

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

**December 2, 2008**  
**Room 317, State Capitol**  
**Santa Fe**

The fifth meeting of the Capital Outlay Subcommittee of the New Mexico Legislative Council and the Legislative Finance Committee for 2008 was called to order at 1:45 p.m. by Speaker of the House Ben Lujan in Room 317 of the State Capitol in Santa Fe.

**Present**

Rep. Ben Lujan, Co-Chair  
Sen. Carlos R. Cisneros  
Sen. Dianna J. Duran  
Sen. Carroll H. Leavell  
Rep. Brian K. Moore  
Rep. Henry Kiki Saavedra  
Rep. Edward C. Sandoval  
Rep. Jeannette O. Wallace  
Rep. Teresa A. Zanetti

**Absent**

Sen. Timothy Z. Jennings, Co-Chair  
Sen. Kent L. Cravens  
Rep. W. Ken Martinez  
Sen. Leonard Lee Rawson  
Sen. Michael S. Sanchez  
Sen. John Arthur Smith  
Rep. Thomas C. Taylor

**Advisory Members**

Rep. Rhonda S. King  
Sen. H. Diane Snyder

Rep. Janice E. Arnold-Jones  
Sen. Stuart Ingle

**Guest Legislator**

Representative Jose A. Campos 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, Capital Outlay, 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.

## **Reauthorizations: Recommendations for Further Restrictions**

Ms. Tackett discussed reauthorization reforms adopted by the subcommittee in 2007 and presented a list of proposed new changes to the reauthorization process. After subcommittee discussion, the list of recommendations was amended and adopted. The list of reauthorization changes includes the following:

1. Projects that already have contracts in place or balances under \$50,000 cannot be reauthorized.
2. A project can be reauthorized only once, except to fix an error.
3. The time of expenditure on an appropriation can be extended for only two years.
4. If a project received funding from only one legislator, that legislator may reauthorize the balance in its entirety to a new project or reauthorize the balance to multiple projects in increments of no less than \$100,000 each.
5. For projects sponsored jointly, all sponsoring legislators must agree in order for the full amount to be reauthorized to another project. All sponsoring legislators must also agree for any portion to be reauthorized.

## **Reauthorizations for General Fund Solvency**

Mr. Abbey gave an overview of the process the LFC is using to propose reauthorizing or reverting capital outlay projects in order to address the fiscal year 2009 budget shortfall. He said that the general fund shortfall may be as much as \$500 million. The LFC staff has identified approximately 130 projects totaling \$173 million of general fund for appropriations for potential reversion, and an additional \$21 million of general fund projects that could be exchanged with defunct severance tax bond projects. Staff will continue to investigate projects throughout December and will present a list to the LFC in January. The LFC developed a list of criteria to choose projects suitable for reauthorization, including:

- inadequate planning or funding to move the project forward;
- funds sitting idle for more than two to three years;
- lack of funding at the local level to support the operational and maintenance costs;
- federal funding needed for the project did not transpire;
- no third-party agreements in place; and
- contingencies could not be met.

Deputy Secretary of Finance and Administration Rick Martinez said that the Department of Finance and Administration (DFA) is still working on its reauthorization plan. He said the DFA will work with the LFC to develop a plan.

Robert Apodaca, director of the Local Government Division (LGD) of the DFA, said that the recent letter from the governor directing state agencies to identify stalled capital outlay projects motivated local governments to submit invoices for their projects. The LGD received more than 600 invoices in November, which is a significant increase in submissions.

Representative Wallace asked why the Water Innovation Fund was listed as a potential source for reauthorization. Mr. Abbey said that fund does not have statutory authority and does not have very much accountability.

Senator Duran asked if the LFC is working with legislators while developing the potential reauthorization list. Mr. Abbey said that LFC staff has been working closely with state agencies and local governments to identify projects. Ms. Kehoe said that staff has been very careful to not just rely on state agency information, since agencies do not always have current information on projects.

### **Statewide Project Recommendations**

Ms. Tackett and Mr. Abbey discussed the list of potential statewide capital outlay projects for legislative consideration. Mr. Abbey said that the severance tax bonding capacity is expected to be \$115 million and that no general fund capacity is expected. Ms. Tackett reviewed the criteria used in preparing the proposed list and said that the selected projects seemed to be the most critical state agency projects. Given the serious budget shortfall, the state should consider funding those projects first, she said.

Santa Fe Mayor David Coss asked the subcommittee to include funding for the Rio Grande water diversion project in the statewide project list. He said that this project, which is already being built, will solve most of Santa Fe county's water issues.

The subcommittee recommended that the statewide capital outlay list be moved forward for consideration of the legislature.

### **Approval of Minutes and other Subcommittee Business**

#### Minutes

The minutes of the October 20, 2008 meeting were adopted.

#### DFA Comments

Deputy Secretary Martinez said that the DFA has been working closely with the LCS and LFC in developing reauthorization reform proposals. He said that the DFA will work with the legislature to develop a statewide capital outlay plan.

Speaker Lujan asked about a reimbursement that is being delayed by the DFA for the city of Santa Fe. Deputy Secretary Martinez said that some language in grant agreements between the DFA and the city has held up reimbursement of projects. He said those issues will be resolved soon.

Representative Sandoval said that the city of Albuquerque has reimbursement delay problems similar to those experienced by Santa Fe.

#### Time Line

Ms. Tackett presented a proposed time line for passage of capital outlay bills. She explained that a "solvency bill" will need to be passed early in the session in order for the budget and capital outlay bills to move forward. Otherwise, the time line is similar to the schedule adopted in 2006 by the subcommittee.

The subcommittee adopted the capital outlay bill time line.

There being no further business, the subcommittee adjourned at 4:20 p.m.