

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

**December 4-5, 2008
Room 322
State Capitol, Santa Fe**

The sixth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Mary Kay Papen, chair, at 10:08 a.m. on Thursday, December 4, 2008, in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Richard J. Berry
Sen. Joseph J. Carraro (12-4)
Sen. Clinton D. Harden
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Don L. Tripp
Sen. David Ulibarri (12-4)
Rep. Richard D. Vigil

Absent

Rep. Elias Barela
Rep. Dona G. Irwin

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Sen. Dianna J. Duran (12-4)
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Richard C. Martinez
Rep. Edward C. Sandoval
Sen. James G. Taylor (12-4)
Rep. Luciano "Lucky" Varela

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Sen. Kent L. Cravens
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. Leonard Lee Rawson
Rep. Sheryl Williams Stapleton
Rep. James R.J. Strickler
Rep. Thomas C. Taylor

Also in Attendance

Rep. Andrew J. Barreras (12-5)

(Attendance dates are noted for legislators not attending the entire meeting.)

Staff

Doris Faust, Legislative Council Service (LCS)

Larry Matlock, LCS

Tom Pollard, LCS

Guests

The guest list is in the meeting file.

Thursday, December 4**Call to Order**

Senator Papen called the meeting to order and proceeded immediately to the first presentation.

Border Authority Legislative Proposals

Jaime Campos, executive director of the Border Authority, presented a bill, identified as .174524.1 or letter "A" in the book of proposed legislation, that would give the Border Authority the authority to operate a project as a business. Emma Johnson Ortiz, deputy director, explained that because the Border Authority does not have a revenue stream to pay back bonds, it cannot incur debt. Although the authority has \$250,000 in capital outlay funds set aside, the funds cannot be expended until this proposed bill is enacted. Secretary of Economic Development Fred Mondragón added his support for this bill.

Representative Lundstrom moved to endorse the bill. Representative Saavedra seconded. There being no objections, the motion passed. Senator Papen agreed to sponsor the bill. Representative Varela expressed his desire to sign the bill as a co-sponsor.

With regard to the proposed bill to take the Border Authority out from the jurisdiction of the Property Control Division of General Services Department (GSD), identified as .174615.1 or letter "B" in the book of proposed legislation, Ms. Ortiz said that the GSD had been delaying paperwork that would allow power to be turned on in its new building and recommended that the committee endorse this bill to fix the problem. The vote on endorsement of this bill was delayed until a representative of the Property Control Division could address questions. Secretary Mondragón added that the Border Authority is well-qualified to run its own projects.

Larry Miller, deputy director of the Property Control Division, reported that the division does not oppose the bill, noting that some of the things that the Border Authority wants to do are not within the expertise of the division. Mr. Miller described the functions and duties of the division.

Senator Martinez moved to endorse the bill. Representative Lundstrom seconded the motion, which passed with no objection. Senator Papen will also carry this bill.

Spaceport Authority Legislative Proposals

Daniella Glick, deputy director of the Economic Development Department (EDD) and chair of the Spaceport Authority Board, presented a bill that would protect some of the proprietary information that private companies turn over to the Spaceport Authority, exempting it from disclosure. This bill is identified as .174470.1 or letter "C" in the book of proposed legislation. The bill had been introduced previously and died. Representative Vigil moved to endorse bill "C". Representative Lundstrom seconded. Senator Harden voted against endorsement. There being no other objections, the motion passed. Representative Gonzales agreed to sponsor it.

Secretary Mondragón presented a bill that would change the name of the Southwest Regional Spaceport to "Spaceport America" for trademarking purposes, identified as .174467.1 or letter "D" in the book of proposed legislation. Senator Snyder moved to endorse the bill. Senator Martinez seconded the motion, which passed without opposition.

Ms. Glick continued with a bill to limit liability for space flight entities, identified as .174475.1 or letter "E" in the book of proposed legislation. Steve Landeene, executive director of the Spaceport Authority, explained that the states of Virginia and Florida had already passed a similar version of the legislation, saying that California and Oklahoma are expected to follow suit. The bill would provide immunity from tort liability for the agency from those people paying to travel above the atmosphere. Ms. Glick provided the committee with additional language that the authority wanted in the findings and purpose section of the bill.

In response to questions from the committee about whether this immunity would extend to fuelers and outside contractors, Ms. Glick explained that the immunity would only apply to an actual carrier, such as Virgin Galactic.

Senator Snyder moved to endorse the bill as amended in the purpose section, and Senator Martinez seconded the motion, which passed without opposition. Senator Harden agreed to sponsor this bill.

Proposed Tax Increment Development District (TIDD) Bill

Dan White, economist with the Legislative Finance Committee (LFC), and Ms. Faust, staff attorney for the LCS, presented a bill making technical corrections and providing more oversight for tax increment development districts, identified as .174320.1 or letter "F" in the book of proposed legislation. They explained that the bill would require resolution materials for a TIDD to be available to the public electronically.

Mr. White noted that the law currently does not provide for state representation on a TIDD board once it has been established, meaning that after legislative approval has been gained, the state has no say over what happens to the money, which makes it difficult for proper enforcement. The bill would change the structure of the board to include representation for the state.

Representative Lundstrom moved to endorse the bill. Representative Saavedra seconded the motion, which passed with no objections. Representative Lundstrom will introduce this legislation.

Approval of Minutes and Committee Business

Representative Vigil moved to approve the minutes from the September and October meetings. Senator Rainaldi seconded the motion, which passed without objection. The committee recessed for lunch and returned at 1:42 p.m.

Rural Municipality Audit Requirements

State Auditor Hector Balderas explained that the complicated audits required for governmental entities like the city of Albuquerque or the University of New Mexico are very expensive and that there is a lack of auditors qualified to conduct them. Small towns and villages are currently required to comply with the same level of audit if they receive capital outlay funds from the state. A small village might have to pay \$12,000 for an audit just because it received capital outlay funds for \$20,000. Because of the expense and the difficulty in convincing auditors to work in rural areas, many villages are not in compliance with their audit requirements. A task force was assigned to examine these difficulties and make some recommendations, which may find their way into legislation at a later time.

Approval of New Mexico Finance Authority Rules for the Acequia Project Fund

After a presentation by Senior Program Administrator Jana Egbert describing the proposed rules for the Acequia Project Fund, Senator Harden moved to approve the new rules. Senator Ulibarri seconded the motion, which passed without objection. The committee acknowledged and thanked Trudy Healy, who provided a substantial endowment to the fund.

Issues Affecting Local Governments Relating to Decreased Capital Outlay Funds, Transportation Needs, Construction Cost Inflation, Blight, Regulations, Water Infrastructure Needs and Taxing Authority

William Fulginiti, executive director of the New Mexico Municipal League, was joined by Paul Gutierrez, executive director of the New Mexico Association of Counties, and Lawrence Rael, executive director for the Mid-Region Council of Governments. Their handouts are in the meeting file.

Mr. Fulginiti discussed the need for a main street stimulus program, noting that in one-third of the state's communities, the need exceeds \$750,000. State support of local communities through capital outlay is critical. Mr. Fulginiti discussed local government revenue sources, noting that the gross receipts tax revenue is declining due to the economic downturn. The property tax still has additional capacity, but this is an unpopular tax and not always an efficient revenue source.

Mr. Gutierrez began his discussion of issues affecting New Mexico counties by reporting that jail funding is a substantial problem. Court orders emanating from two major lawsuits have mandated that jail populations be reduced. There is also a lack of qualified psychiatrists willing to work in the jails, so that it is impossible to comply with the requirements. He noted that all three branches of government will need to work together to address these problems. Mr.

Gutierrez also discussed other issues of concern to counties, such as property tax inequities, local match requirements for road funding and the cost of local elections.

Mr. Rael explained some of the difficulties local governments have in monitoring capital outlay projects. Large entities like the city of Albuquerque and Bernalillo County are big enough to have enough staff to monitor their programs, while smaller communities do not have the resources necessary to keep up. After a discussion on the details of ensuring project readiness, the committee moved to the next presentation.

Drinking Water State Revolving Loan Fund Bond Program

Marquita Russell, chief of programs for the NMFA, was joined by Michael Venderhyde, Jennifer Sanchez and Jonathan Brooks for her presentation. Ms. Russell explained that the loan fund was created through the federal government in 1996 to help fund essential water projects like water treatment programs. Her handout is in the meeting file. Mr. Brooks explained that there is a checklist that looks at the three major elements for each project, including managerial expertise, technical expertise and financial readiness.

The committee recessed at 5:07 p.m.

Friday, December 5

Call to Order

The meeting was called to order at 9:12 a.m. Senator Papen. Senator Papen turned control of the meeting over to the vice chair, Representative Silva, as it was his last meeting on the NMFA Oversight Committee.

NMFA Legislative Proposals

Mark Valenzuela, director of governmental affairs and legislative finance strategy for the NMFA, began his presentation, saying the NMFA has four proposals. Gloria Castillo and Tracey Davis helped him with the presentation.

The committee endorsed a bill that authorizes projects from the NMFA's Public Project Revolving Fund, identified as .174459.1 or letter "G" in the book of proposed legislation. Additional projects will be added to the bill prior to its introduction. Representative Lundstrom moved to endorse the bill. Representative Saavedra seconded the motion, which passed with no objection. Representative Varela offered to introduce the legislation.

The committee also endorsed a bill that authorizes projects from the Economic Development Revolving Fund, identified as .174458.1 or letter "H" in the book of proposed legislation. Representative Saavedra moved to endorse the bill. Representative Powdrell-Culbert seconded the motion, which passed with no opposition. Senator Papen agreed to sponsor the legislation.

Mr. Valenzuela described an appropriation bill that would appropriate \$2 million from the general fund to the Drinking Water State Revolving Loan Fund, identified as .174464.1 or

letter "I" in the book of proposed legislation. After a proper motion seconded by Representative Varela, the committee voted to endorse bill "I". Representative Varela will introduce this legislation.

The last NMFA bill, identified as .174457.1 or letter "J" in the book of proposed legislation, would appropriate \$2 million from the Public Project Revolving Fund to the Local Government Planning Fund to fund water or wastewater system development and other priorities. Representative Lundstrom moved to endorse the bill. Representative Vigil seconded the motion, which passed without objection. Senator Mary Jane M. Garcia volunteered to sponsor the legislation.

Proposed Transportation Subcommittee Legislation

Representative Lundstrom was joined at the presenters' table by Ms. Faust to discuss six bills proposed by the Transportation Subcommittee of the NMFA Oversight Committee.

The committee endorsed a bill requiring that wholesale bulk gasoline distributors make unblended gasoline available to certain retailers, especially those that serve small airports. This bill is identified as .174443.1 or letter "K" in the book of proposed legislation. After a proper motion and proper second by Representative Saavedra, the bill was endorsed without opposition.

The committee endorsed a bill, identified as .174443.1 or letter "L" in the book of proposed legislation, to authorize the legislature to appropriate 30 percent of the money going into the Corrective Action Fund in any year to the State Road Fund, but did not endorse a bill requiring a vehicle registration surcharge.

Bill "N", which distributes a portion of the motor vehicle excise tax to the State Road Fund, was endorsed by the committee. Senator Carraro moved to endorse the bill. Senator Snyder seconded the motion. Representatives Tripp and Saavedra were in opposition, as well as Senator Rainaldi. Representative Gonzales agreed to sponsor it.

A memorial, designated as .174497.1 or letter "O", was proposed. It requests a continuation of the 2008 review of the state's current and future transportation needs to identify appropriate funding strategies for a sustainable transportation system. Representative Saavedra moved to endorse the memorial. The motion passed with no opposition. Representative Bobby Gonzales agreed to sponsor it.

Bill "P", requiring a lower speed limit for vehicles with three or more axles, was the subject of some debate because of the many citizens of the state who drive pickups that pull trailers, which would be subject to the lower speed limit. Representative Powdrell-Culbert asked to amend the bill to have lower speed limits at night instead. She explained that it would be unsafe to have vehicles following separate speed limits. Representative Lundstrom moved to amend the bill, and her motion passed. After the motion to amend passed, the amended bill was endorsed on proper motion by Senator Snyder, seconded by Representative Silva. Representative Berry voted in opposition to the bill. The bill will contain a nighttime speed limit of 65 miles per hour.

Renewable Energy Transmission Authority (RETA) Legislative Proposals

Lisa Szot, executive director of RETA, and RETA's general counsel, Ted Apodaca, presented bill "Q". Their handout is in the meeting file. After some discussion, Senator Harden moved to endorse the legislation. Representative Lundstrom seconded the motion, which passed with opposition by Representative Arnold-Jones and Senator Snyder.

Adjourn

Senator Papen thanked the committee members and staff for their hard work. She thanked Representative Silva for his service in the legislature and thanked Senators Snyder and Carraro as well, saying they would be missed because they have been valuable members with good ideas.

The committee adjourned at 12:21 p.m.