sought-after developers that have retired in the city to further develop the downtown area. The city has completed three of four multi-use paths, which, once all paths have been completed, will encompass the entire city. The city is also planning to build a \$13 million public safety building on the east side of town.

Mayor Miyagishima also stated that Las Cruces is expecting to bring in a new business in about four to six weeks that will generate 600 jobs. The city is currently seeing a net growth rate of 2% each year and has twice the financial reserves that the state requires.

Mayor Arnulfo Casteñeda of the City of Anthony, which was incorporated in July 2010, discussed the current status of the city. He provided the committee with a capital project update: the city's drainage master plan was completed by USACE in June 2012, and the planning and phase one of construction for the Fourth Street roadway and drainage improvements from the Texas state line to O'Hara Street are under way, with project completion expected in summer

2013. Planning, design and construction is under way for the Anthony walking path lighting and is scheduled for completion by the end of 2012.

Mayor Casteñeda stated that the city's current priorities are flood control, public safety, expansion of the municipal facilities, citywide street rehabilitation, economic development and building relationships within the state of New Mexico.

Isabel Santos, mayor pro tem, Sunland Park, introduced herself to the committee. She told the committee that it has been five months since she has taken office, and there are still many problems that need to be addressed in Sunland Park. She spoke of the citizens of Sunland Park and the challenges that they face.

Nicholas Eckert, town clerk of Mesilla, reported on the current status of Mesilla. He stated that the two most important items currently on the town's agenda are the public safety building and Calle Parian. The public safety building is in need of renovations and currently has several code violations. Calle Parian is in need of full reconstruction and drainage improvements. There is also a need for a new fire truck. Kevin Hoban, fire chief of Mesilla, stated that Mesilla's volunteer firefighters have offered to give up 10 years of their stipend in order to help pay for a new truck.

Mr. Eckert then reported that Mesilla currently has two outstanding loans with the NMFA for the Mesilla town hall and a fire brush truck. Some concerns that the town has regarding the NMFA are the matching of funds that is required for a loan and the timing of the loan. Mr. Eckert stated that it can take up to two years to receive funds after being granted a loan.

The committee members discussed the current situation in Sunland Park, and concerns were raised on whether Sunland Park is up to date on its audit. Carmen Rodriguez, a city councilor of Sunland Park, introduced herself to the committee and stated that the audit is showing a deficit of \$1.8 million, which is almost half of the city's \$4 million budget. The city council is holding a meeting this evening to discuss and vote on the new budget, and, should the city council not approve the budget, the Department of Finance and Administration will have to step in.

### **Sunland Park Border Crossing Project**

Robert Diaz de Leon, Anapra Border Crossing project manager, introduced himself to the committee. Mr. Diaz de Leon stated that New Mexico is in need of another border crossing that would go directly into Ciudad Juarez, one that would complement the crossing in Santa Teresa. He reported that there has already been development on the other side of the border in anticipation of the crossing. This port of entry would be noncommercial. There are already funds, received from a private donor, to purchase the land that will be needed for the crossing. The infrastructure that will be needed includes a bridge over a railroad crossing, and Mr. Diaz de Leon stated there are available funds for construction of the bridge.

Concerns were raised from the committee members as to how the bridge would be financed, and Mr. Diaz de Leon stated that it would be a toll crossing and that the toll will ultimately be expected to pay for the total cost of the bridge.

**Adjournment**

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

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

**August 20-21, 2012  
The Science and Technology Park Rotunda  
University of New Mexico  
Albuquerque, NM**

The third meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on August 20, 2012 at 10:15 a.m. at the University of New Mexico's Science and Technology Park Rotunda.

**Present**

Sen. Mary Kay Papen, Chair  
Rep. Patricia A. Lundstrom, Vice Chair  
(8/20)  
Rep. Alonzo Baldonado  
Sen. Sue Wilson Beffort (8/20)  
Sen. Stephen H. Fischmann  
Rep. Roberto "Bobby" J. Gonzales (8/20)  
Sen. Clinton D. Harden, Jr.  
Rep. Yvette Herrell  
Rep. Dona G. Irwin (8/20)  
Sen. Howie C. Morales (8/20)  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella  
Sen. Nancy Rodriguez  
Rep. Henry Kiki Saavedra (8/20)  
Sen. David Ulibarri  
Rep. Richard D. Vigil (8/20)  
Rep. James P. White

**Advisory Members**

Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Rep. Mary Helen Garcia  
Sen. Mary Jane M. Garcia  
Rep. Thomas A. Garcia (8/20)  
Rep. Rick Little  
Sen. Lynda M. Lovejoy  
Sen. Richard C. Martinez  
Sen. William F. Burt  
Rep. David L. Doyle  
Sen. Eric G. Griego

**Absent**

Sen. Tim Eichenberg  
Rep. Candy Spence Ezzell  
Rep. James R.J. Strickler

Rep. Ben Lujan  
Sen. George K. Munoz  
Sen. Steven P. Neville  
Sen. William H. Payne  
Rep. Thomas C. Taylor

Rep. W. Ken Martinez  
Rep. Andy Nuñez (8/20)  
Rep. Edward C. Sandoval (8/20)  
Rep. Sheryl Williams Stapleton (8/21)

**Guest Legislator**

Sen. Timothy M. Keller (8/20)

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

**Staff**

Lisa Sullivan, Legislative Council Service (LCS)  
Doris Faust, LCS  
Tom Pollard, LCS  
Elizabeth Shaw, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

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

**Monday, August 20**

Senator Papen welcomed committee members, presenters and guests and asked that the committee members introduce themselves. She then introduced the first presenters, Nann Winter, chair of the NMFA Board, and John Gasparich, interim and acting chief executive officer (CEO) of the NMFA.

**NMFA Status Report on Bond Ratings**

Ms. Winter provided the committee with a copy of Mr. Gasparich's resumé and gave an overview of her own credentials and work history. Mr. Gasparich stated his goals for the NMFA, which are: to return the NMFA back to the business that it is intended to be in, namely providing loans to the cities and towns in New Mexico; and to aid in the restoration of the NMFA's bond rating.

After Mr. Gasparich addressed the committee, Ms. Winter gave an overview of the last 30 days of activity within the NMFA. She informed the committee that in regard to the false audit, the Office of the State Auditor (OSA) chose the accounting firm PricewaterhouseCoopers to conduct the forensic investigation under its direction. The cost of services performed by PricewaterhouseCoopers will be paid out of the NMFA's operating budget. The NMFA Board canceled the contract with the law firm Steptoe and Johnson, LLC to perform substantially similar services. An NMFA task force was formed to develop a new scope of work for the forensic investigation. She stated that there would be three concurrent investigations. She highlighted the most recent NMFA Board actions at its meeting on August 17, 2012, where the

board appointed Mr. Gasparich as the interim and acting CEO of the NMFA and entered into a \$1.25 million contract with PricewaterhouseCoopers.

Committee members raised concerns as to whether the engagement of PricewaterhouseCoopers was done through the request for proposals (RFP) process or whether it was a sole-source contract. Ms. Winter responded that, due to the sensitivity of the situation, there was not time to go through the RFP process, and because of its status, the NMFA is able to enter into a contract on an emergency basis, which is what was done in this case.

Ms. Winter introduced Michael Zavelle, chief financial strategist of the NMFA, to the committee. Mr. Zavelle provided the committee with a handout that outlined the key rating factors that are taken into account by ratings agencies with respect to the Public Project Revolving Fund (PPRF). He informed the committee that the NMFA was set up in such a way as to keep it independent of the state, and while the NMFA is experiencing the problem of the false audit, a change in NMFA bond ratings would not affect state bond ratings. Similarly, while the Department of Transportation (DOT) sometimes has bonds issued through the NMFA, the DOT's credit rating will not be impacted should the NMFA's bond ratings change.

Mr. Zavelle then described the possible effect of a false audit on the NMFA's bond ratings. Upon speaking with the bond ratings agencies Moody's and S&P, Mr. Zavelle was left with the impression that while the agencies are concerned with whether the audit is timely and accurate, the false audit alone would not serve as the reason for a downgrade. Ratings agencies understand that audit reports are compilations of financial information that are out-of-date by the time reports are filed. Mr. Zavelle stated that what is most valuable to the ratings agencies is current information; for example, what is in the Debt Services Reserve Fund, and how is management performing? The biggest detriment that a false audit has with respect to the ratings agencies is the loss of credibility and the reflection of inadequate governance practices. Once the ratings agencies are satisfied that all of the NMFA's current information is correct, they will resume examining the fiscal solvency and governance practices of the NMFA. Mr. Zavelle stated that the best road to recovery is through complete disclosure.

In response to committee members' questions, Mr. Zavelle stated that when a ratings agency is evaluating the NMFA, the audit is not of the highest importance; what is most important is current information, including bond payments. He stated that while he remains uncertain of the future for the NMFA's bond ratings, generally speaking, if an agency's last bond rating was raised, then its subsequent rating also should rise. Two of the most important factors in the maintenance of the NMFA's current bond ratings will be the timelines and perceived quality of the investigation.

He then directed the committee members' attention to the PPRF program. He then explained the percentage of the NMFA governmental gross receipts tax share allocated to the PPRF. He also explained the purpose of the Debt Service Reserve Fund and intercepted revenues, and how each plays an important role in the NMFA's bond rating. Committee members then questioned Mr. Zavelle on whether he could point to the successful loan repayments when in a meeting with ratings agencies. He stated that there had been no defaults, and this was also a key reason for the NMFA's high rating.

Committee members then discussed the role of the firm Clifton Gunderson, which was supposed to have performed the 2011 external audit, and they asked Mr. Zavelle if that firm conducted prior external audits for the NMFA. Mr. Zavelle responded that Clifton Gunderson was used in 2009 and 2010.

Committee members then addressed concerns about the governance of the NMFA Board and directed questions to Ms. Winter about potential conflicts of interest and whether she has any current clients that work with the NMFA. She replied that while many of her clients have discussed or done business with the NMFA, she is keenly aware of conflicts of interest. Should any of her clients come before the board, she would recuse herself from voting. There was some discussion among the committee members as to the possibility of having an election of the chair by the NMFA Board, rather than appointment by the governor. The committee then addressed Mr. Gasparich and asked his intention of remaining with the NMFA, to which he responded that he would remain with the NMFA through the upcoming legislative session.

Committee members then asked Mr. Zavelle to explain reverted funds. Mr. Zavelle informed the committee that a number of reverted funds are from the GRIP 2 program, not to be confused with the GRIP bond program, and that this information has been made available to the ratings agencies and is also available on the NMFA web site.

Committee members also asked about the funds that were taken from the NMFA and placed in the general fund. Mr. Zavelle replied that over the past couple of years, \$47 million had been transferred by the legislature from NMFA funds to the general fund.

Committee members raised concerns about the treatment of NMFA staff during the criminal investigation and displayed their displeasure at the treatment of those individuals who were arrested. The committee questioned Ms. Winter as to Rick May's status within the NMFA and how long his leave with pay would continue. To this, Ms. Winter was unable to reply.

#### **NMFA Status of Available Cash Balance in PPRF and Report on Interest Rates and Loan Terms Available to Municipalities**

Mr. Zavelle told the committee that there is currently \$34 million in the PPRF with a projected \$3 million in loans per month that will see the NMFA through March 2013, when more funding is expected to become available. Committee members asked which projects would be delayed. Mr. Zavelle directed them to the project pipeline on the NMFA web site.

Mr. Zavelle stated that the critical portion of the state audit is expected to be completed in 30 to 40 days, and more information should be available by October 31, 2012. He informed the committee that the 2011 audit is expected to be completed by November 31, 2012, and the 2012 audit should be completed by the end of January 2013. With the completion of the 2012 audit in January 2013, the NMFA will be able to issue new bonds, and funding should become available in March 2013.

Committee members inquired about the NMFA's current financial information. Mr. Zavelle replied that all financial information for the NMFA is up to date and a plan is in place to post a quarterly report on the NMFA web site. A motion was then made and seconded to require

the NMFA to provide the committee with a quarterly financial report for the committee to determine the authority's health and maintain oversight.

On the subject of loan terms and interest rates available to municipalities, committee members questioned Mr. Zavelle as to why, under the PPRF, the NMFA requires an audit from a community before it makes a loan. Mr. Zavelle informed committee members that this policy was developed by the NMFA to protect the PPRF, and because of this policy, a number of communities have been making steps toward maintaining a current audit. Committee members continued to raise concerns about small rural communities that cannot afford to retain an auditor to perform the audit.

### **NMFA Temporary Protocol for PPRF Loans**

Mr. Zavelle then directed the committee's attention to a handout regarding the recommended temporary protocol for lending from PPRF cash balances until the NMFA next issues PPRF bonds. He stated that the goal of the protocol is first to serve the smaller New Mexico communities that have the least access to competitive loan interest rates and to encourage larger municipal entities that have that access to seek non-NMFA loans. The protocol requires that new PPRF loans should be for infrastructure projects only and not for refunding or refinancing existing loans. He stated that since NMFA policy requires loans of \$5 million or more to be funded simultaneously with the issuance of bonds, until bonds can again be issued, PPRF loans should be restricted to infrastructure projects of less than \$5 million in size. He also informed the committee that public health, safety or other compelling needs will override basic protocol as approved on a case-by-case basis by the NMFA Board.

Committee members raised questions about the cash balances outside of the PPRF and also the current operating budget of the NMFA. Mr. Zavelle responded that only cash in the PPRF could be used for making PPRF loans approved by the legislature.

In response to committee members' questions about the current operating budget, Mr. Zavelle informed the committee that the budget for fiscal year 2012 was \$8.5 million, and the funds to pay for the audit will come from the operating budget.

### **Forensic Examination and Investigation**

Daniel S. Tanaka, director of the Securities Division of the Regulation and Licensing Department, introduced himself to the committee and gave some background on himself and his agency. He stated that his office is swiftly conducting a criminal investigation into the alleged fraudulent audit and transfer of NMFA fund balances to the general fund.

In answer to committee members' questions, Mr. Tanaka stated that the division has been working closely with Mr. Balderas' office and is willing to provide his office with any information that might be needed. Mr. Tanaka also indicated his willingness to cooperate with the legislature's investigator.

Hector Balderas, state auditor, provided the committee with an overview of events and outlined three objectives that his office has: to perform a forensic examination concerning the alleged fraudulent audit; to oversee the completion of the NMFA's 2011 and 2012 financial

audits; and to work with the LCS on the NMFA Oversight Committee's independent review of the NMFA. Mr. Balderas agreed that the NMFA should complete its 2011 and 2012 audits as soon as the critical part of the forensic examination is finished and it receives direction from the OSA so that the NMFA does not fall further behind on its audits.

Mr. Balderas distributed a handout that outlines a scope of work of the forensic examination that will focus on areas of risk and why audit procedures were not followed. He confirmed that PricewaterhouseCoopers has agreed to perform the forensic examination and the NMFA has approved the transfer of funds to pay for it.

Committee members raised concerns about the steps that Mr. Balderas' office is taking to ensure that something of this nature does not occur again in the future. Mr. Balderas replied that his office is attempting to mandate an audit compliance training for state agencies. He stated that during November and December, his office receives approximately 500 to 600 audit reports, and if an agency misses a deadline, the responsibility falls on each agency's management and oversight boards. Mr. Balderas informed the committee that while his office has the ability to notify an agency that it is in default, there is no authority to fine an agency or to remove management.

#### **Approval of Minutes**

Upon a motion made and seconded, the minutes of the July meeting were approved.

#### **NMFA Response to Questions, Media Reports and Allegations**

Committee members inquired about the responsibility of the NMFA Board in contributing to the current situation. Ms. Winter responded that the board has been very humbled by recent events and that Mr. Balderas has been asked to include the board in his review. Committee members asked to be informed of board decisions that result in changes to the NMFA.

#### **Update on Legislative NMFA Governance Review**

Mr. Pollard and Ms. Faust addressed the committee about the contract that the LCS entered into with investment consulting firm Hewitt EnnisKnupp. Mr. Pollard informed the committee that the first priority for Hewitt EnnisKnupp is to examine the ongoing process and to work with the state auditor and Securities Division to prioritize what needs to be accomplished in order to get the NMFA back up and running. Ms. Faust added that the LCS has a good prior working relationship with the chosen firm and that the firm has successfully worked for other agencies in New Mexico.

Committee members discussed whether this contract was filled competitively. Mr. Pollard informed the committee that it was filled on an emergency basis, with the goal being to get the NMFA back on track.

With no further business for the day, the meeting recessed at 4:15 p.m.

## **Tuesday, August 21**

Senator Papen introduced Dr. Robert G. Frank, president of University of New Mexico (UNM). Dr. Frank welcomed committee members to UNM and said that UNM was proud to host the committee.

### **NMFA Administration of the New Markets Tax Credit Program**

Marquita Russel, chief of programs of the NMFA, informed the committee that in 2006, Finance New Mexico, a limited liability company owned by the NMFA, was created to help bolster the economy. The NMFA acts as a managing member and provides staff support. In 2007, Finance New Mexico applied for federal new markets tax credits for the first time and received a \$110 million allocation to finance job-creating businesses, particularly for rural communities and downtown redevelopment projects. Ms. Russel stated that all of the \$110 million allocation has been used. Ms. Russel provided a handout that outlines the transactions that have been closed or that will close soon. She then highlighted a few projects that have been financed through the new markets tax credits programs.

Following the momentum from the first allocation, Finance New Mexico received a second allocation in 2011 for \$46 million, of which three-fourths will be dedicated to rural New Mexico communities, according to Ms. Russel.

Committee members asked about the number of jobs created by the first \$110 million allocation. Ms. Russel informed the committee that approximately 700 jobs were created and that the goal is to generate around 1,200 jobs, which appears possible, with a number of projects near completion. Unfortunately, with the closure of Schott Solar, 250 jobs were eliminated.

### **Tribal Infrastructure Act Program and Colonias Infrastructure Act Program Reports**

Graham Knowles, community services manager of the New Mexico Department of Environment (NMED), informed the committee that in 2005, the Tribal Infrastructure Act was signed into law to ensure adequate financial resources for infrastructure development for tribal communities. Only a federally recognized Indian nation, tribe or pueblo wholly or partially located in New Mexico is eligible to apply for funding under the Tribal Infrastructure Act.

Mr. Knowles informed the committee that in September and October 2011, the Indian Affairs Department and the NMED's Community Services Group developed guidance resources and convened and conducted a series of informational and training workshops that focused on the tribal infrastructure process at six locations around the state. In total, more than 220 tribal administrators, leaders and public officials attended and participated in the workshops.

Mr. Knowles then reviewed the application process as well as the project review and evaluation process. Ultimately, the Tribal Infrastructure Board voted to award \$13 million in support of 28 projects. Of those 28 projects, 14 were fully funded planning/design projects, 12 were fully funded planning/construction projects and two were partially funded design/construction projects. Mr. Knowles informed the committee that from the \$13 million invested, the overall increase in capital investment made by the state is anticipated to be \$36 million. Mr. Knowles also stated that approximately 520 short-term project-specific jobs will be created, and approximately 320 full- or part-time jobs will be created once the funded projects are completed.

Committee members questioned Mr. Knowles about whether the Tribal Infrastructure Board informs a denied applicant about the reasons for denial and what steps it can take to receive funding in the next cycle. Mr. Knowles replied that representatives are sent out into the community to inform applicants of application deficiencies and how they might go forward to receive funding in future cycles. Committee members requested a map of Tribal Infrastructure Fund and Colonias Infrastructure Fund award recipients and projects.

### **Spaceport Authority Update and Proposed Legislation**

Christine Anderson, executive director of the Spaceport Authority, gave an update on the progress of the spaceport. She informed the committee that the spaceport will accommodate four types of customers: the horizontal launch customer, the vertical launch customer, students and tourists. According to Ms. Anderson, the supporting infrastructure is complete; phase one of construction is 99% complete; and phase two of construction is 25% complete.

Ms. Anderson emphasized the need for legislation to reform the Space Flight Informed Consent Act, which currently holds harmless the operators, but not the supply chain, from the tort of negligence and contains a clause to sunset in 2018. Amending the act to hold harmless not only the operators, but also the supply chain and its directors, shareholders and employees and to remove the sunset clause would enable the spaceport to compete with other states for flight providers and customers at no cost to the New Mexico taxpayers. Conversely, failure to enact the more robust limitation of liability would restrict the spaceport's capacity to be competitive.

Committee members raised questions about a comparable spaceport in Texas and whether that operation has the same overall goals as the New Mexico spaceport. Ms. Anderson replied that while the proposed Texas spaceport tends to be less focused on tourism, its space travel goals align with those of the New Mexico spaceport. She believes that Texas' limitations on tort liability have given it a competitive advantage in attracting flight providers.

### **Adjournment**

There being no further business before the committee, the third meeting of the NMFA Oversight Committee for the 2012 interim adjourned at 12:00 noon.

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

**October 11-12, 2012  
Room 307, State Capitol  
Santa Fe**

The fourth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on October 11, 2012 at 9:00 a.m. in Room 307 of the State Capitol in Santa Fe, New Mexico.

**Present**

Sen. Mary Kay Papen, Chair  
Rep. Patricia A. Lundstrom, Vice Chair  
Rep. Alonzo Baldonado  
Sen. Stephen H. Fischmann (10/11)  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Yvette Herrell  
Rep. Dona G. Irwin  
Sen. Howie C. Morales (10/12)  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella (10/12)  
Rep. Richard D. Vigil  
Rep. James P. White

**Advisory Members**

Rep. Anna M. Crook  
Rep. Mary Helen Garcia  
Rep. Thomas A. Garcia  
Rep. Rick Little (10/11)  
Sen. Lynda M. Lovejoy  
Sen. Richard C. Martinez  
Rep. Andy Nunez  
Rep. Edward C. Sandoval  
Rep. Sheryl Williams Stapleton

**Guest Legislator**

Sen. Timothy M. Keller

**Absent**

Sen. Sue Wilson Beffort  
Sen. Tim Eichenberg  
Rep. Candy Spence Ezzell  
Sen. Nancy Rodriguez  
Rep. Henry "Kiki" Saavedra  
Rep. James R.J. Strickler  
Sen. David Ulibarri

Sen. William F. Burt  
Rep. Ernest H. Chavez  
Rep. David L. Doyle  
Sen. Mary Jane M. Garcia  
Sen. Eric G. Griego  
Rep. Ben Lujan  
Rep. W. Ken Martinez  
Sen. George K. Munoz  
Sen. Steven P. Neville  
Sen. William H. Payne  
Rep. Thomas C. Taylor

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

**Staff**

Lisa Sullivan, Legislative Council Service (LCS)  
Doris Faust, LCS  
Tom Pollard, LCS  
Elizabeth Katz, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

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

**Thursday, October 11**

After introductions, the committee received testimony.

**Securities Division Update**

J. Dee Dennis, Jr., superintendent of the Regulation and Licensing Department (RLD), and Daniel Tanaka, director, Securities Division of the RLD, addressed the committee. Mr. Tanaka spoke from a prepared statement, which is in the meeting file.

There was discussion of Clifton Gunderson, the firm that was contracted to perform the external audit of the NMFA, and why it is not held responsible for the contents of the false audit. Mr. Tanaka stated that the firm had an obligation to inform the Office of the State Auditor (OSA) as well as the oversight body of any inability on its part to complete the audit. He also stated that the reasons Clifton Gunderson did not notify the appropriate agencies remain unknown. The committee then raised concerns about the public arrests of both John Duff and Greg Campbell and discussed the grand jury's failure to indict Mr. Duff.

The committee members then reviewed the NMFA's audit process for the 2011 fake audit and questioned Mr. Tanaka on the sequence of events, including the reasons given for why an audit committee was not held, how the audit was released to the public and why the NMFA's chief executive officer (CEO) and chief operating officer (COO) did not sign off on the audit at the time. There was also discussion of both the audit committee's and the NMFA board's culpability in the fake audit. Finally, the committee members addressed the \$40 million reversion of funds from the Public Project Revolving Fund (PPRF) to the general fund.

**Hewitt EnnisKnupp Preliminary Report**

Jeanna Cullins and Nancy Williams, partners in Hewitt EnnisKnupp (Hewitt), introduced themselves to the committee. Ms. Williams informed the committee that she was pleased to present an update on the progress of the independent governance review. She stated that the review involved three areas: the scope and schedule of the special audit, NMFA governance and organizational structure and NMFA policies, procedures and practices.

Next, Ms. Cullins addressed the committee and stated that Hewitt has reviewed the contract between the OSA and PricewaterhouseCoopers (PwC) but has not been provided with the work plan or the methodology as they relate to the special audit. As such, Hewitt's review is based solely on the contract between the OSA and PwC. She stated that the initial understanding was that PwC would be conducting the special audit, but after reviewing the contract, Hewitt has concluded that PwC is acting only as an advisor and consultant to the OSA. Ms. Cullins informed the committee that this type of engagement is not uncommon but that an independent audit conducted by an entity that is not connected to the broader governance sphere of the NMFA would be more transparent and preferable. She then outlined the services that PwC will be providing for the OSA, namely a forensic consulting service and a comprehensive analysis and risk assessment service. Finally, Ms. Cullins reviewed four omissions from the OSA's contract with PwC that Hewitt believes should be addressed in order to improve the usefulness of the special audit: the scope of PwC's work does not include an investigation into whether any funds were actually stolen or embezzled from the NMFA; the risks to the NMFA that PwC is to identify do not include the risk of corruption and whether any corruption took place; the contract does not require PwC to state what materials it reviewed and what materials it did not have access to that would be considered relevant to its scope of work; and there is no requirement that PwC provide all of its findings to the OSA or provide all of its findings in a written report.

Committee members discussed who will be performing the financial audit for fiscal year (FY) 2011 and FY 2012. It was determined that requests for proposals (RFPs) had been issued by the NMFA for a firm to prepare the financial audits and that it has retained REDW, a regional auditing office with a strong New Mexico presence. The committee members then discussed how the lack of a financial audit would negatively impact the NMFA's ability to issue bonds and stressed the importance of having the financial audits completed.

### **OSA Update about Forensic Examination and Financial Audit Process**

Hector Balderas, state auditor, addressed the committee and made remarks about the previous presentation to the committee made by the representatives from Hewitt. He then provided the committee with an update on the forensic engagement and outlined the two phases of the engagement. Phase one consists of the forensic consulting engagement, which involves the financial statements for the period ending June 30, 2011 that were falsely presented by the NMFA as having been audited by Clifton Gunderson. Phase two of the engagement involves an analysis of the NMFA's internal controls, policies and procedures and the NMFA's policies and procedures as they relate to the NMFA's bond counsel, disclosure counsel and financial advisers. Mr. Balderas stated that PwC is anticipated to provide its final report to the OSA by November 16, 2012.

Mr. Balderas then gave the committee a detailed overview of the financial auditing process and specifically addressed the status of the NMFA's financial audits. He informed the committee that the NMFA failed to submit its auditor recommendation and audit contract for the FY 2011 and FY 2012 financial audits by the required deadlines. On August 17, 2012, the NMFA issued an RFP for external audit service for FY 2011, with the option to renew the contract for two additional fiscal years. The NMFA board approved the selection of REDW to conduct its financial audits on September 11, 2012 and the OSA approved the recommendation and contract on October 9, 2012. Mr. Balderas reported to the committee that the OSA's forensic

engagement and REDW's performance of the financial audits will progress simultaneously. He then gave REDW's planned deadlines for completion of the financial audits, with the financial audit for FY 2011 expected to be completed on December 15, 2012 and the financial audit for FY 2012 expected to be completed on March 31, 2013. Mr. Balderas reviewed issues that the NMFA has had in the past with submitting financial audits. He then provided an overview of the current penalties for late audits and made suggestions to the committee on how best to enforce these penalties as well as the need for mandatory audit committees for agencies like the NMFA. Finally, he outlined the state auditor's At-Risk Designation Program, which was created to help combat the problem of late audits.

Committee members discussed the lack of notification and what the state auditor can do to inform oversight boards and committees once it has been determined that an audit has not been submitted. There was also discussion of the problems that smaller communities have with obtaining current financial audits and of a possible option for smaller entities to come together for the audit process, which would make it more feasible to consistently complete current financial audits. Concerns were raised by committee members about whether the rating agencies are content with the OSA performing the forensic audit rather than an outside agency. Committee members also communicated that there had been some misunderstanding in that it was initially thought that PwC would be conducting the forensic audit. They stressed the need for communication between the OSA and Hewitt. A motion was made and seconded that the LCS staff be directed to draft a letter to the NMFA and the OSA requesting that the scope of PwC's work be amended to include an investigation into whether any funds were stolen from the NMFA; the risks to the NMFA of corruption and whether any corruption took place; what materials PwC reviewed and what materials it did not have access to that would be considered relevant to its scope of work; and a requirement that PwC provide all of its findings of the OSA or provide all of its findings in a written report that would be shared with the NMFA Oversight Committee.

### **Spaceport Authority Budget and Proposed Legislation**

Christine Anderson, executive director, Spaceport Authority (SA), presented to the committee. She first addressed the SA's 2014 operational budget and outlined the major revenue sources and expenditures. She then reviewed the spaceport funding to date. The spaceport has received \$209 million from the state, \$132.6 million from the severance tax capital funds and \$76.4 million from the gross receipts tax capital funds. The SA has also received \$40,000 in federal funding, \$4.5 million in state operating funds and \$200,000 in private revenue. Ms. Anderson then reviewed the SA's severance bond status and the gross receipts tax bond status and reported on space flight informed consent. She stated that space flight informed consent is a waiver that fully informs participants of the risks of space flight prior to flying; it pertains only to space flight participants and holds harmless space flight companies in cases other than gross negligence or malintent. She then stressed the need for more robust informed consent legislation in New Mexico, which would allow New Mexico to remain competitive with other states that already have such legislation in place. She informed the committee that this legislation has failed to pass in both the 2011 and 2012 legislative sessions. Finally, she provided an overview of the spaceport status and gave a time line for when the spaceport will be fully operational.

Committee members discussed what specifically the remaining bond money would be used for. Ms. Anderson replied that it would be used to complete the southern road. There was then discussion of the informed consent legislation, and it was decided that the committee would not be voting on any legislation until the November meeting. The committee questioned where past opposition against this piece of legislation came from and the effects that it may have on the space industry in New Mexico.

### **New Mexico Renewable Energy Transmission Authority (RETA) Budget and Proposed Legislation**

Robert Busch, chair, New Mexico Renewable Energy Transmission Authority (RETA), Jeremy Turner, executive director, RETA, and Angela Gonzalez-Rodarte, assistant director, RETA, introduced themselves to the committee. Mr. Turner gave an update on RETA and explained how it helps bring economic investment into New Mexico through letters of support, memoranda of understanding, financial assistance and lease agreements. He then outlined the ways in which RETA has benefited developers and how it has encouraged investment in New Mexico. He informed the committee of the public-private partnership that RETA has made with Goldman Sachs Infrastructure Partner II (GSIP) to develop critical infrastructure in New Mexico. This project is intended to address transmission constraints identified by renewable energy developers. Mr. Turner stated that GSIP has invested approximately \$5 million in private capital to develop this project. He then reviewed the funding that RETA has received since its inception in 2007 and highlighted that 2009 was the last year that RETA received state funding. He presented the committee with RETA's operational budget and stated that RETA will be in need of aid from the legislature in the coming years if it is going to continue to be operational. He outlined the future goals of RETA and stressed the goal of RETA becoming self-sufficient within the next five years through fees generated by projects with which RETA is involved. Finally, Mr. Turner addressed strategic options for RETA moving forward: to fund one year of operations through a \$500,000 appropriation; to fund five years of operations through a \$2.5 million appropriation; to evaluate the ongoing revenue stream to fund operations with a possible sunset; and, in the case of a non-appropriation, to require debt to be assumed by an alternative agency along with deposition of physical assets.

Mr. Busch addressed the committee and stressed the importance of mining New Mexico's energy resources. He spoke about the current agreement that RETA has with GSIP and the amount of economic development and capital investment that the project would bring to New Mexico. He stated that there is a need for transmission lines in New Mexico and that the building of these lines is a time-consuming process but said that the payoff for the state would be high. He reiterated RETA's goal of being self-sufficient within the next five years and the importance of receiving funding so that New Mexico will not lose the investments that RETA has secured.

The committee discussed how RETA's bonds are currently secured and what would happen to RETA's outstanding debt should it be unable to continue operations. There was some discussion of making RETA a part of the NMFA, which was not supported by committee members. Committee members requested that RETA provide a specified budget immediately in order to have appropriation legislation drafted.

### **Border Authority Budget and Proposed Legislation**

William Mattiace, executive director, Border Authority (NMBA), Erika De La O-Medina, deputy director, NMBA, and Marco Herrera, logistics manager, NMBA, introduced themselves to the committee. Mr. Mattiace directed the committee's attention to a handout that detailed the NMBA's infrastructure capital improvement plan for FY 2014 through FY 2018. Mr. Herrera then directed the committee's attention to the budget for FY 2013, which was also outlined in the handout. Mr. Mattiace provided the committee with an update on the NMBA and stressed the NMBA's ability to understand the cultural and political environment of the border and its objective of developing a network of public and private contacts to help "open doors". He highlighted the issues that arise with seasonal visitors and said that the NMBA will continue to facilitate the seasonal movement of visitors between the U.S. and Mexico.

There was discussion from committee members regarding whether there are NMBA infrastructure projects that would be eligible for colonias money.

With no further business for the day, the meeting recessed at 3:30 p.m.

### **Friday, October 12**

Senator Papen reconvened the meeting at 9:20 a.m.

### **NMFA Board and Internal Committees**

Nan Winter, chair, NMFA board, and John Gasparich, interim and acting CEO, NMFA, addressed the committee. Ms. Winter reviewed the board meetings that were held in July, August and September and highlighted the more important aspects of the board meetings. She informed the committee that October will be the first month since her appointment on July 18, 2012 that the board has only met once. She stated that on September 28, 2012, the board announced the selection of a new chief financial officer (CFO) and fired Rick May, the former CEO. Ms. Winter also informed the committee that Mr. Gasparich is currently helping in the search for a permanent CEO and internal auditor.

Mr. Gasparich introduced Donna Trujillo, the new CFO, NMFA, and stated that she is an experienced auditor and CFO. He also informed the committee that the NMFA is currently recruiting for an internal auditor. He stated that this individual will be hired by the board, will report to the board and will be in place to ensure that the NMFA's procedures and activities are scrutinized to avoid any future problems.

Committee members raised concerns about the forensic audit and the ability for it to be completed without a credible 2011 financial audit. The committee also discussed the time line for the completion of the 2011 and 2012 financial audits as well as what the NMFA is doing to expedite the completion of those audits. The committee questioned the responsibility of the NMFA board in everything that has transpired and asked whether the board selected the audit committee. Ms. Winter responded that at the time that she was appointed chair, an audit committee was already in place. She stated that after she was appointed, the board made changes to the audit committee. The committee was reconfigured and is meeting regularly and there is now a certified public accountant on the committee.

Committee members then addressed a number of questions to Ms. Winter and Mr. Gasparich regarding staffing levels at the NMFA; the current NMFA financial advisers; a recommendation to provide the department of finance and administration with all of the NMFA budget materials; the evaluation of cash balances in the PPRF; and the need for a concrete plan of action by December that addresses the need to get the NMFA back to its core mission of assisting with projects for smaller, rural areas of the state.

### **Governmental Gross Receipts Tax (GGRT) Allocation to NMFA**

Mr. Gasparich presented to the committee. He gave an overview of the PPRF's program objectives and goals and a summary of the current program. He stated that the strength of the PPRF is a function of the stability of the GGRT, which is used purely as coverage, not as a source of debt service payment; strong program management and lending policies; a lack of defaults and delinquencies; and other credit improvements over time. He then explained the flow of funds through the PPRF. Next, Mr. Gasparich addressed the impacts that GGRT reallocation would have on the PPRF and the reduced capacity of the PPRF without the GGRT.

Concerns were raised by the committee members about the NMFA's continued reliance on the GGRT. There was also discussion regarding the time line on grant awards and how the delay in the process limits the amount of time that communities have to utilize these funds.

Marquita Russel, chief of programs, NMFA, discussed the proposed revision to the Local Government Planning Fund (LGPF) rules. She stated that there were changes made to the LGPF legislation in 2012 to ensure broader eligibility and that the primary changes to the LGPF rules center around how large of a grant an entity will be able to qualify for in the added categories. Ms. Russel then outlined the proposed changes to the LGPF rules. A motion was made, seconded and passed without objection to approve the changes in the LGPF rules.

### **Approval of Minutes**

Upon a motion made and seconded, the minutes of the August meeting were approved.

### **NMFA Proposed Legislation**

Ms. Sullivan and Mr. Gasparich provided the committee with an overview of proposed legislation for the committee's endorsement. Concerns were raised about whether the committee would be able to review the list of projects eligible for funding from the Water Trust Fund.

### **Proposed Legislation Regarding NMFA Board Qualifications and Appointments**

Senator Keller presented the committee with a bill regarding NMFA board qualifications and appointments. He stated that the purpose of this bill is to look at the governance of the NMFA and any possible changes that the legislature could make. He informed the committee that the NMFA consists of entirely new individuals appointed in the last 18 months. Senator Keller also pointed out that there is a lack of expertise on the board, which does not have a single CPA or investment banker on it. He then reviewed the bill with the committee and stated

that this piece of legislation would not remove any member from the board but would replace members of the board as their terms expire.

**Adjournment**

There being no further business before the committee, the fourth meeting of the NMFA Oversight Committee for the 2012 interim adjourned at 12:15 p.m.

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

**November 29-30, 2012  
Room 322, State Capitol  
Santa Fe**

The fifth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, on November 29, 2012 at 9:12 a.m. in Room 322 of the State Capitol in Santa Fe, New Mexico.

**Present**

Sen. Mary Kay Papen, Chair  
Rep. Patricia A. Lundstrom, Vice Chair  
Rep. Alonzo Baldonado  
Sen. Sue Wilson Beffort  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Howie C. Morales (11/29)  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella  
Sen. Nancy Rodriguez  
Rep. James R.J. Strickler  
Sen. David Ulibarri (11/29)  
Rep. Richard D. Vigil  
Rep. James P. White

**Advisory Members**

Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Rep. Thomas A. Garcia  
Rep. Rick Little  
Sen. Lynda M. Lovejoy  
Rep. W. Ken Martinez (11/29)  
Rep. Andy Nuñez  
Rep. Edward C. Sandoval  
Rep. Sheryl Williams Stapleton (11/29)

**Absent**

Sen. Tim Eichenberg  
Rep. Candy Spence Ezzell  
Sen. Stephen H. Fischmann  
Rep. Yvette Herrell  
Rep. Dona G. Irwin  
Rep. Henry Kiki Saavedra

Sen. William F. Burt  
Rep. David L. Doyle  
Rep. Mary Helen Garcia  
Sen. Mary Jane M. Garcia  
Sen. Eric G. Griego  
Rep. Ben Lujan  
Sen. Richard C. Martinez  
Sen. George K. Munoz  
Sen. Steven P. Neville  
Sen. William H. Payne  
Rep. Thomas C. Taylor

**Guest Legislator**

Rep. Miguel P. Garcia (11/29)

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

**Staff**

Lisa Sullivan, Legislative Council Service (LCS)  
Doris Faust, LCS  
Tom Pollard, LCS  
Elizabeth Katz, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

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

**Approval of Minutes**

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

**Thursday, November 29****Call to Order**

Senator Papen welcomed committee members, presenters and guests and asked that the committee members introduce themselves. She then introduced the first presenter, Hector Balderas, state auditor.

**Office of the State Auditor's (OSA) Report on Special Audit**

Mr. Balderas provided the committee with an update on the special audit and informed the committee that PricewaterhouseCoopers (PwC) has submitted a draft report on its findings and recommendations associated with phases one and two of the investigation. The OSA received the draft report on November 16, 2012, and the report is currently under review. He stated that both the OSA and PwC are working closely to finalize the report and, barring unforeseen circumstances, the OSA will release the report to the NMFA on December 14, 2012. Mr. Balderas then outlined the scope of work that PwC was contracted to perform and the information contained in the weekly status reports that PwC provided to the OSA. He also summarized the investigative work performed by PwC, informing the committee that PwC conducted transaction testing designed to identify transactions that could provide evidence of embezzlement or errors in financial reporting. He discussed the related financial audit test being done by REDW, LLC, the firm with which the NMFA has contracted to complete the fiscal year 2011 and fiscal year 2012 financial audits.

The committee discussed details of the transaction testing performed by PwC. The committee questioned whether PwC was looking at NMFA procedures or specific transactions. Mr. Balderas responded that PwC looked at a sampling of actual NMFA transactions. The committee also questioned Mr. Balderas on whether the Clifton Gunderson, LLP, work papers would be made available to REDW. Mr. Balderas replied that he is unsure if the papers legally could be made public, but that he would look into the matter.

Bruce Bleakman, principal partner, REDW, addressed the committee and stated that REDW's concern is in ensuring that nothing is contained in the Clifton Gunderson, LLP, work papers that could affect the report that REDW will issue. He informed the committee that his office is working very closely with the OSA to ensure that the report is not affected.

### **Approval of Minutes and Committee Business**

Upon a motion made and seconded, the minutes of the October meeting were approved.

### **Hewitt EnnisKnupp (Hewitt) Report on NMFA Audit Process and Governance Best Practices**

Nancy Williams, partner, Jeanna Cullins, partner, and Scott Miller, associate partner, Hewitt, introduced themselves to the committee. Ms. Williams informed the committee that Hewitt was retained by the LCS to perform an external review of the NMFA on behalf of the committee. She stated that the review began with a substantial document request from the NMFA and thanked the NMFA staff and board for their cooperation. A report of Hewitt's findings was presented to each committee member. The report contained a series of recommendations for the NMFA regarding NMFA policies, procedures and governance. Ms. Williams stated that the recommendations were not listed in the order of importance, but that higher priority items were marked with an asterisk.

Mr. Miller gave committee members an overview of Hewitt's recommendations. The five items that were marked as high priority were: 1) to create a position description for internal auditor that incorporates requirements specified by The Institute of Internal Auditors; 2) to adopt a comprehensive Audit Committee charter; 3) to record official minutes of Audit Committee meetings; 4) to establish specialized training sessions for Audit Committee members; and 5) to establish annual work plans for the board.

The committee questioned Mr. Miller on the details of the recommendation to cross-train the NMFA staff and whether the obligation to fill vacant executive positions falls to the NMFA board. He replied that the NMFA has six to seven different divisions, and, in order to have NMFA personnel move between divisions, the staff needs to have some understanding of each division. As to the vacant executive positions, he stated that filling those positions is the purview of the chief executive officer (CEO), but the board may have discussed with the CEO the option of leaving those positions vacant. The committee raised concerns over the fact that the amount of projects per employee at the NMFA has gone up 40% in the last five years, the need to hire more employees and the lack of available funds in the budget.

The committee then discussed the changes that need to be implemented in the Audit Committee and the need for an internal auditor. John Gasparich, interim CEO, NMFA, addressed the committee and stated that the NMFA is in the process of drafting a charter and writing a description for the internal auditor position that it hopes to have filled by early 2013. He also stated that although the CEO may select the internal auditor, the internal auditor will report directly to the Audit Committee and will have no part in management. A motion was made and seconded to reserve funds in the Feed Bill (House Bill 1) of the 2013 legislative session to have Hewitt return and review the implementation of its recommendations in one-year's time.

### **NMFA Management and the Fraudulent Audit**

Rick May, former CEO, NMFA, addressed the committee. He spoke from a prepared statement that is in the meeting file. The committee discussed the frequency of Audit Committee meetings. Mr. May stated that the Audit Committee was the responsibility of Greg Campbell, former controller, NMFA, and partially the responsibility of John Duff, former chief operating officer, NMFA. The committee addressed concerns regarding Mr. Campbell's role in the fraudulent audit versus the role of other members of senior management. The committee questioned Mr. May on the work of Clifton Gunderson, LLP, the firm originally contracted to perform the 2011 external audit, and whether the firm had been paid for its services, even though the 2011 audit was not completed. Mr. May responded that, to his knowledge, the firm had been partially compensated for its work. Finally, the committee raised concerns about NMFA spending, to which Mr. May responded that there has been a concerted effort by certain authorities to portray the NMFA in a negative light.

### **Legislation Regarding NMFA Board Member Qualifications and Appointments**

Senator Timothy M. Keller and Representative White addressed the committee and gave a brief overview of the proposed bill. Senator Keller informed the committee that the purpose of the bill is to correct a few of the structural NMFA board's governance issues. He stated that the legislation before the committee had been generated with the help of the Hewitt report and through experience with the State Investment Council. The proposed bill would allow the legislature to have four appointees on the board, ensure that board seats are staggered, increase the requirement for expertise, make meeting attendance mandatory and prohibit conflicts of interest.

Concerns were raised by committee members regarding a provision in the bill that board members would be appointed with the advice and consent of only the senate. There was also discussion of the attendance requirements, which would allow the removal of a board member after three consecutive meeting absences. The committee requested that the bill specify that the absences must take place within one calendar year in order to trigger removal from the board. The committee considered the new qualifications for NMFA board members, the frequency of board meetings, the approval of the financial audit in an open board meeting and the ratification of the minutes from that board meeting. Committee members requested that the frequency of board meetings be set to a minimum of quarterly. They also requested that the bill specify that the financial audit will be approved in an open board meeting, that the minutes of that meeting be ratified and that a copy of the audit be sent to the NMFA Oversight Committee. The suggestions of the committee were taken into account, and it was decided that the proposed bill would be heard again for endorsement after the discussed changes had been made.

### **NMFA Legislation**

Mr. Gasparich provided the committee with a brief overview of the NMFA's proposed legislation. The first piece of legislation concerns the federal State Small Business Credit Initiative that, in conjunction with the Economic Development Department and the NMFA, provides loans to small businesses. The proposed bill would extend the date by which the NMFA may issue these loans without specific legislative authority. The committee members discussed the bill, and a motion was made and seconded to endorse the bill with an amendment

to provide for yearly reporting to the NMFA Oversight Committee of which projects are being funded.

The next two proposals were appropriation bills. The first would appropriate \$2 million from the Public Project Revolving Fund (PPRF) to the Drinking Water State Revolving Loan Fund, and the second would appropriate \$2 million from the PPRF to the Local Government Planning Fund (LGPF). A motion was made and seconded, and the proposed bills were endorsed by the committee. The final piece of legislation proposed was an annual bill that would authorize the NMFA to make loans from the PPRF. A motion was made and seconded, and the proposed legislation was endorsed by the committee.

### **NMFA Budget**

Mr. Gasparich and Donna Trujillo, chief financial officer, NMFA, presented information on the NMFA budget as of October 31, 2012. They outlined the salaries and benefits, contractual costs, other costs and revenue generated by the NMFA. They also provided the committee with projections of funds remaining through the fiscal year end. They then provided the committee with an estimation of costs associated with the false audit — over \$1.6 million.

### **NMFA Staffing Update**

Mr. Gasparich and Nann Winter, chair, NMFA board, addressed the committee. The NMFA's current staffing organizational chart was provided to the committee. The chart arranged employees by program and detailed where vacancies were within the programs. Mr. Gasparich addressed the vacancies and gave the committee a time frame for when the vacancies would be filled. The committee raised concerns about staffing levels at the NMFA, referring back to the Hewitt report. Committee members asked if the NMFA will be requesting extra funding to fill the vacant positions and if there are more vacant positions that are not indicated on the provided chart. Mr. Gasparich responded that the vacant positions indicated on the chart are those that the NMFA has approval to fill by the NMFA board.

### **NMFA Procurement, Contract and Reimbursement Policies**

Dan Opperman, general counsel, NMFA, addressed the committee. A document was presented to the committee that contained the NMFA's Procurement Code and, in red type, similar sections of the state Procurement Code. Mr. Opperman stated that the NMFA wishes to conduct all its business, including the purchase of goods and services, in as open and competitive a manner as possible. He informed the committee that the NMFA is not governed by the state Procurement Code, but desires to accomplish its purchase of goods and services in a manner that reflects the spirit of openness and fairness in the state Procurement Code. He also stated that the NMFA Procurement Code meets the unique needs of the NMFA and covers those purchases approved by the NMFA board, as presented to the board in the NMFA budget document.

### **NMFA Update on Department of Transportation (DOT) GRIP Bonds**

Michael Zavelle, chief financial strategist, NMFA, provided the committee with an update on the DOT GRIP bonds and the 2012A refunding bonds. He stated that \$241 million of closed lien and senior lien bonds fixed rate DOT GRIP bonds will be refunded to generate approximately \$26.7 million in net present value savings. Mr. Zavelle informed the committee that the 2012A senior lien bonds issue will be rated AAA by Standard & Poor's and Aa1 by Moody's Investors Services and that \$213 million in 2012A refunding bonds will be issued to

provide up-front savings throughout the life of the refunded bonds. Mr. Zavelle provided the committee with the sources and uses of the 2012A bond issue and stated that an annual savings of \$27.7 million would be generated.

### **Comparison of NMFA and Marketplace Costs to Issue Bonds and Loan Rates**

Mr. Zavelle presented the committee with a handout that depicted New Mexico bonds and costs to issue bonds compared to NMFA costs to issue those bonds. He outlined the entities that should have used the NMFA, that should not have used the NMFA and that were not eligible to issue with the NMFA. He stated that there are many good reasons why an entity may choose not to use the NMFA, an obvious reason being if an entity's rating is very close to the NMFA's rating, it would be comparatively competitive in the market. He also explained that as an entity's rating goes down, using the NMFA makes more sense.

### **PPRF Loans Approved Under Temporary Protocol**

Mr. Zavelle provided committee members with a handout that detailed PPRF loans approved under the temporary protocol. The handout outlined the loans approved in August through November of this year, totaling \$15.7 million.

### **Colonias Infrastructure Funds Award Recipients**

Rick Martinez, director of business development, NMFA, addressed the committee. He informed the committee that 50% of the projects will be awarded this week. After the award funding in June 2012, the NMFA board thought that amendments should be made to the application for funding in order to streamline it. He stated that the requested changes have been made to the application and will be taken before the NMFA board next week. The committee questioned Mr. Martinez on how the NMFA is helping tribal communities obtain federal dollars. Mr. Martinez replied that the NMFA has provided tribal communities with examples on how to get federal money, has helped set up meetings and expects the tribes to be able to secure funds in the coming year.

With no further business for the day, the meeting recessed at 3:00 p.m.

### **Friday, November 30**

Senator Papen reconvened the meeting at 8:40 a.m.

### **Programs for Outreach to Rural Communities**

Marquita Russel, chief of programs, and John Brooks, director of commercial lending, NMFA, introduced themselves to the committee. Ms. Russel stated that the NMFA provides a number of program benefits that target projects in rural and disadvantaged communities. She informed the committee that public borrowers with median household incomes (MHI) of less than or equal to 90% of the state MHI are able to access below-market interest rates. She then gave an overview of NMFA programs that benefit public entities and economic development in rural New Mexico communities. Mr. Brooks then outlined the NMFA's outreach efforts for commercial loans. Those efforts include holding a number of annual conferences and targeted group presentations to economic developers and banks across the state.

### **Spaceport Authority Legislation**

Christine Anderson, executive director, Spaceport Authority, provided the committee with an overview of space flight informed consent issues. She told the committee that the Spaceport's proposed legislation is identical to that presented to the committee last year, except the Spaceport Authority is now proposing to repeal the sunset clause on the last page of the bill.

The committee reviewed the proposed bill, discussed how much funding has gone into the Spaceport and questioned why the legislation has failed to pass in the legislature. Given that the main opposition to the bill has come from the trial lawyers, the committee asked Ms. Anderson if the Spaceport Authority has met with trial lawyers to come to an amicable solution. She replied that the Spaceport Authority has yet to meet with trial lawyers, but it is happy to do so. A motion was made to send the proposed bill back to the presenters to continue to work with all parties involved and to bring it back before the committee for endorsement before the session. A roll call vote was called. With three members opposing, the motion passed.

### **Water Project Fund Status Update and Project List**

Mr. Gasparich and Jana Amacher, director of water resources, NMFA, addressed the committee. Ms. Amacher stated that, in 2001, the legislature, through the Water Project Finance Act, created the Water Project Fund and the Water Trust Board. The Water Trust Board is charged with prioritizing projects for recommendation to the legislature for financing from the Water Project Fund and adopting rules and regulations governing the terms and conditions of grants or loans made from the Water Project Fund. Ms. Amacher then gave an overview of the current board membership and stated that funding from the Water Trust Board is supported through the financial framework of the Acequia Project Fund, the Water Project Fund and the Water Trust Fund for statewide water projects. She provided the committee with a comprehensive review of the application for funding process and stated that since 2002, 116 entities have received approval for 247 funding awards totaling over \$255 million.

The committee raised concerns over not being able to see the list of projects to be funded before the committee endorses the projects. Ms. Amacher responded that improvements are currently being made to the application process so that a list of projects to be funded will be made available before committee endorsement in coming years.

### **Approval of Revised Rules Governing the LGPF**

Ms. Russel informed the committee that when the board reviewed the proposed changes to the LGPF rules, it requested two additional changes. The first is to increase the amount of funds available to an entity from \$50,000 per 24-month period to \$100,000 per 24-month period, while keeping in place the \$50,000 per planning document cap. The second is to include metropolitan redevelopment plans as eligible "economic development plans". She stated that these requested changes are reflected in the rules, which have been marked to show the changes since the committee's adoption of the rules in October.

A motion was made and seconded to approve the revised LGPF rules.

### **New Mexico Renewable Energy Transmission Authority (RETA) Legislation**

Jeremy Turner, executive director, RETA, provided the committee with letters of support for the RETA and presented the committee with a revised operating budget for fiscal year 2014.

The proposed legislation would appropriate \$393,200 from the general fund to the RETA operational fund. Arlo Corwin, president, Power Network New Mexico, spoke in support of the RETA and reviewed the benefits that the RETA brings to New Mexico.

A motion was made and seconded to endorse the proposed legislation.

### **Legislation Regarding NMFA Board Member Qualifications and Appointments**

Representative White and Ms. Faust addressed the committee. They reviewed the changes that had been made to the proposed bill per the committee's request. A motion was made and seconded to endorse the proposed legislation.

### **Update on Proposed Changes to New Markets Tax Credits (NMTC) Policies**

Ms. Russel reviewed what NMTC are and stated that NMTC program policies are vetted through the Finance New Mexico, LLC, advisory board, a nine-member board required by the federal Community Development Financial Institutions Fund to ensure that the federal Community Development Entity complies with the mission of federal laws. She then gave an overview of NMTC governing policies and the goals outlined in the policies. She addressed the proposed amendments to the policies and proposed revisions to economic impact criteria.

### **Adjournment**

There being no further business before the committee, the fifth meeting of the NMFA Oversight Committee for the 2012 interim adjourned at 12:10 p.m.

**COMMITTEE-ENDORSED  
BILLS**

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HOUSE BILL

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

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 Albuquerque public school district in  
3 Bernalillo county for building, equipment, infrastructure, debt  
4 refinance, road, land acquisition, water, wastewater, water  
5 rights and solid waste projects;

6 2. the Alice King community school in Bernalillo  
7 county for building, equipment, infrastructure, debt refinance,  
8 road, land acquisition, water, wastewater, water rights and  
9 solid waste projects;

10 3. the city of Artesia in Eddy county for building,  
11 equipment, infrastructure, debt refinance, road, land  
12 acquisition, water, wastewater, water rights and solid waste  
13 projects;

14 4. the Aztec municipal school district in San Juan  
15 county for building, equipment, infrastructure, debt refinance,  
16 road, land acquisition, water, wastewater, water rights and  
17 solid waste projects;

18 5. the Belen consolidated school district in  
19 Valencia county for building, equipment, infrastructure, debt  
20 refinance, road, land acquisition, water, wastewater, water  
21 rights and solid waste projects;

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

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

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

8           9. the board of regents of New Mexico institute of  
9 mining and technology in Socorro county for building,  
10 equipment, infrastructure, debt refinance, road, land  
11 acquisition, water, wastewater, water rights and solid waste  
12 projects;

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

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

22           12. the Carlsbad soil and water conservation  
23 district in Eddy county for building, equipment,  
24 infrastructure, debt refinance, road, land acquisition, water,  
25 wastewater, water rights and solid waste projects;

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

5           14. Catron county for building, equipment,  
6 infrastructure, debt refinance, road, land acquisition, water,  
7 wastewater, water rights and solid waste projects;

8           15. the village of Causey in Roosevelt county for  
9 building, equipment, infrastructure, debt refinance, road, land  
10 acquisition, water, wastewater, water rights and solid waste  
11 projects;

12           16. the Central consolidated school district in San  
13 Juan county for building, equipment, infrastructure, debt  
14 refinance, road, land acquisition, water, wastewater, water  
15 rights and solid waste projects;

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

19           18. the Claunch-Pinto soil and water conservation  
20 district in Torrance county for building, equipment,  
21 infrastructure, debt refinance, road, land acquisition, water,  
22 wastewater, water rights and solid waste projects;

23           19. the town of Clayton in Union county for  
24 building, equipment, infrastructure, debt refinance, road, land  
25 acquisition, water, wastewater, water rights and solid waste

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1 projects;

2 20. the Cobre consolidated school district in Grant  
3 county for building, equipment, infrastructure, debt refinance,  
4 road, land acquisition, water, wastewater, water rights and  
5 solid waste projects;

6 21. Colfax county for building, equipment,  
7 infrastructure, debt refinance, road, land acquisition, water,  
8 wastewater, water rights and solid waste projects;

9 22. the Cuba independent school district in Rio  
10 Arriba county for building, equipment, infrastructure, debt  
11 refinance, road, land acquisition, water, wastewater, water  
12 rights and solid waste projects;

13 23. Curry county for building, equipment,  
14 infrastructure, debt refinance, road, land acquisition, water,  
15 wastewater, water rights and solid waste projects;

16 24. De Baca county for building, equipment,  
17 infrastructure, debt refinance, road, land acquisition, water,  
18 wastewater, water rights and solid waste projects;

19 25. the Deming public school district in Luna  
20 county for building, equipment, infrastructure, debt refinance,  
21 road, land acquisition, water, wastewater, water rights and  
22 solid waste projects;

23 26. the village of Des Moines in Union county for  
24 building, equipment, infrastructure, debt refinance, road, land  
25 acquisition, water, wastewater, water rights and solid waste

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1 projects;

2 27. Dona Ana county for building, equipment,  
3 infrastructure, debt refinance, road, land acquisition, water,  
4 wastewater, water rights and solid waste projects;

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

9 29. the board of regents of eastern New Mexico  
10 university in Roosevelt county for building, equipment,  
11 infrastructure, debt refinance, road, land acquisition, water,  
12 wastewater, water rights and solid waste projects;

13 30. Eddy county for building, equipment,  
14 infrastructure, debt refinance, road, land acquisition, water,  
15 wastewater, water rights and solid waste projects;

16 31. the city of Espanola in Rio Arriba county for  
17 building, equipment, infrastructure, debt refinance, road, land  
18 acquisition, water, wastewater, water rights and solid waste  
19 projects;

20 32. the town of Estancia in Torrance county for  
21 building, equipment, infrastructure, debt refinance, road, land  
22 acquisition, water, wastewater, water rights and solid waste  
23 projects;

24 33. the Farmington municipal school district in San  
25 Juan county for building, equipment, infrastructure, debt

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

3 34. the Fort Sumner municipal school district in De  
4 Baca county for building, equipment, infrastructure, debt  
5 refinance, road, land acquisition, water, wastewater, water  
6 rights and solid waste projects;

7 35. the city of Gallup in McKinley county for  
8 building, equipment, infrastructure, debt refinance, road, land  
9 acquisition, water, wastewater, water rights and solid waste  
10 projects;

11 36. the Gallup-McKinley county school district in  
12 McKinley county for building, equipment, infrastructure, debt  
13 refinance, road, land acquisition, water, wastewater, water  
14 rights and solid waste projects;

15 37. the governing board of Santa Fe community  
16 college in Santa Fe county for building, equipment,  
17 infrastructure, debt refinance, road, land acquisition, water,  
18 wastewater, water rights and solid waste projects;

19 38. Grant county for building, equipment,  
20 infrastructure, debt refinance, road, land acquisition, water,  
21 wastewater, water rights and solid waste projects;

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

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1           40. the village of Hatch in Dona Ana county for  
2 building, equipment, infrastructure, debt refinance, road, land  
3 acquisition, water, wastewater, water rights and solid waste  
4 projects;

5           41. the town of Hurley in Grant county for  
6 building, equipment, infrastructure, debt refinance, road, land  
7 acquisition, water, wastewater, water rights and solid waste  
8 projects;

9           42. the city of Jal in Lea county for building,  
10 equipment, infrastructure, debt refinance, road, land  
11 acquisition, water, wastewater, water rights and solid waste  
12 projects;

13           43. the city of Las Cruces in Dona Ana county for  
14 building, equipment, infrastructure, debt refinance, road, land  
15 acquisition, water, wastewater, water rights and solid waste  
16 projects;

17           44. Lea county for building, equipment,  
18 infrastructure, debt refinance, road, land acquisition, water,  
19 wastewater, water rights and solid waste projects;

20           45. the Lordsburg municipal school district in  
21 Hidalgo county for building, equipment, infrastructure, debt  
22 refinance, road, land acquisition, water, wastewater, water  
23 rights and solid waste projects;

24           46. the city of Lordsburg in Hidalgo county for  
25 building, equipment, infrastructure, debt refinance, road, land

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

3 47. the village of Los Lunas in Valencia county for  
4 building, equipment, infrastructure, debt refinance, road, land  
5 acquisition, water, wastewater, water rights and solid waste  
6 projects;

7 48. the Lovington municipal school district in Lea  
8 county for building, equipment, infrastructure, debt refinance,  
9 road, land acquisition, water, wastewater, water rights and  
10 solid waste projects;

11 49. the city of Lovington in Lea county for  
12 building, equipment, infrastructure, debt refinance, road, land  
13 acquisition, water, wastewater, water rights and solid waste  
14 projects;

15 50. the village of Melrose in Curry county for  
16 building, equipment, infrastructure, debt refinance, road, land  
17 acquisition, water, wastewater, water rights and solid waste  
18 projects;

19 51. the Mescalero Apache Tribe in Otero county for  
20 building, equipment, infrastructure, debt refinance, road, land  
21 acquisition, water, wastewater, water rights and solid waste  
22 projects;

23 52. the town of Mesilla in Dona Ana county for  
24 building, equipment, infrastructure, debt refinance, road, land  
25 acquisition, water, wastewater, water rights and solid waste

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1 projects;

2 53. the city of Moriarty in Torrance county for  
3 building, equipment, infrastructure, debt refinance, road, land  
4 acquisition, water, wastewater, water rights and solid waste  
5 projects;

6 54. the Pueblo of Nambe in Santa Fe county for  
7 building, equipment, infrastructure, debt refinance, road, land  
8 acquisition, water, wastewater, water rights and solid waste  
9 projects;

10 55. the border authority in Dona Ana county for  
11 building, equipment, infrastructure, debt refinance, road, land  
12 acquisition, water, wastewater, water rights and solid waste  
13 projects;

14 56. the New Mexico national guard in Santa Fe  
15 county for building, equipment, infrastructure, debt refinance,  
16 road, land acquisition, water, wastewater, water rights and  
17 solid waste projects;

18 57. the New Mexico school for the arts in Santa Fe  
19 county for building, equipment, infrastructure, debt refinance,  
20 road, land acquisition, water, wastewater, water rights and  
21 solid waste projects;

22 58. the spaceport authority in Dona Ana county for  
23 building, equipment, infrastructure, debt refinance, road, land  
24 acquisition, water, wastewater, water rights and solid waste  
25 projects;

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1           59. the board of regents of northern New Mexico  
2 state school in Rio Arriba county for building, equipment,  
3 infrastructure, debt refinance, road, land acquisition, water,  
4 wastewater, water rights and solid waste projects;

5           60. Otero county for building, equipment,  
6 infrastructure, debt refinance, road, land acquisition, water,  
7 wastewater, water rights and solid waste projects;

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

12           62. the Pueblo of Laguna in Cibola county for  
13 building, equipment, infrastructure, debt refinance, road, land  
14 acquisition, water, wastewater, water rights and solid waste  
15 projects;

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

20           64. the Pueblo of Santa Ana in Sandoval county for  
21 building, equipment, infrastructure, debt refinance, road, land  
22 acquisition, water, wastewater, water rights and solid waste  
23 projects;

24           65. the Pueblo of Zuni in McKinley county for  
25 building, equipment, infrastructure, debt refinance, road, land

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

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

6 67. Rio Arriba county for building, equipment,  
7 infrastructure, debt refinance, road, land acquisition, water,  
8 wastewater, water rights and solid waste projects;

9 68. Roosevelt county for building, equipment,  
10 infrastructure, debt refinance, road, land acquisition, water,  
11 wastewater, water rights and solid waste projects;

12 69. the city of Ruidoso Downs in Lincoln county for  
13 building, equipment, infrastructure, debt refinance, road, land  
14 acquisition, water, wastewater, water rights and solid waste  
15 projects;

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

20 71. the village of Ruidoso in Lincoln county for  
21 building, equipment, infrastructure, debt refinance, road, land  
22 acquisition, water, wastewater, water rights and solid waste  
23 projects;

24 72. the village of San Jon in Quay county for  
25 building, equipment, infrastructure, debt refinance, road, land

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

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

6 74. Sierra county for building, equipment,  
7 infrastructure, debt refinance, road, land acquisition, water,  
8 wastewater, water rights and solid waste projects;

9 75. the town of Silver City in Grant county for  
10 building, equipment, infrastructure, debt refinance, road, land  
11 acquisition, water, wastewater, water rights and solid waste  
12 projects;

13 76. the Socorro consolidated school district in  
14 Socorro county for building, equipment, infrastructure, debt  
15 refinance, road, land acquisition, water, wastewater, water  
16 rights and solid waste projects;

17 77. Socorro county for building, equipment,  
18 infrastructure, debt refinance, road, land acquisition, water,  
19 wastewater, water rights and solid waste projects;

20 78. the city of Socorro in Socorro county for  
21 building, equipment, infrastructure, debt refinance, road, land  
22 acquisition, water, wastewater, water rights and solid waste  
23 projects;

24 79. the Southwest solid waste authority in Grant  
25 county for building, equipment, infrastructure, debt refinance,

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

3 80. the city of Sunland Park in Dona Ana county for  
4 building, equipment, infrastructure, debt refinance, road, land  
5 acquisition, water, wastewater, water rights and solid waste  
6 projects;

7 81. Taos county for building, equipment,  
8 infrastructure, debt refinance, road, land acquisition, water,  
9 wastewater, water rights and solid waste projects;

10 82. the town of Taos in Taos county for building,  
11 equipment, infrastructure, debt refinance, road, land  
12 acquisition, water, wastewater, water rights and solid waste  
13 projects;

14 83. the city of Texico in Curry county for  
15 building, equipment, infrastructure, debt refinance, road, land  
16 acquisition, water, wastewater, water rights and solid waste  
17 projects;

18 84. Torrance county for building, equipment,  
19 infrastructure, debt refinance, road, land acquisition, water,  
20 wastewater, water rights and solid waste projects;

21 85. the Truth or Consequences municipal school  
22 district in Sierra county for building, equipment,  
23 infrastructure, debt refinance, road, land acquisition, water,  
24 wastewater, water rights and solid waste projects;

25 86. the Tucumcari public school district in Quay

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

4 87. the city of Tucumcari in Quay county for  
5 building, equipment, infrastructure, debt refinance, road, land  
6 acquisition, water, wastewater, water rights and solid waste  
7 projects;

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

11 89. Valencia county for building, equipment,  
12 infrastructure, debt refinance, road, land acquisition, water,  
13 wastewater, water rights and solid waste projects;

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

18 91. Miner's Colfax general hospital in Colfax  
19 county for building, equipment, infrastructure, debt refinance,  
20 road, land acquisition, water, wastewater, water rights and  
21 solid waste projects;

22 92. southern Sandoval investment, a subsidiary of  
23 the Pueblo of Santa Ana, in Sandoval county for building,  
24 equipment, infrastructure, debt refinance, road, land  
25 acquisition, water, wastewater, water rights and solid waste

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1 projects;

2 93. the Zuni public school district in McKinley  
3 county for building, equipment, infrastructure, debt refinance,  
4 road, land acquisition, water, wastewater, water rights and  
5 solid waste projects;

6 94. Lincoln county medical center in Lincoln county  
7 for building, equipment, infrastructure, debt refinance, road,  
8 land acquisition, water, wastewater, water rights and solid  
9 waste projects; and

10 95. the academy for technology and the classics in  
11 Santa Fe county for building, equipment, infrastructure, debt  
12 refinance, road, land acquisition, water, wastewater, water  
13 rights and solid waste projects.

14 **SECTION 2. VOIDING OF AUTHORIZATION.**--If a qualified  
15 entity listed in Section 1 of this act has not certified to the  
16 New Mexico finance authority by the end of fiscal year 2016 its  
17 desire to continue to pursue a loan from the public project  
18 revolving fund for a public project listed in that section, the  
19 legislative authorization granted to the New Mexico finance  
20 authority by Section 1 of this act to make a loan from the  
21 public project revolving fund to that qualified entity for that  
22 public project is void.

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

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SENATE BILL

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

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; EXTENDING FOR  
THREE YEARS THE REQUIREMENT OF REPORTING ECONOMIC DEVELOPMENT  
REVOLVING FUND PROJECT AND FUND STATUS; EXTENDING THE  
SUSPENSION FOR THREE YEARS OF SPECIFIC PRIOR AUTHORIZATION OF  
PROJECTS FOR ECONOMIC DEVELOPMENT REVOLVING FUND FUNDING.

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

**SECTION 1.** Section 6-25-6 NMSA 1978 (being Laws 2003,  
Chapter 349, Section 6, as amended) is amended to read:

"6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS  
AND DUTIES.--

A. To implement a program to assist eligible  
entities in financing projects, the authority has the powers  
specified in this section.

B. State projects receiving financing assistance

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1 with money in the fund shall first be approved by law. To  
2 protect public money in the fund or other public resources,  
3 rules of the authority relating to state projects shall include  
4 provisions to ensure achievement of the economic development  
5 goals of the state project and shall describe the means of  
6 recovering public money or other public resources if an  
7 eligible entity defaults on its obligations to the authority.

8 C. Standard projects shall be approved by the  
9 authority pursuant to rules approved by the New Mexico finance  
10 authority oversight committee.

11 D. The authority may:

12 (1) issue project revenue bonds on behalf of  
13 an eligible entity, payable from the revenues of a project and  
14 other revenues authorized as security for the bonds, to finance  
15 a project on behalf of an eligible entity;

16 (2) make loans from the fund for projects to  
17 eligible entities that establish one or more dedicated sources  
18 of revenue to repay the loan from the authority;

19 (3) enter into loan participation agreements  
20 from the fund for projects, whether in the form of an interest  
21 rate buy-down, the purchase of loans or portions of loans  
22 originated and underwritten by third-party lenders or other  
23 similar arrangements;

24 (4) provide loan guarantees from the fund for  
25 projects;

underscoring material = new  
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1 (5) make, execute and enforce all contracts  
2 necessary, convenient or desirable for purposes of the  
3 authority or pertaining to project revenue bonds, economic  
4 development revolving fund bonds, loans, loan participations or  
5 loan guarantees and the Statewide Economic Development Finance  
6 Act and pay the reasonable value of services rendered to the  
7 authority pursuant to the contracts;

8 (6) purchase and hold loans and loan  
9 participations in the fund at prices and in a manner determined  
10 by the authority;

11 (7) sell loans and loan participations  
12 acquired or held by the authority in the fund at prices and in  
13 a manner determined by the authority;

14 (8) prescribe the form of application or  
15 procedure required of an eligible entity to apply for financing  
16 assistance;

17 (9) fix the terms and conditions of the  
18 financing assistance, including the priority of lien and type  
19 of collateral or other security, and enter into agreements with  
20 eligible entities with respect to financing assistance;

21 (10) fix, revise from time to time, charge and  
22 collect fees and other charges in connection with the issuance  
23 of bonds; the making, purchase, participation in or guarantee  
24 of loans; and the review of proposed financing assistance to an  
25 eligible entity, whether or not the financing assistance is

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~~[bracketed material] = delete~~

1 provided;

2 (11) employ architects, engineers, accountants  
3 and attorneys; construction and financial experts; and such  
4 other advisors, consultants and agents as may be necessary in  
5 its judgment, and fix and pay their compensation;

6 (12) to the extent allowed under its contracts  
7 with the holders of bonds of the authority, consent to  
8 modification of the rate of interest, time and payment of  
9 installments of principal or interest, security or any other  
10 term of financing assistance;

11 (13) consider the ability of the eligible  
12 entity to secure financing for a project from other sources and  
13 the costs of that financing;

14 (14) acquire fee simple, leasehold,  
15 mortgagor's or mortgagee's interests in real or personal  
16 property and sell, mortgage, convey, lease or assign that  
17 property for authority purposes; and

18 (15) in the event of default by an eligible  
19 entity, enforce its rights by suit, mandamus and all other  
20 remedies available under law.

21 E. The authority shall adopt rules subject to  
22 approval of the New Mexico finance authority oversight  
23 committee to:

24 (1) establish procedures for applying for  
25 financing assistance;

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[bracketed material] = delete

1 (2) establish credit qualifications for  
2 eligible entities and establish terms and conditions for  
3 financing assistance;

4 (3) establish economic development goals for  
5 projects in consultation with the department;

6 (4) establish methods for determining  
7 quantifiable benefits;

8 (5) provide safeguards to protect public money  
9 and other public resources provided for a state project;

10 (6) establish procedures by which the  
11 authority requests approval by law for state projects receiving  
12 financing assistance with money in the fund; and

13 (7) establish fees to pay the costs of  
14 evaluating, originating and administering financing assistance.

15 F. The authority shall coordinate with the  
16 department to provide staffing and other assistance to the  
17 department in carrying out the department's responsibilities  
18 and activities pursuant to the Statewide Economic Development  
19 Finance Act.

20 ~~[G. The authority shall report no less than~~  
21 ~~quarterly to the legislature and the New Mexico finance~~  
22 ~~authority oversight committee on applications considered by the~~  
23 ~~authority for funding of standard projects; on projects~~  
24 ~~approved for funding by the authority; and on the status of the~~  
25 ~~economic development revolving fund, pursuant to rules of the~~

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1 ~~authority approved by the New Mexico finance authority~~  
2 ~~oversight committee.]~~

3 G. The authority shall report to the New Mexico  
4 finance authority oversight committee each year regarding the  
5 total expenditures from the economic development revolving fund  
6 for the previous fiscal year, the purposes for which  
7 expenditures were made, an analysis of the progress of the  
8 projects funded and proposals for legislative action."

9 SECTION 2. That version of Section 6-25-6 NMSA 1978  
10 (being Laws 2011, Chapter 150, Section 2) that is to become  
11 effective on July 1, 2016 is amended to read:

12 "6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS  
13 AND DUTIES.--

14 A. To implement a program to assist eligible  
15 entities in financing projects, the authority has the powers  
16 specified in this section.

17 B. Projects receiving financing assistance with  
18 money in the fund shall first be approved by law. To protect  
19 public money in the fund or other public resources, rules of  
20 the authority relating to state projects shall include  
21 provisions to ensure achievement of the economic development  
22 goals of the state project and shall describe the means of  
23 recovering public money or other public resources if an  
24 eligible entity defaults on its obligations to the authority.

25 C. Standard projects shall be approved by the

underscoring material = new  
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1 authority pursuant to rules approved by the New Mexico finance  
2 authority oversight committee.

3 D. The authority may:

4 (1) issue project revenue bonds on behalf of  
5 an eligible entity, payable from the revenues of a project and  
6 other revenues authorized as security for the bonds, to finance  
7 a project on behalf of an eligible entity;

8 (2) make loans from the fund for projects to  
9 eligible entities that establish one or more dedicated sources  
10 of revenue to repay the loan from the authority;

11 (3) enter into loan participation agreements  
12 from the fund for projects, whether in the form of an interest  
13 rate buy-down, the purchase of loans or portions of loans  
14 originated and underwritten by third-party lenders or other  
15 similar arrangements;

16 (4) provide loan guarantees from the fund for  
17 projects;

18 (5) make, execute and enforce all contracts  
19 necessary, convenient or desirable for purposes of the  
20 authority or pertaining to project revenue bonds, economic  
21 development revolving fund bonds, loans, loan participations or  
22 loan guarantees and the Statewide Economic Development Finance  
23 Act and pay the reasonable value of services rendered to the  
24 authority pursuant to the contracts;

25 (6) purchase and hold loans and loan

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1 participations in the fund at prices and in a manner determined  
2 by the authority;

3 (7) sell loans and loan participations  
4 acquired or held by the authority in the fund at prices and in  
5 a manner determined by the authority;

6 (8) prescribe the form of application or  
7 procedure required of an eligible entity to apply for financing  
8 assistance;

9 (9) fix the terms and conditions of the  
10 financing assistance, including the priority of lien and type  
11 of collateral or other security, and enter into agreements with  
12 eligible entities with respect to financing assistance;

13 (10) fix, revise from time to time, charge and  
14 collect fees and other charges in connection with the issuance  
15 of bonds; the making, purchase, participation in or guarantee  
16 of loans; and the review of proposed financing assistance to an  
17 eligible entity, whether or not the financing assistance is  
18 provided;

19 (11) employ architects, engineers, accountants  
20 and attorneys; construction and financial experts; and such  
21 other advisors, consultants and agents as may be necessary in  
22 its judgment, and fix and pay their compensation;

23 (12) to the extent allowed under its contracts  
24 with the holders of bonds of the authority, consent to  
25 modification of the rate of interest, time and payment of

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1 installments of principal or interest, security or any other  
2 term of financing assistance;

3 (13) consider the ability of the eligible  
4 entity to secure financing for a project from other sources and  
5 the costs of that financing;

6 (14) acquire fee simple, leasehold,  
7 mortgagor's or mortgagee's interests in real or personal  
8 property and sell, mortgage, convey, lease or assign that  
9 property for authority purposes; and

10 (15) in the event of default by an eligible  
11 entity, enforce its rights by suit, mandamus and all other  
12 remedies available under law.

13 E. The authority shall adopt rules subject to  
14 approval of the New Mexico finance authority oversight  
15 committee to:

16 (1) establish procedures for applying for  
17 financing assistance;

18 (2) establish credit qualifications for  
19 eligible entities and establish terms and conditions for  
20 financing assistance;

21 (3) establish economic development goals for  
22 projects in consultation with the department;

23 (4) establish methods for determining  
24 quantifiable benefits;

25 (5) provide safeguards to protect public money

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1 and other public resources provided for a state project;

2 (6) establish procedures by which the  
3 authority requests approval by law for projects receiving  
4 financing assistance with money in the fund; and

5 (7) establish fees to pay the costs of  
6 evaluating, originating and administering financing assistance.

7 F. The authority shall coordinate with the  
8 department to provide staffing and other assistance to the  
9 department in carrying out the department's responsibilities  
10 and activities pursuant to the Statewide Economic Development  
11 Finance Act.

12 G. The authority shall report to the New Mexico  
13 finance authority oversight committee each year regarding the  
14 total expenditures from the economic development revolving fund  
15 for the previous fiscal year, the purposes for which  
16 expenditures were made, an analysis of the progress of the  
17 projects funded and proposals for legislative action."

18 SECTION 3. Laws 2011, Chapter 150, Section 3 is amended  
19 to read:

20 "SECTION 3. EFFECTIVE DATE.--

21 A. The effective date of the provisions of Section  
22 1 of this act is July 1, 2011.

23 B. The effective date of the provisions of Section  
24 2 of this act is July 1, [2013] 2016."

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SENATE BILL

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

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR THE LOCAL GOVERNMENT PLANNING FUND.

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

SECTION 1. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2014 and subsequent fiscal years to fund local government planning for infrastructure, water or wastewater public project needs, or to develop water conservation plans, long-term master plans or energy audits, and to pay the administrative costs of the local government planning program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

SECTION 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2013.

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HOUSE BILL

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

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING.

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

**SECTION 1. APPROPRIATION.**--Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2014 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 remaining at the end of a fiscal year shall not revert to the public project revolving fund.

**SECTION 2. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2013.

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HOUSE BILL

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

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE NEW MEXICO RENEWABLE ENERGY  
TRANSMISSION AUTHORITY FOR OPERATIONAL PURPOSES AND COSTS.

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

SECTION 1. APPROPRIATION.--Three hundred ninety-three  
thousand two hundred dollars (\$393,200) is appropriated from  
the general fund to the renewable energy transmission authority  
operational fund for expenditure in fiscal year 2014 and  
subsequent fiscal years for operational purposes and costs in  
Santa Fe county. Any unexpended or unencumbered balance  
remaining at the end of a fiscal year shall not revert to the  
general fund.

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SENATE BILL

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

INTRODUCED BY

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; CHANGING THE  
COMPOSITION AND QUORUM REQUIREMENTS OF THE NEW MEXICO FINANCE  
AUTHORITY; PROVIDING FOR REPLACEMENT OF MEMBERS, FOR  
ORIENTATION OF NEW MEMBERS AND FOR ELECTION OF THE CHAIR AND  
VICE CHAIR OF THE NEW MEXICO FINANCE AUTHORITY; ESTABLISHING AN  
AUDIT COMMITTEE IN THE AUTHORITY; IMPOSING RESTRICTIONS AND  
DUTIES ON MEMBERS OF THE NEW MEXICO FINANCE AUTHORITY.

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

**SECTION 1.** Section 6-21-4 NMSA 1978 (being Laws 1992,  
Chapter 61, Section 4, as amended) is amended to read:

"6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED--  
MEMBERSHIP--QUALIFICATIONS--QUORUM--MEETINGS--COMPENSATION--  
BOND.--

A. There is created a public body politic and

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1 corporate, separate and apart from the state, constituting a  
2 governmental instrumentality to be known as the "New Mexico  
3 finance authority" for the performance of essential public  
4 functions.

5 B. The authority shall be composed of eleven  
6 members [~~The secretary of finance and administration, the~~  
7 ~~secretary of economic development, the secretary of energy,~~  
8 ~~minerals and natural resources, the secretary of environment,~~  
9 ~~the executive director of the New Mexico municipal league and~~  
10 ~~the executive director of the New Mexico association of~~  
11 ~~counties or their designees shall be ex-officio members of the~~  
12 ~~authority with voting privileges. The governor, with the~~  
13 ~~advice and consent of the senate, shall appoint to the~~  
14 ~~authority the chief financial officer of a state higher~~  
15 ~~educational institution and four members who are residents of~~  
16 ~~the state. The appointed members shall serve at the pleasure~~  
17 ~~of the governor]~~ as follows:

18 (1) four members appointed by the governor,  
19 with no more than two from the same political party and with  
20 the advice and consent of the senate;

21 (2) the executive director of the New Mexico  
22 municipal league;

23 (3) the executive director of the New Mexico  
24 association of counties;

25 (4) the secretary of finance and

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1 administration;

2 (5) one public member appointed by the  
3 president pro tempore of the senate with the advice and consent  
4 of the senate;

5 (6) one public member appointed by the  
6 minority floor leader of the senate with the advice and consent  
7 of the senate;

8 (7) one public member appointed by the speaker  
9 of the house of representatives with the advice and consent of  
10 the senate; and

11 (8) one public member appointed by the  
12 minority floor leader of the house of representatives with the  
13 advice and consent of the senate.

14 C. The appointed members of the authority shall be  
15 appointed to four-year terms. [~~The initial members shall be~~  
16 ~~appointed to staggered terms of four years or less, so that the~~  
17 ~~term of at least one member expires on January 1 of each year.~~]  
18 Vacancies shall be filled by [~~appointment by the governor~~] the  
19 appointing entity for the remainder of the unexpired term. Any  
20 member of the authority shall be eligible for reappointment.

21 D. Each appointed member before entering upon the  
22 member's duty shall take an oath of office to administer the  
23 duties of the member's office faithfully and impartially. A  
24 record of the oath shall be filed in the office of the  
25 secretary of state.

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1 E. ~~[The governor shall designate an appointed~~  
2 ~~member of the authority to serve as chair.]~~ The authority shall  
3 elect ~~[annually one of its members to serve as]~~ a chair and  
4 vice chair from its membership. The authority shall appoint  
5 and prescribe the duties of such other officers, who need not  
6 be members, as the authority deems necessary or advisable,  
7 including chief executive officer with the advice and consent  
8 of the senate and a secretary, who may be the same person. The  
9 authority may delegate to one or more of its members, officers,  
10 employees or agents such powers and duties as it may deem  
11 proper and consistent with the New Mexico Finance Authority  
12 Act.

13 F. The chief executive officer of the authority  
14 shall direct the affairs and business of the authority, subject  
15 to the policies, control and direction of the authority. The  
16 secretary of the authority shall keep minutes of all meetings  
17 of the authority and a record of ~~[the]~~ all other proceedings of  
18 the authority and shall be custodian of all books, documents  
19 and papers filed with the authority, the minute book or journal  
20 of the authority and its official seal. Minutes of the  
21 authority meetings and of the audit committee meetings shall be  
22 approved in an open meeting of the authority. The secretary  
23 shall make copies of all minutes and other records and  
24 documents of the authority and give certificates under the  
25 official seal of the authority to the effect that the copies

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1 are true copies, and all persons dealing with the authority may  
2 rely upon the certificates.

3 G. Meetings of the authority shall be held at least  
4 quarterly or at the call of the chair or whenever three members  
5 shall so request in writing. [~~A majority of~~] Six members [~~then~~  
6 ~~servng constitutes~~] constitute a quorum for the transaction of  
7 any business. The affirmative vote of at least a majority of a  
8 quorum present shall be necessary for any action to be taken by  
9 the authority. [~~An ex-officio member may designate in writing~~  
10 ~~another person to attend meetings of the authority and to the~~  
11 ~~same extent and with the same effect act in the ex-officio~~  
12 ~~member's stead. No vacancy in the membership of the authority~~  
13 ~~shall impair the right of a quorum to exercise all rights and~~  
14 ~~perform all duties of the authority.] The authority shall  
15 provide an opportunity for public comment at meetings of the  
16 authority.~~

17 H. The authority shall appoint an audit committee  
18 from among its membership. Minutes shall be recorded for all  
19 meetings of the audit committee. Audit committee members shall  
20 be provided training related to the duties of the audit  
21 committee. At least one member of the audit committee shall  
22 have no less than ten years' experience in the area of finance.

23 I. Members shall not be represented on the  
24 authority by designees. Members appointed pursuant to  
25 Paragraphs (1) and (5) through (8) of Subsection B of this

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1 section shall be qualified by competence and by no less than  
2 ten years' experience in the field of institutional investment,  
3 accounting, law, public finance, banking or public project  
4 planning or engineering.

5 J. Members of the authority and officers and  
6 employees of the authority shall be governed by the provisions  
7 of the Governmental Conduct Act. Nothing in this section or in  
8 the Governmental Conduct Act shall be construed as prohibiting  
9 an officer of a financial institution from participating as a  
10 member of the authority in setting general policies of the  
11 authority, nor shall any provision of the Governmental Conduct  
12 Act prohibit the authority from depositing funds under the  
13 jurisdiction of the authority in any financial institution. An  
14 authority member shall not hold office or employment in a  
15 political party.

16 K. A member of the authority appointed pursuant to  
17 Paragraphs (1) or (5) through (8) of Subsection B of this  
18 section may be:

19 (1) deemed by the authority to have resigned  
20 for failure to attend three meetings in any twelve-month period  
21 and may be replaced by the appointing person or entity; or

22 (2) removed from the authority for other  
23 cause, in the manner provided for removal of members of boards  
24 of regents under Article 12, Section 13 of the constitution of  
25 New Mexico.

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1           L. A vacancy in the membership of the authority  
2 occurring other than by expiration of term shall be filled in  
3 the same manner as the original appointment, but for the  
4 unexpired term only.

5           M. The authority shall provide no less than eight  
6 hours of orientation and training for new members. The  
7 training shall include instruction regarding the mission,  
8 goals, strategic plans, operations, programs and funds of the  
9 authority and public entity finance and ethics.

10           N. Members of the authority shall annually  
11 establish a work plan for the authority and a staffing review  
12 analysis of authority staffing levels, training and adequacy.  
13 The work plan and staffing review analysis shall be provided to  
14 the New Mexico finance authority oversight committee.

15           ~~[H.]~~ O. Each member of the authority shall give  
16 bond as provided in the Surety Bond Act. All costs of the  
17 surety bonds shall be borne by the authority.

18           ~~[I.]~~ P. The authority is not created or organized,  
19 and its operations shall not be conducted, for the purpose of  
20 making a profit. No part of the revenues or assets of the  
21 authority shall benefit or be distributable to its members,  
22 officers or other private persons. The members of the  
23 authority shall receive no compensation for their services but  
24 shall be reimbursed for actual and necessary expenses at the  
25 same rate and on the same basis as provided for public officers

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1 in the Per Diem and Mileage Act.

2 [J-] Q. The authority shall not be subject to the  
3 supervision or control of any other board, bureau, department  
4 or agency of the state except as specifically provided in the  
5 New Mexico Finance Authority Act. No use of the terms "state  
6 agency" or "instrumentality" in any other law of the state  
7 shall be deemed to refer to the authority unless the authority  
8 is specifically referred to in the law.

9 [K-] R. The authority is a governmental  
10 instrumentality for purposes of the Tort Claims Act."

11 SECTION 2. Section 6-21-21 NMSA 1978 (being Laws 1992,  
12 Chapter 61, Section 21, as amended) is amended to read:

13 "6-21-21. MONEY OF THE AUTHORITY--EXPENSES--AUDIT--  
14 ANNUAL REPORT.--

15 A. All money of the authority, except as otherwise  
16 authorized or provided in the New Mexico Finance Authority Act  
17 or in a bond resolution, trust indenture or other instrument  
18 under which bonds are issued, shall be deposited as soon as  
19 practical in a separate account or accounts in banks or trust  
20 companies organized under the laws of this state. All deposits  
21 of money shall be secured, if required by the authority, in  
22 such a manner as the authority determines to be prudent. Banks  
23 or trust companies are authorized to give security for deposits  
24 of the authority.

25 B. Subject to the provisions of any contract with

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1 bondholders, the authority shall prescribe a system of  
2 accounts.

3 C. Money held by the authority that is not needed  
4 for immediate disbursement, including [~~any funds~~] money held in  
5 reserve, may be deposited with the state treasurer for  
6 short-term investment pursuant to Section 6-10-10.1 NMSA 1978  
7 or may be invested in direct and general obligations of or  
8 obligations fully and unconditionally guaranteed by the United  
9 States, obligations issued by agencies of the United States,  
10 obligations of this state or any political subdivision of the  
11 state, interest-bearing time deposits, commercial paper issued  
12 by corporations organized and operating within the United  
13 States and rated "prime" quality by a national rating service,  
14 other investments permitted by Section 6-10-10 NMSA 1978 or as  
15 otherwise provided by the trust indenture or bond resolution,  
16 if the [~~funds are~~] money is pledged for or [~~secure~~] secures  
17 payment of bonds issued by the authority.

18 D. The authority shall have an audit of its books  
19 and accounts made at least once each year by the state auditor  
20 or by a certified public accounting firm whose proposal has  
21 been reviewed and approved by the state auditor. The cost of  
22 the audit shall be an expense of the authority. [~~Copies~~] The  
23 audit shall be approved in an open meeting of the authority,  
24 and copies of the audit shall be submitted to the governor and  
25 the New Mexico finance authority oversight committee and made

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1 available to the public.

2 E. The authority shall submit a report of its  
3 activities to the governor and to the legislature not later  
4 than December 1 of each year. Each report shall set forth a  
5 complete operating and financial statement covering its  
6 operations for that year."

7 SECTION 3. TEMPORARY PROVISION--TRANSITION MEMBERSHIP OF  
8 THE NEW MEXICO FINANCE AUTHORITY.--

9 A. On the effective date of this act, the secretary  
10 of economic development, the secretary of energy, minerals and  
11 natural resources, the secretary of environment and the chief  
12 financial officer of a state higher educational institution are  
13 no longer members of the New Mexico finance authority.

14 B. Within thirty days of the effective date of this  
15 act, four members shall be appointed to the New Mexico finance  
16 authority pursuant to Paragraphs (5) through (8) of Subsection  
17 B of Section 6-21-4 NMSA 1978 and shall serve on an interim  
18 basis until confirmed by the senate.

19 C. The four public members appointed by the  
20 governor prior to the effective date of this act shall remain  
21 members of the New Mexico finance authority subject to the  
22 terms of their initial appointment.

23 D. The four members appointed pursuant to  
24 Subsection B of this section shall, by lot, determine the  
25 initial terms of office for each position so that one position

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1 will be for a term of one year, one position will be for a term  
2 of two years, one position will be for a term of three years  
3 and one position will be for a term of four years. Thereafter,  
4 the terms shall be for four years.

5 SECTION 4. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2013.