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

December 1-2, 2016
Room 322, State Capitol
Santa Fe

The sixth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Joseph Cervantes, chair, on December 1, 2016 at 9:47 a.m. in Room 322 of the State Capitol.

Present
Sen. Joseph Cervantes, Chair
Rep. Jane E. Powdrell-Culbert, Vice Chair
Rep. David E. Adkins
Sen. Lee S. Cotter
Rep. Candy Spence Ezzell
Rep. Bealquin Bill Gomez
Sen. Ron Griggs
Rep. Idalia Lechuga-Tena
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez (12/1)
Sen. Michael Padilla
Rep. Patricia Roybal Caballero (12/1)
Rep. Patricio Ruiloba

Absent
Rep. Sharon Clahchischilliage
Rep. Dona G. Irwin
Rep. Andy Nunez
Sen. Nancy Rodriguez
Sen. William P. Soules
Rep. Monica Youngblood

Advisory Members
Rep. Alonzo Baldonado
Rep. Kelly K. Fajardo (12/2)
Rep. Roberto "Bobby" J. Gonzales
Sen. Mary Kay Papen (12/1)
Rep. Debbie A. Rodella
Rep. Sheryl Williams Stapleton

Sen. Jacob R. Candelaria
Rep. George Dodge, Jr.
Rep. Brian Egolf
Rep. Harry Garcia
Sen. Stuart Ingle
Rep. Sarah Maestas Barnes
Sen. Bill B. O'Neill
Sen. William H. Payne
Sen. John Pinto
Rep. Tomás E. Salazar
Sen. Clemente Sanchez
Rep. Don L. Tripp
Sen. James P. White

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

Staff
Lisa Sullivan, Staff Attorney, Legislative Council Service (LCS)
Celia Ludi, Staff Attorney, LCS
Kathleen Dexter, Researcher, LCS
Jeff Eaton, Research and Fiscal Policy Analyst, LCS
Alexandria Tapia, Contract Staff, LCS

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

<u>Thursday, December 1</u>

Welcome and Introductions

Senator Cervantes welcomed everyone and asked members and staff to introduce themselves.

NMFA Board Report

Robert P. Coalter, chief executive officer (CEO), NMFA, provided the committee with background on how the NMFA has been issuing Public Project Revolving Fund (PPRF) bonds. The PPRF is the NMFA's flagship program and is used to finance public projects, such as water system upgrades and other infrastructure improvements, fire and law enforcement equipment and public buildings. Both market-rate-based loans and loans to disadvantaged communities at subsidized rates are made from the PPRF. Since 2012, there has been an increase of 13.5 percent in the dollar amount of PPRF issuances. Mr. Coalter stated that there was a recent bond sale that yielded $38 million in bonds and added four new investors, bringing the total number of investors in the NMFA to 12 with about $14 million to each investor. At that bond sale, the interest rate was 3.46 percent. While rates have gone up, they are still at historically low levels. The major client-pledged revenue sources for the PPRF include: the Fire Protection Fund, general obligation (GO) bonds, gross receipts taxes (GRTs), local special taxes, mill levies, state GRT, net system revenue and the Law Enforcement Protection Fund.

Mr. Coalter added that the NMFA recently received another $45 million for the new markets tax credit. The application for this new tax credit is currently open, and the NMFA is working on informing people around the state about its availability.

Zach Dillenback, chief lending officer, NMFA, joined Mr. Coalter to answer questions from members. In response to the presentation, the committee addressed the following topics:

- the impact of the state debt and deficit on bond sales and rating;
- decreased state budget projections on the NMFA;
- factors affecting NMFA bond rating and capacity;
- clarification about the Debt Service Reserve Fund as separate from the state's reserves;
- a request for a report estimating the impact of a depleted Debt Service Reserve Fund on the PPRF and the NMFA's rating;
- eligibility of the new markets tax credit for projects such as broadband deployment;
- the NMFA's willingness to work with legislators to identify communities within their districts that would be eligible for the new markets tax credit;
- the need to demonstrate a community's ability to pay on a loan;
- an evaluation of the taxable nature of a bond issue;
- inquiries about specific projects, including one in Portales and one in Bloomfield;
- the impact of declining property tax generation on bond capacity;
- the risk of relying solely on a single industry for tax generation;
- the policy behind the maximum ceiling on the Debt Service Fund and the contingent fund, which is capped by the Debt Service Reserve Fund;
- issues with sweeping money out of the Debt Service Fund and the contingent fund; and
- the protracted time line for PPRF lending that prior legislative authorization requires.

Report on Commercial Vehicular Traffic in the Southern Border Region

Tom Church, secretary, Department of Transportation (DOT), provided an update to the committee on the status of New Mexico ports of entry (POEs). Since the DOT was delegated jurisdiction over the state POEs, the DOT partnered with the Department of Public Safety (DPS) to manage the POEs. Loren Hatch, deputy secretary, Office of Business Support, DOT, spoke briefly about the overall special emphasis of the Santa Teresa POE and the development of the Foxconn facility.

Secretary Church described the federal government's greater emphasis on the creation and development of freight corridors throughout the country. In December 2015, President Obama signed into law a new transportation funding appropriation bill known as the Fixing America's Surface Transportation (FAST) Act. The FAST Act provides a new freight-specific funding source while adding new requirements to state freight plans. Secretary Church mentioned that a new freight corridor from Long Beach, California, to Houston, Texas, is in the infancy stage. With Interstate 40 being the primary route, New Mexico is poised as a bridge between the states.

Paul Sittig, regional and freight planner, Statewide Planning Bureau, DOT, presented an update on the New Mexico's state freight plan and other initiatives related to freight planning in the state.

New Mexico State Freight Plan. The freight plan was started in 2014, and the DOT is currently updating the plan internally and developing a list of roadway projects to improve freight movement in the state to secure federal funding. New Mexico was apportioned $58.8 million of National Highway Freight Program funding for the five years specified in the FAST Act, or approximately $11.76 million per year. The freight plan focuses on three interstates and NM 136 from Santa Teresa.

National I-10 Freight Corridor Coalition. New Mexico is part of the National I-10 Freight Corridor Coalition, along with Texas, Arizona and California. The purpose of the coalition is to coordinate truck permitting, parking and platooning. Consultants are currently developing a "concepts of operations" (ConOps) report, estimated to be completed in early 2018, to ensure coordination among the four states. This is the first such multistate corridor development effort in the United States.

House Memorial (HM) 96 — Study Federal Surface Transportation Law. HM 96 from the 2016 regular session tasked the DOT and the Economic Development Department (EDD) to coordinate and develop a study to report on the potential for new economic development related to truck flows through the state. The focus is on the interstates, specifically where truck drivers are likely to stop. The study resulted in the identification of seven sectors along Interstate 10 and Interstate 40 where there is a concentration of drivers reaching the end of their service hours in New Mexico. The final report includes nine next steps to evaluate and improve services and amenities at interchanges (see the presentation this interim to the Transportation Infrastructure Revenue Subcommittee (TRANS), available on www.nmlegis.gov, for more information).

Western States Freight Coalition (WSFC). The DOT is a member of the WSFC, a coalition that brings together representatives from 18 western states and covers the region from the Dakotas and Texas to the western part of the country. States in the eastern part of the country benefit from a denser network system. States in the WSFC are able to coordinate on planning practices and provide joint responses to federal requests for comment on freight policies. Mr. Sittig, as a representative of the DOT, will be co-chairing the WSFC in 2017.

Michael Sandoval, executive manager, Modal Program, DOT, shared some of the common issues that companies and the freight industry have experienced while trying to do business at New Mexico's POEs. POEs generate revenue through commercial traffic, weight distance permits, the weight distance program, trip/fuel tax permits and oversize/overweight permits. Permits alone generate approximately $100 million. The more efficiently that operations run at a POE, the more capacity the POE can handle, resulting in a likely increase in traffic. According to Mr. Sandoval, the most commonly reported complaints include: long wait times at POEs; difficulty in receiving technical assistance by telephone; difficulty in using the e-permitting system; the need for technology upgrades; that current regulations are out of date; and that the DPS transportation inspectors are selling permits instead of conducting inspections. The frequency of DPS officers selling permits reduced their ability to conduct inspections, posing a real safety concern.

In 2014, the DPS and DOT began discussions on possible solutions to address these issues and began a pilot program for all of the POEs with the exception of Santa Teresa. Some solutions have included the hiring of additional employees to sell permits, implementation of a new e-permitting system and several technology upgrades. The DOT is responsible for the administrative duty of all permitting functions. With some of these changes in place, single-trip permit processing wait times have been reduced from between 24 to 36 hours to an average of one hour, and multiple-trip permit processing wait times have been reduced from between five to seven days to an average of two hours. Permit sales reached 240,000 in the first full year since implementation of the pilot program. Safety inspections have also increased, which affect industry and the state in a positive way. Mr. Sandoval stated that, in the past, freight associations were the biggest critics of New Mexico POEs; they are now the biggest advocates for them.

Homerio Bernal, international programs coordinator, DOT, gave an overview of activity taking place in the border region. Current regional infrastructure projects in the Santa Teresa area include the Union Pacific Railroad Santa Teresa Terminal Project (intermodal facility), industrial development of both the WestPark and Los Santos industrial parks, Customs and Border Patrol (CBP) pilot project for dual customs and the Santa Teresa POE Foxconn facility. Mr. Bernal cautioned that it is important to be mindful that any type of expansion at the border affects surrounding roads and highways; increased traffic and freight also increase the wear and tear on infrastructure. Expansion plans must include support for roadways leading to and from POEs. Mr. Bernal discussed some of the ongoing efforts by the United States and Mexico to increase capacity for trade at the southern border with the addition of overweight cargo zones, a rail bypass study and more inspectors on the ground. Santa Teresa industrial development has added several tenants and expanded hours to 24-hour operations. Tenants at the site include FedEx, Valley Cold Storage, a wind blade storage facility and MCS Industries.

Mr. Bernal spoke about the international POEs located at Columbus and Antelope Wells. The Columbus POE handles a tremendous volume of vehicles entering into Palomas, Mexico. Construction on a new \$96 million CBP inspection facility will begin in January 2017, with an expected completion date of March 2019. The new facility will have dedicated privately owned vehicle inspection lanes along with new commercial vehicle export and import crossings. In 2012, a new \$11 million CBP facility was built at the Antelope Wells POE. Mr. Bernal informed the committee that there is now movement on the Mexican side of the border with the paving of Mexican Federal Highway 2, which had previously been dirt. The Mexican government has recently been funding infrastructure, which complements efforts by the United States.

The DOT has begun several projects, including the creation of the Santa Teresa Border Area Transportation Needs Assessment and Strategic Plan, which consists of a comprehensive needs assessment to prioritize transportation infrastructure within the region. The West Mesa Corridor Study will be looking at connecting the Santa Teresa POE through a corridor road between the Pete Domenici Highway (NM 136) and Interstate 10 West in Dona Ana County. Truck drivers are looking for quicker access points for commercial transport, and this corridor will provide an expedited route. The New Mexico-Chihuahua Border Master Plan is a binational effort to create a workable plan for prioritizing and advancing POE and related transportation projects. The DOT has been working with Mexico and the State of Chihuahua on road improvements, highways and corridors. The DOT will be using the Santa Teresa POE to conduct a border wait time analysis. The analysis will focus on northbound commercial truck traffic and will integrate with the Border Crossing Information System. In closing, Mr. Bernal emphasized New Mexico's unique opportunity and geographic position for becoming an active player in international trade and the importance of continuing binational coordination.

Pete Kassetas, chief, New Mexico State Police, provided an overview of the agency's Commercial Vehicle Enforcement Bureau (CVE) at the Santa Teresa POE. The new CVE facility at the POE opened in June 2015 and was built to accommodate the projected growth in traffic. Chief Kassetas highlighted some of the new facility features, which include larger vehicle bays, license plate readers and the ability to conduct faster inspections on traditional vehicles. The POE is not currently a 24-hour facility and the CVE's hours correspond with the POE's existing hours of operation; there is a potential to expand hours, which would increase the need for six additional inspectors. Chief Kassetas briefly mentioned the staffing at the facility and provided an explanation of the commercial POE inspection process. When inspecting vehicles, inspectors check for compliance with existing regulations, proper and current registration, proper insurance, proper endorsements and licenses, record of duty status and the vehicle's origin and destination. The Santa Teresa POE is seeing an increase in the number of permit sales and the total number of inspections, with an average of over 94,000 safety inspections. Joint efforts with the DOT have been positive and have increased safety. Chief Kassetas cautioned against understaffing and taking officers off the road to conduct inspections because it compromises safety on the road.

Jimmy Glascock, deputy chief, CVE Bureau, DPS, discussed some of the benefits the bureau has seen following the partnership with the DOT. Prior to the partnership, along with transportation inspectors, state police officers were being tasked with selling permits. This caused issues both with enforcement and safety inspections. Now, however, there are employees charged solely with the sale of permits. Officers are back on the road and fulfilling their intended duties. Traffic at nearby Anthony, New Mexico, is doing much better and moving well. Wait times have been decreased and drivers are more satisfied. Deputy Chief Glascock thanked the DOT for its support and efforts for better coordination.

Members of the committee recognized the efforts of cooperation by the DOT and DPS. The accomplishments and increase in improved operational practices were noted by the committee. The following questions and topics were addressed in response to the presentation:

- challenges facing truck drivers doing business in the eastern part of the state;
- issues with renewals and permitting;
- the benefit of allowing the movement of wide loads on Sundays and the need for informing POEs of regulation changes;
- the need for reciprocity between states to keep up with ever-changing regulations;

- freight from Mexico, including increases in operations at sea ports;
- increase in traffic and wait times as a result of congestion from El Paso interchange construction;
- plans for building a fueling station at Santa Teresa;
- recognition of economic development and trade expansion opportunities for the state;
- impact of a new presidential administration on trade agreements and the North American Free Trade Agreement (NAFTA);
- large investments by Mexico and the state to build infrastructure in the border region;
- the need to reconsider exemption taxes and other potential revenue sources;
- methods of regulation enforcement and new technology;
- the need for road improvements and considerations for future maintenance with increased wear and tear from traffic;
- efforts by trucking companies to reduce wear and tear on vehicles and roads;
- numerous benefits of smooth, efficient and safe operations at POEs for all stakeholders;
- consideration of implementation of tolls and/or taxes;
- requirements and funding needs for expanding facilities to 24-hour operations;
- challenges with recruitment and retention of staff; and
- the potential for privatization and public-private partnerships.

Water Trust Board (WTB) Presentation of Water Projects for Legislative Approval

Tom Blaine, state engineer, and chair, WTB, commended the staff at the NMFA for working with the policy committee to help simplify the application process and encourage expenditures of previous water project funds. The Water Project Finance Act provides that the NMFA may make loans and grants to projects recommended by the WTB and authorized by the legislature. Several changes to the application process for water projects have been made in the last year, creating a more robust process. Following the changes to its rules, the WTB finalized comprehensive policy amendments that streamlined the funding requirements, simplified the application process, increased access to the program by providing a sliding scale for determination of local matches and increased transparency by including evaluation criteria for each project type within the policies. Some applicants have been discouraged from applying because they cannot meet the requirements, Mr. Blaine admitted, but the applications that have been submitted demonstrate more thorough preparation.

Marquita D. Russel, chief of programs, NMFA, discussed some of the work done by the NMFA in recent months and the evaluation process for applications. By August 8, 2016, the NMFA had received 80 notices of intent to file an application for water projects. On October 6, 2016, 62 applications totaling more than $60 million were filed, two of which were deemed ineligible and four of which were deemed incomplete largely due to non-submission of required planning documents. The final list of reviewed applications included 56 projects totaling approximately $58 million. Using the criteria set forth in the revised WTB project management policies, a project management team composed of staff from seven agencies and the Legislative

Finance Committee (LFC) evaluated the applications and provided its evaluations to the WTB, which met on November 3, 2016 to hear application presentations.

For the 2017 cycle, NMFA staff anticipates that a maximum net total of $16.38 million will be available: $14.2 million from severance tax bonds (STBs) plus $4 million from the Water Trust Fund distribution, less 10 percent to the Office of the State Engineer for adjudication. Pursuant to WTB policies, the maximum amount a single project can receive is 15 percent, which is expected to total $2.457 million for the 2017 cycle. Ms. Russel explained how project criteria are weighted and that each of the four project types has its own criteria for evaluation, along with policy targets for awards (see handout for a full breakdown and list of projects). The committee was provided a spreadsheet that detailed the 32 projects being recommended for legislative authorization. Projects up for reauthorization must spend their existing funds before they are allocated any additional funds. Ms. Russel did note that projects can request a waiver in some circumstances, but the NMFA will be granting fewer waivers in the coming year. The NMFA staff has been identifying projects that have potential spend-down issues and alerting entities of the issue. To date, the NMFA has awarded 350 projects. All but four of those have closed or have closing dates. The new policies implemented by the NMFA are working as they were intended.

Ms. Russel provided binders containing summaries of existing projects to the committee for review. The chair led the committee in praising the NMFA board and staff for their efforts to be more efficient and their work in holding applicants more accountable. Having a list of projects prior to the legislative session is helpful for legislators and helps to ensure that money is available for projects before they are approved. The committee discussed the following points relating to the WTB and water projects with the panel:

- local contribution requirement for WTB projects;
- benefits of the point system and criteria list;
- increased strength of project applications, largely due to planning document requirements;
- higher prioritization for health and safety projects;
- uncertainty as to what severance tax fund amounts will be for the upcoming budget year;
- communication with applicants and clients about status on the priority list;
- development of a structured and transparent water projects process that is both readable and understandable for applicants;
- the need for flexibility in percentages of project types;
- the WTB as a potential example for capital outlay reform; and
- the reality and impact of the state budget crisis on all agencies and departments.

Approval of Minutes

Upon proper motion by Representative Ezzell, seconded by Representative Powdrell-Culbert, the minutes from the fifth meeting of the NMFA Oversight Committee were unanimously approved by the committee.

Request for Endorsement of Proposed Legislation

The following legislation was presented to the committee for endorsement for the 2017 legislative session. A brief synopsis was provided for each bill followed by committee discussion. It is noted that support or opposition is reflective only of committee endorsement, not necessarily of the legislation itself.

Water Trust Projects (.204813.1SA). This proposed bill authorizes the NMFA to make loans or grants from the Water Project Fund for certain water projects. Ms. Russel noted that these were the 32 projects discussed during the previous presentation.

Following a motion by Representative Lundstrom, seconded by Representative Ezzell, the committee voted to endorse this legislation without any opposition. Senator Cervantes and Representative Lundstrom agreed to carry the bill during the 2017 session.

Appropriation to the Drinking Water State Revolving Loan Fund (.204809.1SA). This bill proposes to make an appropriation for drinking water system financing in the amount of $1.8 million from the PPRF.

Upon motion by Representative Lundstrom, seconded by Representative Roybal Cabellero, the committee voted to endorse this legislation without any opposition.

Delegation of Bond Sale Completion Authority (.204812.1SA). This bill proposes to allow public bodies to delegate authority for making certain determinations regarding sales of public securities, clarify definitions and require reporting to the committee. The bill would allow public entities to delegate authority to approve the price at which public securities are sold at the time of final market pricing. Passage of this legislation would provide for sale flexibility, improved public accountability, informed decisions by delegates due to involvement in pricing and decreased costs of issuing bonds. A representative from RBC Capital Markets in Albuquerque noted support for the bill. Following discussion of the legislation, a suggestion was made to amend the effective period for the authorizing instrument from 180 days to 120 days. There was no objection to the change.

Upon proper motion by Representative Lundstrom, seconded by Representative Gomez, the committee moved to endorse this legislation, as amended, without any opposition.

Authorization of Projects for Funding from the PPRF (.204810.1SA). This bill proposes to authorize the NMFA to make loans for public projects from the PPRF. This bill details all of the entities seeking project funding, 128 in total. With this legislation, only those projects listed in the bill or under the amount of $1 million could be authorized by the NMFA without further legislative action. A discussion about the benefit of the bill for smaller communities ensued.

Following a motion by Senator Griggs, seconded by Senator Cotter, the committee voted to endorse the bill for the 2017 session without any opposition.

PPRF Funding Without Individual Project Approval by the Legislature (.205099.1SA). This proposed bill would permit the NMFA to make loans in excess of $1 million to qualified entities without legislative authorization. Under this legislation, the list of entities has been removed, allowing the NMFA to independently make a determination regarding projects. Several members of the committee expressed concern regarding the legislation.

Following a motion to table by Representative Lundstrom, the bill was tabled without further consideration by the committee.

Amendments to the Energy Efficiency and Renewable Energy Bonding Act (.204811.4SA). This proposed bill amends the Energy Efficiency and Renewable Energy Bonding Act. Louise Martinez, director, Energy Conservation and Management Division, Energy, Minerals and Natural Resources Department, explained the purposes and impact the bill would have as an added potential to benefit entities in need of another funding resource. The bill would expand the current program to allow higher education institutions to be eligible for the program. It would also change the existing act to conform with current practice. The amendments of the proposed legislation do not increase or decrease administrative costs or bonding capacity beyond what was established with the original act. Members of the committee expressed concern about components of the bill, particularly language about a lease-purchase agreement.

Lacking a motion for endorsement, this bill was tabled by the committee without further consideration.

NMFA Report on the Economic Development Revolving Fund (EDRF)

Ms. Russel delivered the second of two statutorily required presentations on the EDRF to the committee. She noted that the presentation was just a report on the EDRF's status and that no action by the committee is necessary. The Statewide Economic Development Finance Act (SWEDFA) was established in 2003 to help stimulate the economy, particularly in rural and underserved areas of the state, by creating financing tools that put New Mexico on par with neighboring states. The SWEDFA partners the NMFA with the EDD in operating several programs. The EDRF is the fund created under the SWEDFA from which the NMFA makes loans. The EDRF is segregated into two sub-accounts that operate separately for state and federal funds — the Smart Money Loan Participation Program and the Collateral Support Participation Program. Ms. Russel highlighted some of the benefits of loan participation, which include the ability to allow the NMFA to fill financing gaps and lower costs for New Mexico businesses. The NMFA is able to participate in a business loan by buying a portion of a loan made by a local bank, and the borrower benefits from a lower-cost loan. The majority of banks participating in these loans are community banks in New Mexico. John Brooks, director of commercial lending, NMFA, joined Ms. Russel in detailing the two programs for the committee:

- *Smart Money Loan Participation Program (Smart Money).* This program provides long-term, low-cost financing to businesses located predominantly in rural New Mexico using state funds, and the NMFA shares equally in the collateral available to the bank. To date, Smart Money has participated in five loans for projects located in Alamogordo, Raton, Las Vegas, Las Cruces and Hobbs. Since the last report, the NMFA has approved an additional loan for a new health care facility in Las Cruces. The loan total for the six projects is $27,216,694. The Smart Money portion for those projects is 26.7 percent, or $7,261,662. An additional 12 loans totaling approximately $13.34 million were approved by the NMFA, but for various reasons they did not move forward.

- *Collateral Support Participation Program (Collateral Support).* This program provides short-term financing, such as construction or working capital lines of credit using federal funds. The NMFA is able to purchase "subordinate" collateral interest, which allows more capital to be advanced to businesses. In June 2011, the NMFA partnered with the EDD to administer the $13.2 million in funding made available through the federal Small Business Jobs Act of 2010 and overseen by the U.S. Department of the Treasury. The funds are intended to increase the flow of capital to small businesses. The state is required to leverage 10 private dollars for each federal dollar by December 31, 2016, and the state is currently on track to meet this goal. Since the first loan was made in May 2012, five loans have already been paid in full. Those repaid loan funds are being used to fund other loans. All of the loans have been made to businesses that were started in New Mexico, helping existing businesses with expansion as well as start-ups. The total project financing for Collateral Support loans is $54,924,864, with at least 256 jobs created in communities around the state.

Following the presentation by Ms. Russel and Mr. Brooks, members of the committee thanked the staff of the NMFA for their work over the course of the interim and expressed interest in expanding the work of the WTB into the capital outlay process. Mr. Coalter emphasized the work that NMFA staff has done to assist entities in spending their previously allocated money from the various NMFA programs. These spend-down targets are ensuring that entities are following and meeting guidelines for projects. A member cautioned that extenuating circumstances sometimes occur in these communities and expressed hope that the board is willing to make accommodations in these cases.

Recess

The committee recessed for the day at 4:24 p.m.

<u>Friday, December 2</u>

Reconvene

The second day of the sixth meeting of the NMFA Oversight Committee was reconvened by Senator Cervantes at 9:49 a.m.

Increasing Efficiencies in Funding Local Capital Projects

David Abbey, director, LFC, and Linda Kehoe, principal analyst, LFC, discussed the capital outlay process and possible improvements to it. They indicated that the LFC looks at local outstanding capital outlay appropriations every quarter and frequently provides reports to local governments. Ms. Kehoe provided the committee with a copy of the last quarterly report, including a detailed spreadsheet listing the projects and their statuses. As of October 2016, approximately $842.8 million from all funding sources for 2,581 projects remains outstanding, including $135.8 million of earmarked fund balances for water ($63.6 million), colonias ($38.4 million) and tribal ($33.8 million) infrastructure projects. Approximately $386.7 million remains outstanding from supplemental STBs for public schools. The December quarterly report will be available the second week of the legislative session and will include an additional 148 projects totaling $174.3 million funded by GO bond issues approved by voters in November 2016. Since the June 2016 quarterly report, 610 projects totaling approximately $169.1 million were expended or reverted, according to Ms. Kehoe.

The LFC tracks appropriated state funds of more than $300,000 and less than $1 million for local capital projects, with data derived from the Capital Project Monitoring System (CPMS) operated and maintained by the Department of Finance and Administration (DFA). Grantees responsible for oversight of the project are required to update the CPMS monthly; agencies are required to update monthly, but there continue to be a number of local entities that are out of compliance. A second report detailing local capital projects was distributed. Local capital projects are sponsored by individual legislators or the governor and funded with allocations set aside for these types of projects. With limited staff, the LFC is not able to look at all of the projects. Ms. Kehoe encouraged all legislators to review projects in their districts and work with their constituents to ensure completion. Given the state's current solvency issues, the LFC is looking at what reauthorizations are needed to make projects viable.

Ms. Kehoe stated that the capital outlay process is cumbersome and could benefit from being streamlined. Ms. Kehoe added that the State Board of Finance has created a paperless system and is no longer issuing bonds for projects that are not meeting requirements and audits. Mr. Abbey and Ms. Kehoe affirmed the many inconsistencies at the state level in terms of the capital outlay process. Mr. Abbey stated that the LFC and the DFA plan to continue to meet regularly to get some of these issues addressed administratively and without legislation. Mr. Abbey has spoken with Raúl Burciaga, director, LCS, and commented that there has been great success with a joint committee between the LFC and the LCS in the past. This may be a potential method of addressing capital outlay reform.

Timothy Keller, state auditor, Office of the State Auditor (OSA), noted that the capital outlay data from the LFC and DFA were more current than that of the OSA. The OSA's July 1, 2016 report will be available in February 2017. Recently, the OSA administratively changed the audit rule to require that agencies disclose their fund levels. This was not previously in the rule, and the OSA will now get this information on an annual basis. Auditor Keller highlighted some information from his office for the committee. There are about 400 funds and 86 agencies in New Mexico. The funds fall into two categories: capital outlay funds and dedicated revenue money. Some funds are used for a specific purpose and are not part of the budgeting process. While some funds are increasing, like those of the NMFA and Spaceport America, other funds seem mostly stagnant. Auditor Keller believes that more could be done structurally to address issues surrounding the capital outlay process. Ideally, there needs to be a task force looking at these funds and projects to ensure timely expenditures. By appointing a point person, or a tsar, there would be better transparency and accountability. He noted the difference between encumbered and allocated funds, clarifying that encumbered funds have legal constraints but can still be moved. The process could also benefit from automatic reversion of unspent funds after a reasonable period of time. Auditor Keller stated that there needs to be mutual responsibility between the government branches — some things could be addressed by the executive branch. Referencing the best practice handout, Auditor Keller stressed the need for greater collaboration with local governments to avoid conflicting projects. The upcoming OSA report has similar recommendations to those on the handout.

Fred Nathan, executive director, Think New Mexico, discussed what can be done to address some of the issues relating to capital outlay and why it should be fixed during the upcoming year. One area of agreement during the recent election was the overwhelming need for infrastructure investment throughout the country. According to Mr. Nathan, research shows that the public will support infrastructure improvements and the good-paying jobs created. As a general rule, a $100 million investment in infrastructure generates 2,700 jobs. The state is currently looking at $300 million in infrastructure needs; he stated that this is the single most important thing the state can do for job creation. By growing the economy, the likelihood of having to make budget cuts or raising taxes is reduced. Mr. Nathan believes that capital outlay reform should be at the top of the legislative agenda. Some elements to a successful approach to capital outlay reform include:

- a multi-year plan;
- objective criteria for ranking projects — using criteria such as "shovel readiness", availability of a federal or local match and urgency for public health and safety;
- geographical diversity;
- a focus solely on infrastructure projects that create jobs, not allocating funds for items such as equipment; and
- the process must be transparent to garner the support and input from citizenry.

Mr. Nathan shared some examples of what other states have done with their capital outlay programs. He noted that New Mexico has done well with public school capital outlay following the *Zuni* lawsuit and provided a brief summary of the litigation. At the time of the lawsuit, 71 percent of school buildings were deemed deficient; that list is presently down to 35 percent. Mr. Nathan believes that this is a model for how all public infrastructure should be handled. A committee, absent of political agenda, should be created to focus entirely on addressing capital outlay. This committee would hold hearings, beginning at the start of the fiscal year, and evaluate projects by a set of criteria.

Stephanie Schardin Clarke, deputy secretary, DFA, clarified information about the executive order requiring local audits as a prerequisite for capital outlay funds. Entities can still receive capital outlay, but they must have a fiscal agent. The notion that there is a backlog of transactions waiting to be processed is inaccurate — there are different levels in the process, and an application could have issues at any of a number of junctures, causing delays. For example, the governmental applicant may not be in compliance with the Audit Act. As another example, an entity may not follow up after receiving communications from the DFA. There is a need for constant communication between all of those involved. Ms. Schardin Clarke urged committee members to contact the DFA if a constituent is experiencing an issue with the agency and the DFA will work to address the issue. Some suggestions for the process included the development of a working group composed of various agencies involved with capital outlay; ensuring project readiness prior to approval; and a reduction of the administrative burden. Reducing the number of project applications by eliminating those that are not ready to move forward would be a good approach.

Following the presentation, members of the committee discussed the information presented by the panelists. Some key points addressed were:

- difficulties experienced by entities in working with the DFA;
- the need for a percentage of infrastructure funding to be dedicated to maintenance;
- the need for prioritization of projects with good planning;
- collaborations with other legislative committees like TRANS and the Jobs Council;
- the importance of infrastructure in the creation and support of economic development;
- concern about remaining geographically equitable;
- greater prevalence of infrastructure needs in rural areas of districts;
- the need for consideration of projects requiring less than $10,000;
- challenges of smaller entities that rely solely on volunteers with limited expertise and the need for greater outreach from the DFA to work with these entities;
- potential for planning from a regional perspective as opposed to a by-district approach;
- opportunities to leverage federal funding;
- current efforts by the OSA to engage smaller communities through the use of an "at risk" list to bring entities into compliance for using capital outlay funds;
- the availability of auditors to help small communities around the state;
- the impact of overall state budget cuts and impact on the OSA;
- the large number of funding requests in small communities for water projects;

- the importance of working with various levels of government to ensure both clarity of process and accountability;
- the existing internal capital outlay team at the DFA that meets every two weeks and efforts to improve consistency at the agency;
- the need for greater collaboration among all state agencies that are involved with the capital outlay process; and
- the need for legislators to begin examining capital outlay reform during the upcoming session.

Spaceport Authority Update

Richard Holdridge, chair, board of directors, Spaceport Authority, addressed the committee with an update of current operations at Spaceport America. Following a national search, the board of directors ultimately went with their first choice and hired Daniel Hicks as CEO of Spaceport America. Mr. Hicks' background includes work at White Sands Missile Range and previous experience with Spaceport America through a memorandum of agreement (MOA) between the two entities. Mr. Hicks highlighted some of the most recent activities at the facility, including the maintenance of five permanent aerospace tenants, 31 vertical launches, $2.3 million in customer revenue for fiscal year (FY) 2016, the creation of 50 full-time jobs and Science, Technology, Engineering and Mathematics (STEM) outreach to over 2,000 sixth-grade students across the state annually. Spaceport America is funding 71 percent of its operating expenses in FY 2017 and 92 percent in FY 2018, and it will be 100 percent self-funded in FY 2019. There are 11 other spaceport facilities around the country. In addition to Virgin Galactic and Boeing, SpaceX, Up Aerospace, Exos Aerospace and Vanilla Aerospace are all customers at the facility; several others are currently in the pipeline. The committee viewed a video demonstrating sub-orbital operations. Spaceport America is bringing good economic value to the state and adding several other non-aerospace activities to generate revenue and encourage tourism. Four signature events have taken place or are scheduled at the facility, including an open house, the Spaceport America Drone Summit, a two-day endurance relay race and the Spaceport America Cup, which is the world's largest international intercollegiate rocket engineering competition. Beginning in January 2017, Spaceport America will be partnering with the virtual education platform "FieldTrip Zoom" to make Spaceport America STEM content available at no cost to every school in New Mexico. Spaceport America has received $90 million in earned media for New Mexico in the last year, which is media related to a company's brand that is not directly generated by company-paid advertising.

The development of the Southern Road is critical to the future success of the Spaceport. Dona Ana County is expected to sign an MOA. The first step will be to finish the archaeological studies and begin work on the environmental studies. Construction is set to begin in July 2017 and will take approximately one year. About $14 million in funds from STBs has been assigned to the Southern Road project. According to Mr. Hicks, every dollar invested in the Spaceport has a 20-fold return in economic impact. The General Fund investment for FY 2016 was $944,000 and the economic impact was $20.8 million.

The committee questioned representatives from the Spaceport Authority about the following aspects of the presentation:

- examples of horizontal launch capabilities;
- the potential as a testing site for launches and interest by global companies in the New Mexico facility;
- allocation of bond payments to county commissions for distribution to local schools;
- the need for expansion of manufacturing for drone technology in the state;
- the potential for manufacturing other technology developed at the national laboratories;
- the large investment by the state in the Spaceport and need for greater return;
- the potential for building capacity and partnerships with other national laboratories in the state;
- the willingness of new leadership in working collaboratively moving forward;
- the lease agreement with Virgin Galactic set to triple in payments for the coming year;
- operating budget for FY 2016 at $5.6 million;
- questions about some of the other customers at the facility and their operations;
- an inquiry about the fencing project, particularly the cost of the project;
- potential future partnership with NASA;
- inquiries about STEM outreach and potential for partnership with the Public Education Department;
- involvement with the Jobs Council and TRANS;
- a request for more information regarding the finances of Spaceport America and the claim of self-sustaining operations;
- concern about use of the Spaceport for activities outside its intended purpose, i.e., races and events;
- concern expressed about Virgin Galactic and the future of space tourism; and
- a request for the amount of excess pledged revenue and the date for when the GRTs are set to expire.

Adjournment

There being no further business before the committee, the final meeting of the NMFA Oversight Committee for the 2016 interim adjourned at 12:49 p.m.