

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

**November 1-2, 2005  
Room 322, State Capitol**

The fifth meeting of the New Mexico finance authority (NMFA) oversight committee for the 2005 interim was called to order by Representative Daniel P. Silva, chair, at 9:45 a.m. in room 322 of the state capitol in Santa Fe.

**Present**

Rep. Daniel P. Silva, chair  
Sen. Mary Kay Papen, vice chair (11/2)  
Sen. Joseph J. Carraro (11/2)  
Sen. Clinton D. Harden, Jr.  
Rep. Dona G. Irwin  
Rep. Patricia A. Lundstrom  
Rep. Jane E. Powdrell-Culbert  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez  
Rep. Henry Kiki Saavedra  
Sen. H. Diane Snyder (11/1)  
Rep. Joe M Stell  
Rep. Don L. Tripp  
Rep. Richard D. Vigil

**Absent**

Rep. Daniel R. Foley  
Sen. Shannon Robinson

**Advisory Members**

Rep. Jose A. Campos  
Rep. Ernest H. Chavez  
Rep. Anna M. Crook  
Sen. Dianna J. Duran  
Rep. Mary Helen Garcia  
Sen. Mary Jane M. Garcia  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Ben Lujan  
Sen. Richard C. Martinez (11/1)  
Sen. Leonard Lee Rawson (11/1)  
Rep. Harriet I. Ruiz  
Rep. Edward C. Sandoval  
Rep. Sheryl Williams Stapleton  
Rep. Luciano "Lucky" Varela

Sen. Ben D. Altamirano  
Sen. Vernon D. Asbill  
Sen. Pete Campos  
Sen. Kent L. Cravens  
Sen. Joseph A. Fidel  
Sen. Stuart Ingle  
Sen. Steven P. Neville

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

**Staff**

Cleo Griffith  
Kathleen Dexter

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Tuesday, November 1****GRIP and GRIP 2 Updates: Project Selection and Financing Details**

Rhonda Faught, secretary of transportation, and Mark Valenzuela, NMFA director of government affairs, gave a presentation on GRIP and GRIP 2 projects and financing. All 26 GRIP projects are currently under development for a total value of \$333 million in contracts, \$323 million of which were awarded to New Mexico contractors. As a result of outreach meetings held earlier this year with local and tribal governments, the department of transportation (DOT) has compiled a list of 125 high-priority transportation projects totaling \$637 million to be included in GRIP 2 over the next five years. Financing for GRIP and GRIP 2 is comprised of \$1.585 billion in bonds issued over a six-year period, with the state's annual debt payment projected at approximately \$162 million. On questioning from the committee, the presenters stated that:

- the current decline in revenue from the gasoline tax has not affected the state's bonding capacity because trip tax revenue has increased; however, DOT has adjusted its revenue projections due to the gasoline tax decline;
- transportation projects on the Navajo Nation cannot proceed until rights of way are settled, and DOT is having difficulty getting the projects through the tribal government;
- projects for GRIP 2 were identified and prioritized by local government entities and submitted directly to DOT;
- DOT is developing a statewide transportation plan that includes bus service in rural areas;
- 95 percent of roads in the state are rated in "good condition"; and
- when designating a project as "high priority", economic development potential consists of approximately 75 percent of that designation.

In general discussion, committee members noted that local governments might be mentioning different priorities to DOT and to legislators; the standard of "deficient road" changes over time; and transportation projects should address the needs of existing communities, not just growth.

**Federal Legislation Report: Transportation Bill and Driver's License Legislation**

Cheye Calvo, national conference of state legislatures (NCSL) transportation committee

director, gave presentations on the federal Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and the federal REAL ID Act of 2005 (REAL ID). Under SAFETEA-LU, \$1.76 billion in highway funding is allotted to New Mexico over the next five years, an increase of more than 30 percent over past federal funding and the sixth-highest increase among all the states. NCSL cautions that the balance in the trust fund behind SAFETEA-LU is dropping as high gasoline prices force consumers to use less gasoline, and there is a possibility that the fund will run short as early as 2008. Under REAL ID, states have until May 2008 to issue new driver's licenses that conform to federal standards for validation of all identification source documents; production of licenses; verification of immigration status; security and fraud prevention; and data retention and sharing. The changes required at the state level are substantial and, in Mr. Calvo's assessment, not possible before the 2008 deadline. He recommends that states pressure their congressional delegations to amend the law to make compliance possible.

On questioning from the committee, Mr. Calvo, who was joined by Ms. Faught, stated that:

- it took several years for SAFETEA-LU to pass in part because the original senate and house versions exceeded the dollar amount the president was willing to sign;
- while New Mexico receives approximately \$1.07 in federal highway money for every state dollar, it receives only \$.46 in federal transit money per state dollar;
- earmarked projects are counted against each state's federal funding share;
- some non-border states got money for border infrastructure because they have "border corridors";
- New Mexico does not have statutory authority to toll highways;
- there was no senate debate on REAL ID because the act was amended into a bill in conference committee;
- airport iris identification systems are offered as a convenience for travelers; these systems and the military ID system are not part of REAL ID;
- REAL ID includes three licenses — regular, temporary and non-conforming — and a license from one state is suspended when a person moves to another state; a person who is not a U.S. citizen may obtain a license, though only U.S. documents may be used for identity verification under REAL ID; and
- \$6 million is available now to help states implement REAL ID, with \$34 million available in the future for pilot programs.

In general discussion, committee members noted that New Mexico needs to have representation on the federal transportation committee in order to get better funding.

### **New Markets Tax Credit**

Mr. Valenzuela and Dora C de Baca, NMFA human resource and special projects director, gave a presentation on the federal new markets tax credit program. Under the program, a private investor that invests in a business in a low-income area of the state qualifies for a federal tax credit of 39 percent distributed over a seven-year period. NMFA has applied to

become a community development entity, which is the body that receives the investments, makes loans to qualifying businesses and receives and distributes the tax credits. On questioning from the committee, the presenters stated that:

- if NMFA is approved as a community development entity, the entity would be set up as a separate nonprofit organization and would be audited separately, and its service area would be the entire state; NMFA does not yet have statutory authority to become a community development entity but will propose legislation for the upcoming session;
- the most successful new market tax credit endeavors have been in real estate development;
- \$3.5 billion in tax credits are available this year, and NMFA has requested an allocation of \$100 million; and
- housing projects are not eligible for the new markets tax credit program because other federal money is available for these projects, and luxury facilities such as golf courses, resorts and casinos are also ineligible.

In general discussion, members debated whether it would be better for NMFA to partner with existing community development entities around the state rather than compete with them. Mr. Valenzuela agreed that NMFA could contract with these entities.

#### **Water and Wastewater Project Funding, Prioritization and Uniform Funding Application**

Richard Rose, department of environment (NMED) construction programs bureau chief, and Robert Apodaca, department of finance and administration capital outlay unit director, gave a presentation on water and wastewater project funding and prioritization. Funding requests for water and wastewater projects submitted through the infrastructure capital improvement plan (ICIP) total nearly \$400 million for fiscal year 2007 alone and \$2.5 billion over the next five years, an amount that includes \$18 million for the Pecos river lawsuit settlement. NMED is developing a uniform funding application that will allow the department to direct each project to private, federal and local sources for initial funding and delay requests for capital outlay money until a project nears completion. On questioning from the committee, the presenters stated that:

- projects that have not undergone preliminary engineering are directed to funding sources that cover planning;
- approximately 90 percent of tribal requests for water and wastewater project funding are going through the ICIP process;
- NMED will propose amendments to the Sanitary Projects Act in the upcoming session to mandate that water and wastewater rates cover full operating costs, including maintenance and replacement costs, and to either create incentives for or mandate regionalization of water and wastewater systems;
- NMED will begin collecting data on connection charges in its 2006 survey; and
- the initial ICIP included only projects submitted by municipalities and counties, but other entities, such as soil and water conservation districts, are now submitting as well.

In general discussion, committee members cited a need for legislative input into the ICIP prioritization process because they hear directly from constituents about needs within their districts, and they noted that local governments should use their entire bonding capacity before requesting infrastructure funding from the state.

### **Water and Wastewater Project Grant Fund Status Report**

Tony Duran, NMFA financial advisor, gave a status report on the water and wastewater project grant fund, which received no funding in the past three years. Since the fund was initially authorized in 2000, 151 projects have been completed, 21 projects are in progress and nearly \$400 million in project applications are pending. The entire \$8.5 million balance remaining in the fund is committed to current projects, and if the legislature appropriates more money to the fund, projects in progress will be given priority over new projects. On questioning from the committee, Mr. Duran stated that extensions are sometimes granted to projects because they have not yet met readiness-to-proceed requirements; and applications are kept active for three years, after which they must be renewed and revised.

### **Committee Business**

On motion duly made, seconded and adopted without objection, the minutes to the September 26-27, 2005 meeting were approved as written. The committee recessed at 4:55 p.m.

### **Wednesday, November 2**

The committee reconvened at 9:10 a.m.

### **Governmental Gross Receipts Tax Distribution for State Parks and Youth Conservation Corps**

David Simon, director of the state parks division (SPD) of the energy, minerals and natural resources department, gave a presentation on SPD expenditures of the governmental gross receipts tax (GGRT) appropriated for state park improvements. Since the revenue stream was first established in 1995, SPD has received \$46 million in GGRT revenue and has leveraged an additional \$8 million in federal funds. SPD receives approximately \$3.3 million per year from the GGRT, with \$2 million allocated to outstanding bonds and the balance to new state park projects. With the addition of two new state parks and increasing costs on all projects, Mr. Simon estimates that there are still more than \$24 million in outstanding capital outlay needs in the state park system. On questioning from the committee, Mr. Simon stated that:

- SPD is not equipped to take over maintenance responsibilities for rest areas around the state, though the division might consider a pilot project with rest areas near state parks;
- SPD has bonded to its full capacity;
- SPD does its design, development and engineering in-house, contracts for architect and electrical engineering services and contracts for all large construction projects;
- despite the fee increase enacted in 2004, there was a nine percent increase in

visitors in 2005 after six years of decline, and the increase in park usage was seen across 80 percent of the parks in the system; fees are set in the middle of the range for parks nationwide in order to keep them affordable for New Mexico residents;

- SPD has liability insurance to cover incidents such as the one in which a park ranger fatally shot a camper at Elephant Butte lake state park in August;
- most vandalism at state parks involves destruction of the fee collection boxes;
- park fees currently go into a pooled fund for use at all parks, though SPD is putting more emphasis on using the revenue where it is generated;
- while 17 state parks are water-based, allocating water to recreational purposes to maintain lake water levels is the lowest priority for the state engineer and interstate stream commission;
- SPD generates approximately 18 percent of its annual budget, or \$3.7 million, through user fees and concessions;
- 50 percent of state park visitors come from out of state;
- SPD built and operates its own water and wastewater treatment plant at Heron lake because there is no local entity to provide the service; and
- SPD is working with the tourism department to install state park information kiosks in all welcome centers.

Members discussed specific park projects around the state, including Red Rock park, which is currently owned and operated by the city of Gallup. The city approached the state about turning the park over to SPD and Governor Richardson has declared his support for the effort; however, the city has now withdrawn its request and is pursuing capital outlay funds to improve the facility.

Stewart Farley, chair of the youth conservation corps (YCC) commission, and Wendy Kent, YCC executive director, gave an overview of the corps and the projects that it funds around the state with the \$3 million it receives annually in GGRT revenue. The YCC receives twice as many project proposals as it can fund each year, and the proposals are scored and ranked with extra points given to projects that have not received YCC funding in the past. Project employees must be 14 to 25 years old, and workers earn from \$6.00 to \$8.00 per hour. While there is no requirement that a project employ at-risk youth, many projects are designed for this population. On questioning from the committee, the presenters stated that:

- YCC issues an annual RFP and mails out nearly 1,000 solicitations to school districts, counties, municipalities, nonprofit organizations and individuals who have expressed interest in submitting proposals;
- grants are given for summer, seasonal and residential programs, with seasonal programs designed to last six months and aimed at older workers;
- some counties have no projects because no proposals have been submitted;
- funding is split 50-50 between urban and rural projects; and
- YCC does not pay for employee certification, though it does encourage participants to obtain certification for future jobs.

## **Rules Changes for Public Project Revolving Fund, Local Government Planning Fund and SMART Money**

Marquita Russel, NMFA chief of programs, gave a presentation on rules changes in the public project revolving fund, local government planning fund and SMART money programs. Rules changes for the public project revolving fund are aimed at streamlining the application processes and conforming the rules to existing practices. On motion duly made, seconded and adopted, the proposed rules were approved with the change that the secretaries of environment, economic development and energy, minerals and natural resources may request project authorizations on behalf of underlying entities. Rules changes for the local government planning fund are required to conform to changes made in statute during the 2005 regular legislative session regarding project eligibility and loan forgiveness. Speaker of the House Ben Lujan temporarily appointed Representatives Crook and Gonzales as voting members to obtain a quorum, and on motion duly made, seconded and adopted without objection, rules changes for the local government planning fund and new rules for the SMART money program were approved as proposed. NMFA was directed to submit periodic reports to the oversight committee regarding the SMART money program.

## **Issues Raised During Interim**

Mr. Valenzuela distributed written answers to questions raised during the interim regarding the GRIP investment portfolio contract with Ryan labs, fiscal impacts of not providing matching funds for water and wastewater projects, whether charter schools qualify for the public project revolving fund and the state's bond rating.

The committee adjourned at 12:20 p.m.