

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

**October 20, 2008
Room 321, State Capitol
Santa Fe**

The fourth meeting of the Capital Outlay Subcommittee of the New Mexico Legislative Council and the Legislative Finance Committee for 2008 was called to order at 10:20 a.m. by Senator Michael S. Sanchez in Room 321 of the State Capitol in Santa Fe.

Present

Sen. Carlos R. Cisneros
Sen. Carroll H. Leavell
Rep. Henry Kiki Saavedra
Sen. Michael S. Sanchez
Sen. John Arthur Smith
Rep. Jeannette O. Wallace
Rep. Teresa A. Zanetti

Absent

Rep. Ben Lujan, Co-Chair
Sen. Timothy Z. Jennings, Co-Chair
Sen. Kent L. Cravens
Sen. Dianna J. Duran
Rep. W. Ken Martinez
Rep. Brian K. Moore
Sen. Leonard Lee Rawson
Rep. Edward C. Sandoval
Rep. Thomas C. Taylor

Advisory Members

Rep. Janice E. Arnold-Jones
Rep. Rhonda S. King

Sen. Stuart Ingle
Sen. H. Diane Snyder

Guest Legislator

Representative Mary Helen Garcia attended the meeting as a guest of the subcommittee.

Staff

David Abbey, Director, Legislative Finance Committee (LFC)
Kyle Burns, Capital Outlay, LFC
Ric Gaudet, Legislative Council Service (LCS)
Renée Gregorio, Capital Outlay, LCS
Linda Kehoe, Capital Outlay, LFC
Jeannae Leger, LFC
Tom Pollard, LCS
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.

Collaboration on Capital Outlay Requests—Issues

Ms. Tackett and Ralph Vincent, IT consultant, LCS, gave an update to the subcommittee on the possible project to allow legislators to collaborate on funding projects. Current practice makes it difficult for collaboration because each legislator chooses which project to fund and how much to give to it without necessarily knowing if other legislators are also funding that project. Allowing legislators database access would enable them to fund projects fully and would open communication lines during the frantic funding process at the end of the legislative session. With the new system, legislators could view previous funding amounts for a project and add their funding amount to the project to complete the funding request.

In order for the system to work, however, legislators would have to waive the confidentiality of their funding decisions. The LCS is forbidden by law from disclosing a funding decision made by a legislator. Capital outlay requests are public record; which projects get funded by a legislator, however, are not. Second, the entire capital outlay funding process needs more time to make the collaboration process possible. Allowing at least a few days for members to make those decisions would go a long way toward making better funding decisions. Finally, there would need to be some staff and legislative training in order to make the process smooth.

Senator Smith said that he has recently changed his mind about the confidentiality of funding decisions on capital projects; he now believes that names of legislators should be attached to all funded projects. He said he wants full disclosure of capital projects, including from the executive. He said that the recent metropolitan courthouse scandal involving former Senator Manny Aragon still resonates and other legislators may have been involved. He said that capital outlay money needs to be better monitored.

Representative Saavedra said that he carried the bill that allowed for the financing of the metropolitan courthouse. He asked what the legislature might do to ensure that money appropriated is spent according to the law. Currently, there is no way to track or audit capital outlay projects. Ms. Tackett said that there is a good reason why the Constitution of New Mexico has a prohibition against giving state money to entities not under the complete control of the state. She said that the legislature only started funding local projects in the 1980s.

Representative Saavedra said that the legislature should not fund projects that the local government does not want or cannot operate. Ms. Tackett said that the LCS could decline to draft a capital outlay request unless the associated local government agrees to operate and maintain the asset.

Ms. Kehoe said that State Auditor Hector Balderas had recently made a recommendation for revising the method in which certain entities are audited, including proposals for the auditing of capital projects.

Senator Sanchez asked what type of paperwork trail the Department of Finance and Administration (DFA) requires before releasing funds to local entities. Mr. Abbey said that the DFA does enter into grant agreements and requires certification from entities that the money for a project has been spent, but that is not the same as an audit, which could ensure that the money was spent properly. Ms. Kehoe said that Albuquerque has been allowed to do its own certification of projects and universities do so as well.

Representative Wallace said that legislators need better tools to enable collaboration on funding projects and that the process needs to be transparent. However, she said that the governor's projects also need transparency.

Senator Sanchez asked if the governor can be required to disclose where money for his projects is slated to be directed. Ms. Tackett said that the only real power the legislature has over the governor is to decline to appropriate money to unclear projects.

Senator Sanchez discussed problems with a recently built multipurpose center in Belen, which is already starting to fall apart. He said that there needs to be an auditing system to ensure sound construction occurs on public projects and that the DFA should be monitoring projects more closely. He also said that local governments tend to ask for politically beneficial projects rather than projects the communities actually need.

Representative King asked that the state auditor be invited to discuss with the subcommittee his recent auditing proposals. She also expressed concern that the DFA allows self-certification of capital projects by some local governments. Until a systematic process for auditing capital projects is in place, the state needs to conduct at least some random audits of those projects. Senator Smith agreed but said that additional state resources would need to be funded to ensure that capital projects are audited.

Keshet Dance Company

Shira Greenberg, founder and artistic director of Keshet Dance Company, and Hillary Noskin, lobbyist for the company, presented the subcommittee with a request for funding for renovations and expansion of the Kimo Theater in Albuquerque. Ms. Greenberg said that the company provides statewide services to youth and adults with physical disabilities and incarcerated, homeless, low-income and at-risk youth. The City of Albuquerque owns the building and has committed \$4 million to the project. The company is asking for \$5 million from the legislature, which will enable the city to complete the project. The money would go to the Cultural Affairs Department (CAD) and then Albuquerque for the construction, and Keshet would operate and lease the building from the city. Ms. Greenberg said that the legislature has already appropriated \$376,000 for the project.

Senator Smith asked why the CAD is the fiscal agent for the project and not the City of Albuquerque. Ms. Noskin said that after discussing the project with Speaker Lujan, it was decided that the project is of statewide significance, so the money should be directed to the department. Senator Smith then asked if this project is on the City of Albuquerque's top five projects listed on its Infrastructure Capital Improvements Plan (ICIP). Ms. Greenberg said that she cannot speak for the city but that the project probably is on the ICIP.

The minutes from the July 28 and September 2 meetings of the subcommittee were adopted.

National Dance Institute

Kelley Barnes of the National Dance Institute of New Mexico (NDI) described to the subcommittee the programs the NDI provides to New Mexico, and she described previous funding the NDI has received from the legislature for capital projects. The City of Santa Fe received \$750,000 in capital outlay funding in the past three years from the legislature to construct the NDI dance barns located on Santa Fe Public Schools property. The city also contributed \$600,000 toward the project. The NDI receives approximately \$535,000 each year in operating revenues from the state to perform statewide services for the Department of Health (DOH) and the Children, Youth and Families Department (CYFD). The institute has a yearly budget of \$3.7 million, most of which is raised through private fundraising efforts.

Subcommittee members expressed concern that the NDI is not performing services in more rural parts of the state. Ms. Barnes said that the NDI is currently trying to expand its service area to the southern and eastern portions of New Mexico.

Senator Smith said that the money being allocated toward the CYFD and the DOH should be included as part of the overall state budget for education. He said that many programs that are funded through state agencies other than the main education departments do not get counted toward the amount the state spends on education.

Statewide Project Recommendations

Ms. Tackett and Mr. Abbey discussed with the subcommittee potential statewide capital projects for the upcoming legislature. Ms. Tackett noted that there is projected to be \$159 million available in total severance tax bond capacity and no general fund dollars are expected to be available for capital outlay.

After discussing many potential projects to fund, staff was directed to present to the subcommittee at the next meeting a map of current and potential new state office buildings in Santa Fe, as well as the total value of all unexpended projects to date.

Criteria-Based State Agency Project Evaluation

Mr. Pollard gave a brief presentation to the subcommittee about potential benefits to a system that would rank state agency projects across agencies according to a defined set of criteria and analyses. Expanding on the current ICIP system that agencies use to rank their own

projects, Mr. Pollard described how those projects could be ranked against each other by an evaluation committee, using a weighted criteria system. Additional analysis would be performed on larger projects, including an operational impact report and an economic and revenue impact report. Those analyses would determine the overall impact of the project on the operational budget of the agency and would estimate any net gain or loss to the economy, including employment, economic activity and tax revenue that the project may affect. Finally, most projects would undergo a life-cycle costing analysis, which typically includes a study of the initial cost of the building and components and their salvage value at the end of the life-cycle period; the project's energy use, maintenance, staffing, transportation, warehousing and other operating costs; the life span of the project based upon the agency's program life or the useful life of the building; and the costs of appropriating money for, leasing or financing the purchase of the facility.

Senator Leavell asked how long typical state agency leases of private buildings run. Mr. Pollard said that many agency leases used to run just seven years, which meant that the developer would amortize the entire cost of the building over that lease period, leading to high yearly lease rates. Furthermore, many state agencies tend to stay in their leased buildings many years longer than the initial term, which means that the agencies will pay for the use of the buildings many times more than their original cost.

There being no further business, the subcommittee adjourned at 1:25 p.m.