

**MINUTES  
of the  
THIRD MEETING  
of the  
CAPITAL OUTLAY SUBCOMMITTEE  
of the  
NEW MEXICO LEGISLATIVE COUNCIL  
and the  
LEGISLATIVE FINANCE COMMITTEE**

**October 16, 2007  
Room 322, State Capitol  
Santa Fe**

The third meeting of the Capital Outlay Subcommittee of the New Mexico Legislative Council and the Legislative Finance Committee for 2007 was called to order at 10:30 a.m. by President Pro Tempore of the Senate Ben D. Altamirano, co-chair, in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Ben Lujan, Co-Chair  
Sen. Ben D. Altamirano, Co-Chair  
Sen. Dianna J. Duran  
Rep. Henry Kiki Saavedra  
Rep. Edward C. Sandoval  
Sen. John Arthur Smith  
Rep. Thomas C. Taylor

**Absent**

Sen. Carlos R. Cisneros  
Sen. Kent L. Cravens  
Sen. Carroll H. Leavell  
Rep. W. Ken Martinez  
Rep. Brian K. Moore  
Sen. Leonard Lee Rawson  
Sen. Michael S. Sanchez  
Rep. Jeannette O. Wallace  
Rep. Teresa A. Zanetti

**Advisory Members**

Sen. H. Diane Snyder

Rep. Janice E. Arnold-Jones  
Sen. Stuart Ingle  
Sen. Timothy Z. Jennings

A quorum was not present for the meeting, so the subcommittee deferred any decisions to the next meeting.

**Staff**

Ric Gaudet, Legislative Council Service (LCS)  
Renée Gregorio, Capital Outlay, LCS  
Linda Kehoe, Capital Outlay Coordinator, Legislative Finance Committee (LFC)  
Jeannae Leger, LFC  
Paula Tackett, Director, LCS

**Guests**

The guest list is in the meeting file.

### **Handouts**

Copies of handouts given by meeting presenters are in the meeting file.

### **Tuesday, October 16**

#### **Critical Statewide Capital Project Priorities: Human Services Department (HSD)**

Secretary of Human Services Pamela S. Hyde presented to the subcommittee the department's most important capital outlay priority for funding this upcoming legislative session. The Los Lunas substance abuse treatment center, which will serve as a central facility to provide substance abuse treatment as well as a training center for providers, needs an additional \$5.9 million to be completed. The legislature appropriated \$5 million toward the project in the 2007 regular session, she said. The facility will provide inpatient and outpatient services. The department is in the process of completing a substance abuse treatment facility in each of the four geographic corners of the state and needs to have a facility to serve as the state's central facility.

The other capital outlay priorities for the HSD are improvements to various field offices, said Secretary Hyde.

Senator Altamirano said he was told previously that many of the existing buildings at the Los Lunas site would be available for the new treatment facility's use. Secretary Hyde said that the consulting architect the HSD hired determined that most of the existing buildings have serious problems, including asbestos. She said the General Services Department (GSD) is in the process of demolishing several buildings on the campus.

Senator Smith asked how well the HSD is doing in treating the state's substance abuse population. Secretary Hyde said that currently, the HSD is not doing a very good job because it does not have the treatment capacity it needs. Unfortunately, many of people who need treatment end up in jail instead. She said the HSD is trying to adjust its Medicaid reimbursement formula, but it will also need extra general fund money soon.

Senator Smith said that the huge shortfall in funding the Rail Runner will inevitably affect funding of the HSD's programs, unless the executive agrees to raise taxes somewhere.

Senator Snyder asked to be provided with the list of stakeholder groups included in the HSD's substance abuse planning process. She said that there seems to be some duplication of effort between the HSD and the Administrative Office of the Courts' (AOC) drug and family courts. Secretary Hyde said that the AOC funds drug courts, but when clients need substance abuse treatment, they go through existing programs, including those provided by the HSD.

Senator Snyder asked why the HSD hired its own architect. Secretary Hyde said that the

consulting architect was hired for planning purposes, but that the GSD will provide the actual construction plans. Senator Snyder asked for the yearly cost to treat patients. Secretary Hyde said that outpatient treatment costs for men average \$3,000 per year. She said she will provide the subcommittee with inpatient costs.

### **Report Findings on House Memorial 35: A Sustainable Transportation System**

Senator Snyder and Robert Ortiz, deputy secretary of highway operations, Department of Transportation (DOT), gave the subcommittee a brief report on possible transportation-funding solutions for the future. The task force, which was created in response to House Memorial 35 of the 2007 regular legislative session, gathered input from many government sectors, including local and tribal perspectives, about how to fund transportation in the future. Mr. Ortiz said that federal funding is looking less reliable.

The DOT currently maintains 29,952 lane miles and 3,725 bridges, and local governments maintain 44,233 lane miles of roads. Asphalt prices have increased dramatically in the past three years, and future prices are expected to rise.

Representative Saavedra said he is concerned that there is not enough being spent on bridge replacement and repairs. Mr. Ortiz agreed, saying that the state currently spends \$25 million per year in replacing bridges, but it should be spending twice that amount in order to replace all the bridges in its inventory on schedule. Senator Snyder said that she has heard from sources in Washington, D.C., that in order to keep the federal Highway Trust Fund solvent, distributions to states will be reduced an average of 39% in the next few years. She also expressed concern that the larger states will advocate for changes to the highway funding formula, which could have a devastating impact on smaller-population states with many miles of highway to maintain, such as New Mexico.

The task force report outlined several funding options, including dedicating all of the motor vehicle excise tax to transportation, improving compliance of the weight-distance and trip taxes, increasing annual vehicle registration fees and increasing taxes on gasoline and special fuel. An additional idea is to tie the various tax and fee amounts to a federal inflation index, so that increases in highway materials costs can be offset by increased fees and taxes.

Senator Smith said that dedicating all of the motor vehicle excise tax to transportation will reduce funding for health, education and corrections programs because that tax is currently deposited into the general fund. Just shifting distributions around will not solve any problems. Senator Smith said that the entire transportation funding system needs to be fixed. He said he does not want any "Band-Aid" solutions to the problem. He also suggested that the cost of the spaceport in southern New Mexico be amortized across the entire state, rather than requiring the southern counties to pay for it.

Secretary of Transportation Rhonda Faught explained in detail the proposed surcharge on vehicle registrations. She said there would be a transportation-dedicated surcharge on each vehicle, based on that vehicle's gross weight. The average surcharge would be \$69.00, but she

pointed out that most passenger vehicles would pay much less than that amount.

Senator Altamirano asked what cost-saving measures the DOT is implementing. Secretary Faught said the department is using design optimization practices to lessen the impact in materials price increases. The DOT is also reducing the amount of take-home vehicles available to its staff. Those measures, however, will do little to save money compared to the huge funding shortfalls the department is anticipating.

Representative Saavedra asked why the department and governor refuse to support raising the gasoline tax. Secretary Faught said that raising the gasoline tax was discussed at length, but it was decided that other funding sources would bring in more revenue. For example, she said, raising the gasoline tax \$.01 per gallon will only bring an additional \$7 million to the State Road Fund, while imposing a surcharge on vehicle registrations will generate \$122 million.

### **Green Building Standards for State-Funded Building Projects**

The subcommittee heard a presentation on incorporating green building standards into all state-funded building projects from Dan Lorimier and Gail Ryba, representing the Rio Grande Chapter of the Sierra Club. Mr. Lorimier reported that green buildings will be the regular buildings of the near future, just as buildings that comply with the federal Americans with Disabilities Act of 1990 are in the mainstream today, but were not very common 25 years ago.

Some green building principles include locating the building near public transportation; putting lights and other electronic devices on timers; using solar and wind power; using building materials with a percentage of recycled content; using materials that do not emit toxic fumes; and using natural day lighting of work surfaces.

Ms. Ryba said that incorporating green design principles costs about one to two percent more than conventional buildings during the design and construction phase, but can result in more than 50% in energy savings. When looking at the total life cycle costs of a green building compared to a conventional building, the green building is actually much cheaper. Factoring in other variables, such as human productivity in healthier buildings, leads to the conclusion that green buildings are far cheaper and safer than conventionally designed buildings.

Mr. Lorimier suggested that the subcommittee endorse a bill to require green building standards to provide a 50% energy savings over today's conventional buildings for all state-funded buildings, including all local government buildings.

Representative Sandoval asked whether materials costs have been factored in with this proposal. Craig O'Hare of the Energy, Minerals and Natural Resources Department said that a recent study in California found that, overall, construction costs of green buildings are approximately equal to conventional buildings when the reduced need for HVAC systems are taken into account. Ms. Ryba said that builders and the public still need to be convinced that it is financially in their interest to build green.

Mr. O'Hare said that in response to the governor's recent executive order requiring all new state buildings to comply to green building standards, the Construction Industries Division (CID) of the Regulation and Licensing Department is creating a new green building bureau. He said the construction industry is not yet totally on-board with the new standards, but progress is being made.

Senator Snyder said she supports green building standards, but asked whether the Sierra Club is advocating for leadership in energy and environmental design certification, which is an expensive process. Mr. Lorimier said the group is only advocating for a requirement that buildings achieve a 50% energy reduction compared to conventional buildings. Senator Snyder said that although the state will be funding the extra cost to build green buildings, the local governments will be recouping the savings, because operational costs are part of local governments' budgets. Finally, Senator Snyder wondered why the CID is creating a new bureau when it cannot even perform its basic statutory responsibilities.

### **Ramah Navajo School Board Input on Capital Projects**

Bennie Coho of the Ramah Navajo School Board described for the subcommittee the problems it has encountered trying to get access to past legislative appropriations. The Navajo Nation bureaucratic process has often led to long delays in receiving money appropriated to individual chapters, so chapters have resorted to getting those appropriations reauthorized by the legislature while waiting for the Navajo Nation to release the funds. Mr. Coho requested that any changes made to the reauthorization process take into account the particular problems facing the Ramah Chapter and other tribal entities.

Pilar Faulkner, lobbyist for the Ramah Navajo School Board, said that small Navajo communities have traditionally relied on the reauthorization process because the Navajo Nation has tied up funds for several years. She said the Ramah Navajo School Board is ready to spend the money appropriated to it, but the government in Window Rock will not release the funds. She said that the legislature recently passed a bill that would allow the Department of Finance and Administration (DFA) to be the fiscal agent for chapters, but the Navajo Nation rejected that idea. All Navajo-related appropriations must be funneled through Window Rock. She said that chapter members are still New Mexico residents, and they deserve to receive services from the state.

Representative Sandoval asked if there is still time to reauthorize the appropriations for the Ramah Chapter. Ms. Tackett said that they could be reauthorized in the upcoming session, and that staff could work with the chapter to ensure the reauthorization reform process would not exclude these types of fixes.

Ms. Faulkner said that the chapter and school board will attempt to reauthorize some of the previous appropriations through Cibola County, so that the chapter can finally receive the funding it desperately needs.

### **Recommendations for the Reauthorization Process**

Robert Apodaca, director of the Local Government Division of the DFA, Ms. Kehoe and Ms. Gregorio presented reform suggestions to make the reauthorization process better. The proposed reforms include:

- no reauthorizations for projects with balances under \$50,000;
  - reauthorizations can only be made once, except to fix errors;
  - no splitting of money from one project into more than one project;
  - reauthorizations must relate to the original purpose, unless directed toward completing another existing project or fully funding a new project;
  - no reauthorizations may be written for projects that should have reverted according to law;
  - reauthorizations may not be written for projects funded within the same legislative session;
  - extension of time may only be granted for two years;
  - reauthorization requests must be submitted in early January;
  - agencies will be requested to research the current status of all reauthorization requests;
- and
- draft changes to language in the capital bill to ensure that all remaining balances revert within a 90-day period after the June 30 reversion date.

Ms. Gregorio said that the intent of reforming the reauthorization process is not to eliminate reauthorizations, but to make them more manageable and to eliminate some of the abuses of the system by creative technical manipulations by receiving entities. She also said that the proposed reforms could easily be modified to allay the concerns of the Ramah Navajo School Board.

Senator Smith suggested creating a fund into which reversions could be swept and set aside for small communities.

Mr. Apodaca said that most reversions and reauthorizations could be avoided if projects are properly planned.

Senator Duran said that she would rather have the DFA and the State Board of Finance allow flexibility in interpreting language than reauthorizing to clarify language. Mr. Apodaca agreed, but cautioned that the DFA also does not want the system to be abused. Projects need to

be specific, he said, and the department needs to follow the language in the law.

Representative Sandoval said he is concerned about the \$50,000 minimum for reauthorizations being set too high. Mr. Apodaca said there needs to be a threshold amount because many projects are currently reauthorized that have a balance of only a few hundred dollars. The amount it costs the state to process the reauthorization is much greater than the actual amount reauthorized, he said.

There being no further business, the meeting adjourned at 4:10 p.m.