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

July 11-12, 2016
Taos County Complex
105 Albright Street
Taos

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Joseph Cervantes, chair, on July 11, 2016 at 9:49 a.m. at the Taos County Complex in Taos.

Present	**Absent**
Sen. Joseph Cervantes, Chair	Rep. David E. Adkins
Rep. Jane E. Powdrell-Culbert, Vice Chair	Rep. Candy Spence Ezzell
Rep. Sharon Clahchischilliage	Rep. Dona G. Irwin
Sen. Lee S. Cotter	Rep. Patricia A. Lundstrom
Rep. Bealquin Bill Gomez	Sen. Richard C. Martinez
Sen. Ron Griggs	Rep. Andy Nunez
Rep. Idalia Lechuga-Tena	Rep. Patricia Roybal Caballero
Sen. Michael Padilla (7/11)	Rep. Monica Youngblood
Sen. Nancy Rodriguez (7/11)	
Rep. Patricio Ruiloba	
Sen. John C. Ryan	
Sen. William P. Soules	

Advisory Members

Rep. Alonzo Baldonado	Sen. Sue Wilson Beffort
Rep. Kelly K. Fajardo	Sen. Jacob R. Candelaria
Rep. Roberto "Bobby" J. Gonzales	Rep. George Dodge, Jr.
Sen. John Pinto	Rep. Brian Egolf
Rep. Debbie A. Rodella	Sen. Stuart Ingle
Rep. Tomás E. Salazar	Rep. Sarah Maestas Barnes
	Sen. Bill B. O'Neill
	Sen. Mary Kay Papen
	Sen. William H. Payne
	Sen. Clemente Sanchez
	Rep. Sheryl Williams Stapleton
	Rep. Don L. Tripp

(Attendance dates are noted for members that did not attend both days of the meeting.)

Staff
Lisa Sullivan, Staff Attorney, Legislative Council Service (LCS)
Jeff Eaton, Research and Fiscal Policy Analyst, LCS
Alexandria L. Tapia, Staff, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted at https://www.nmlegis.gov/Committee/Interim_Committee?CommitteeCode=NMFA.

Monday, July 11

Welcome and Introductions

Senator Cervantes welcomed everyone to the meeting. Members of the committee and staff were asked to introduce themselves.

Leandro Cordova, county manager, Taos County, welcomed the committee and discussed how the Taos County Administrative Complex was constructed in large part with financing from the NMFA. He informed committee members that they were meeting in the new commission chambers. He highlighted some of the projects that Taos County has been able to complete with the financing help of the NMFA. For example, the county courthouse is currently being remodeled and updated, and the county is working on a new building for the fire department. Mr. Cordova thanked local legislators for their help in obtaining capital outlay funding and praised the NMFA, which he believes offers very advantageous lending terms to small governments. The very knowledgeable NMFA staff helps local governments learn about the funds and grants available to them, Mr. Cordova said. Mr. Cordova also acknowledged his deputy manager, Brad Jaramillo.

NMFA Update on Internal and External Audits

John E. McDermott, chair, NMFA Board, provided the committee with his personal background and experience. Mr. McDermott shared a brief history of the organization and the impact it has had on communities all over the state. The NMFA has maintained the absolute highest standards when it comes to audits and control and has had unblemished audits with no significant deficiency findings or systematic issues since the time of the 2011 audit anomaly. Several committees within the organization are designed to ensure proper audits, determine risks and thoroughly inspect contracts. Mr. McDermott added that the NMFA has maintained its AAA bond ratings due to effective policies, procedures and staff.

Dan Opperman, general counsel, NMFA, provided the committee with an update on the internal and external audits. Mr. Opperman explained that some of the issues surrounding the fake 2011 audit arose from the auditing committee not operating properly at that time, and he talked about some of the measures that have been implemented to ensure that that situation does not occur again. The external audit is conducted as an annual review based on national standards. The internal audit is outsourced to an outside contract, which is a best-practice measure to ensure the outcomes that the external auditors will be looking at are correct. RSM US, LLP is the third-party contractor that the NMFA is using, and has used, for the internal audit.

Certain improvements to the organizational structure are ongoing. One of the biggest issues that the NMFA has faced has been inefficient data systems; a Systems Implementation for Loan Origination (SILO) program is under way to address that issue. Emphasis has been placed on succession planning to reduce concentrated staff — this helps prevent the loss of institutional knowledge when an employee leaves the organization. The NMFA receives proper board training and orientation, and an employee manual has been developed. The goal is to make sure that the board and the committees understand existing programs. Various trainings are offered to make sure that board members and staff are up to date on changes in the law and funding programs, such as the New Markets Tax Credit Program. The NMFA continues to evaluate its practices to improve its operations and take proactive steps to ensure efficiency at the highest level.

Following the presentation, Mr. McDermott and Mr. Opperman answered questions from committee members pertaining to the audits and the NMFA's operational functions, including:

- the 2011 audit — what the findings of that audit were and the causes of and steps taken to address those issues;
- the benefits of third-party review of agency management;
- an explanation of different types of bonds;
- an evaluation of salary structure; and
- the value of succession planning for all government agencies.

Several members of the committee commended the NMFA for its continuous work to improve its organization. It was noted that the use of internal and external audits by the NMFA could someday serve as a model for other state agencies on how to operate.

NMFA Report on the Economic Development Revolving Fund (EDRF)

Marquita D. Russel, chief of programs, NMFA, provided the committee with a report on the EDRF, noting that the report is one of two required presentations given to the committee. 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 EDRF is the fund created in the SWEDFA from which the NMFA makes loans. The EDRF is segregated into two sub-accounts that allow for separate accounting for state and federal funds and from which the NMFA operates two programs:

1. the Smart Money Loan Participation Program: $5.1 million in net state General Fund appropriations; and

2. the Collateral Support Participation Program: $8,168,350 in federal funds received through the federal State Small Business Credit Initiative (SSBCI).

The Smart Money Loan Participation Program is a state-funded program that provides long-term, low-cost financing to businesses located predominantly in rural New Mexico. In the Smart Money Program, the NMFA shares equally in the collateral available to banks. The Collateral Support Participation Program provides short-term financing, such as construction or working capital lines of credit. In this program, the NMFA is able to purchase "subordinate" collateral interest, which allows more capital to be advanced to businesses.

Ms. Russel explained that loan participation programs allow the NMFA to participate in a business loan by buying a portion of a loan made by a local bank. Under these programs, the bank applies to the NMFA on behalf of a business by submitting the information the bank used to reach its lending decision. Participation in these programs allows the NMFA to fill financing gaps and reduce the financing costs incurred by New Mexico businesses. These programs aid in job creation and economic stimulation. Ms. Russel summarized the Smart Money Loan Participation Program, highlighting several projects around the state that received loans (please see handout posted at www.nmlegis.gov for more information).

John Brooks, director of commercial lending, NMFA, expanded on the Collateral Support Participation Program. In fiscal year (FY) 2016, the Economic Development Department received approval from the U.S. Department of the Treasury to redirect $5 million to capitalize an early-stage equity program. These funds were transferred on June 30, 2016 and will help attract other programs to the state, he said. Mr. Brooks noted some of the portfolio highlights for the program, which include the granting of loans to expand existing businesses as well as funding start-ups, that all loans are made only to New Mexico businesses and that several of the original loans have been paid in full. Because of the program's success, community bank officials have begun to get comfortable with the program and understand the program's ability to help attract new businesses to their banks.

Next, Ms. Russel informed the committee about the New Mexico Catalyst Fund. In FY 2016, the U.S. Department of the Treasury approved the redirection of federal SSBCI funds toward an equity program now known as the New Mexico Catalyst Fund. The State Investment Council approved a co-investment of up to $10 million, which is being managed and deployed as a "fund of funds" to investment managers who have market presence and experience in early state companies. This fund, which is being managed by Sun Mountain Capital, requires investment managers to match the investment with private capital on a one-to-one basis.

In response to the presentation on the EDRF, presenters and the committee discussed the following topics:

- eligibility of broadband projects for these fund programs;
- questions pertaining to specific projects listed in the handout;
- limitations resulting from the Anti-Donation Clause of the Constitution of New Mexico;
- participation by local community banks;
- clarification of some of the funds and the status of current projects;
- an explanation of the side-by-side lending process; and
- follow-up done by the NMFA regarding the number of jobs created from these loans.

Water Trust Board (WTB) Update

Ryan C. Flynn, chair, WTB, and secretary, Department of Environment (NMED), addressed the committee with a report on water infrastructure challenges and priorities in the state. There are 1,095 water systems in the state, 81 percent of which serve 500 users or fewer. According to the American Society for Civil Engineers, New Mexico needs to invest $1 billion over the next 20 years just to maintain the existing water infrastructure. Most systems were built before 1960 and are in need of major repairs. Secretary Flynn noted that while emergencies most often compel action and are one way that systems get upgrades, measures that are taken to address an issue quickly are not necessarily taken with any strategic planning. There have been five water system emergencies in the last month alone. Secretary Flynn discussed some of the systemic challenges that exist in addressing the aging systems around the state, including the following.

Low rates in communities. An estimated 22 percent of New Mexicans live below the poverty line, and communities are very resistant to rate increases. The only way to get necessary system upgrades is by increasing rates, up to $9.00 a month in some cases. More needs to be done to educate people on the importance of water, and people need to be willing to spend money on water, as opposed to other expenditures. To make his point, Secretary Flynn included the cost of several phone service provider plans to illustrate that individuals spending money on water needs to be made a priority.

Inadequate technical and managerial capacity for small systems. In some instances, areas have adequate systems, but do not have people with the training to properly operate the systems. Mutual domestic water consumers associations (MDWCAs) have a lot of dedicated volunteers who are able to accomplish a lot for their communities, Secretary Flynn said. There is concern, however, that with many associations composed of an aging population, knowledge of those water systems will be lost.

Difficulty leveraging existing funding mechanisms. Many communities are not large enough to make use of funding sources such as the Tribal Infrastructure Project Fund and funds available through the Local Economic Development Act.

Secretary Flynn discussed the history of collaboration between the NMED and the NMFA. Since 1999, the two agencies have worked to develop several memoranda of understanding to benefit water projects around the state. The NMED and the NMFA continue to work to see how to leverage funds more effectively. The NMED provides technical services to the NMFA in the planning, design and construction phases of water projects. This avoids the need for contracting services, and it is beneficial because the NMED is already familiar with application processes and requirements. Secretary Flynn noted that the Construction Programs Bureau of the Water Protection Division of the NMED receives no money from the General Fund and relies on grants and other funding sources. As chair, Secretary Flynn outlined his priorities for the WTB, which include maintaining a strong working relationship with both the legislature and the NMFA.

Ms. Russel gave the committee an update on policy changes for the WTB. In October 2015, the WTB approved several significant policy revisions that increased the priority on health and safety.

Following the 2016 application cycle, the WTB reviewed those policies and adopted amendments that: clarify requirements for planning documents; slightly modify the targeted annual funding percentages; adjust the weighting of criteria; and establish preliminary expenditure targets that must be met prior to a project being recommended to the legislature.

Ms. Russel detailed the policy amendments and how the amendments will affect future applications. The amendments clarify that the WTB requires non-watershed planning documents to have been accepted within the last five years and watershed planning documents be updated and current, but not be subject to the five-year mark, Ms. Russel said. Based upon the history of recent applications, polices were changed to decrease the range of funding for federal Endangered Species Act of 1973 projects and increase the range of funding for watershed projects.

Ms. Russel explained how the project evaluation criteria had been adjusted to prioritize projects. The criteria themselves did not change — they were just reweighted. Under the newly revised evaluation criteria, health and safety constitute 50 percent of the evaluation; 40 percent is derived from statutory direction; and 10 percent is based on the state water plan. The WTB has also implemented new expenditure criteria to address the perception of large available balances in the Water Project Fund and to incentivize projects to expend funds more quickly. Ms. Russel detailed how the new expenditure criteria will affect projects and applications. (Please see the handout for a chart detailing the breakdown of how projects would be evaluated under the existing scale and under the proposed scale.)

Following the presentation, committee members discussed the following issues with Ms. Russel and Secretary Flynn:

- the types of water systems around the state, which are explained in a chart on the NMED website;

- the approach behind the federal Environmental Protection Agency's threshold for contaminants such as lead, copper and arsenic and testing available through the NMED;
- the need for increased coordination between state agencies on administrating different funding mechanisms;
- the lack of information about basic infrastructure of some of the MDWCAs and the effort to do community outreach to educate associations on the services available through the NMED;
- the need for a one-page document with resource information that could be distributed to constituents;
- clarification on the evaluation process for funding and clarification of the reweighting of criteria;
- the NMED's education campaign on the value of water;
- training for water system operators and the need to maintain professional expertise for water systems;
- the oversight authority of private for-profit companies;
- the availability of loans and grants for tribal entities;
- staffing and budgetary issues facing the NMED;
- illegal tire dumping and efforts being taken to properly dispose of used tires; and
- the need for the public's understanding of water rate increases to aid in infrastructure improvements.

Drinking Water State Revolving Loan Fund Project Update

Ms. Russel provided an update on the Drinking Water State Revolving Loan Fund project. The federal Drinking Water State Revolving Fund was created in 1996 by the federal Safe Drinking Water Act of 1974 (SDWA). Through the Environmental Protection Agency, the SDWA provides capitalization grants to states to establish revolving loan funds and to fund activities that promote sustainable, safe drinking water systems. New Mexico's program was created in 1997 and is jointly administered by the NMFA and the NMED, Ms. Russel said. To date, New Mexico has received $181,255,500 in federal grants, and the NMFA has provided $33,261,100 of the 20 percent in state matching funds. The NMED administers the technical aspects of the program, and the NMFA administers the financial aspects of the funds. The NMFA uses the loan funds to provide below-interest financial assistance to water systems prioritized by the NMED that:

- address or prevent violations of health-based drinking water standards;
- are necessary to maintain compliance with drinking water regulations for contaminants that pose acute and chronic health effects; and
- focus on the needs of small and disadvantaged water systems.

Before the NMFA can make a loan, the NMED must determine that the applicant has adequate technical, managerial and financial capacity to undertake the project. Stephanie Stringer, director, Drinking Water Bureau, NMED, explained how the department provides support for the fund by providing technical, financial and managerial aid to meet this requirement. This support is limited to small systems, which tend to be the ones that need this type of assistance. Once it has been determined that the applicant has technical, financial and managerial capacity, the project can be added to the fundable list, and the NMFA can move forward with loan approval.

Since 2010, federal grants have required that states provide "additional subsidy" to their borrowers, which the NMFA meets through loans it makes with principal forgiveness. For federal FY 2016, the federal capitalization grant requires a 20 percent subsidy, and, at the state's discretion, an additional 30 percent subsidy to be used for disadvantaged entities. New Mexico has opted to provide both pools of subsidy totaling 50 percent, or $4,156,000. Ms. Russel explained the NMFA's assigned principal forgiveness, which cannot exceed 75 percent. A time line for New Mexico's expenditure of federal funds for this program was given to the committee, and Ms. Russel noted that it has increased over the last four years. The NMFA has fully obligated all federal funds presently secured, and the NMFA expects to utilize repaid principal and interest to fund future projects. To date, the NMFA has funded 102 projects in 25 counties totaling approximately $173.5 million.

Secretary Flynn emphasized the successful relationship between the NMED and the NMFA — increased communication between the two agencies has been key to getting projects funded. Secretary Flynn commended the work done by the Drinking Water Bureau of the NMED under the leadership of Ms. Stringer. In response to a question from committee members, the presenters said that they are trying different forms of communication to get information to communities, including public meetings, robocalls and mail-outs. It was noted that there is still more work that needs to be done to better serve communities with limited access to internet and technology.

Approval of Minutes

On a motion made and seconded, the minutes of the June meeting were approved without objection.

Recess

The committee recessed at 3:45 p.m.

Tuesday, July 12

Reconvene

The second day of the meeting was reconvened at 9:41 a.m.

NMFA Report on Active Financing and Funding Programs and Refunding Activity

As requested at a previous meeting, Ms. Russel provided the committee with a presentation differentiating the various financing and funding programs offered by the NMFA. The NMFA meets its mission of helping New Mexico's communities by providing access to capital through mission-based funding in three primary areas: infrastructure and capital equipment projects; water projects; and community facilities and economic development. The presentation provided details about the following projects. (Please see handout for full details.)

Public Project Revolving Fund (PPRF). The PPRF was established in 1992 as the NMFA's flagship program. It provides low-cost financial assistance for capital equipment, building and infrastructure projects. Total projects funded in FY 2016: 68, in the amount of $212,313,231.

Local Government Planning Fund (LGPF). Created in 2002, the LGPF provides up-front capital necessary to allow for proper planning of vital water and wastewater projects. This grant can be used for many aspects of a project, including master plans, infrastructure plans, asset management plans and metropolitan redevelopment plans. Wastewater projects comprise the largest percentage of projects in this program. Total projects funded in FY 2016: 32, in the amount of $1,305,516.

Colonias Infrastructure Project Fund Program (CIF). The CIF was created in 2010, with its first projects receiving funding in 2012, and the CIF provides capital to infrastructure projects in designated colonias. It is funded from five percent of the senior severance tax bonds annually. The CIF is overseen by a separate board that makes project recommendations to the WTB. Funds for this program are delivered as a 90 percent grant and a 10 percent loan. Total projects funded in FY 2016: 37, in the amount of $18,020,574.

Drinking Water State Revolving Loan Fund. Established in 1998, this fund, with grant-like features, provides low-cost financial assistance for construction and improvements to drinking water facilities. Total projects funded in FY 2016: 10, in the amount of $16,436,843.

Water Project Fund. Established in 2002, awardees are selected by recommendation from the WTB to the legislature. Both grants and loans are available through this fund. Total projects funded in FY 2016: 36, in the amount of $44,619,505.

Acequia Project Fund. Created in 2004 with capital from a foundation interested in water projects, the Acequia Project Fund provides grants to planning projects recommended by the Interstate Stream Commission and authorized by the legislature. The maximum award for this grant is $20,000.

Primary Care Capital Fund. Established in 1994, this fund is jointly administered by the NMFA and the Department of Health. The program provides loans with grant-like features to nonprofit primary care clinics with assets of less than $20 million in rural and medically underserved communities. To date, 17 loans have been issued under this program without any defaults.

Behavioral Health Capital Fund. Created in 1994, this fund is jointly operated by the Human Services Department and the NMFA. Loans can be issued to finance the capital needs of small behavioral health clinics and nonprofit clinics with assets of $10 million or less. There is currently $1.5 million in the fund, and the department and the authority are looking for additional projects in rural and medically underserved communities.

New Markets Tax Credit Program. This program is operated under the SWEDFA, which was amended in 2006 to explicitly allow the NMFA to participate in the New Markets Tax Credit Program. Financing under this program may only occur in federally designated low-income communities. Total projects funded in FY 2016: one, in the amount of $7,750,000.

Smart Money Loan Participation Program. This program allows the NMFA to purchase interests in loans made by banks to private for-profit and not-for-profit entities. Loan funds are used most often in instances in which the bank cannot extend additional funds due to bank lending policies.

Collateral Support Participation Program. The NMFA uses federal funds to buy interests in loans made by local banks. As a result of the NMFA's participation, more funds are able to be advanced to the businesses. Total projects funded in FY 2016: two, in the amount of $1,321,668.

Zach Dillenback, chief lending officer, NMFA, provided more detail to the committee regarding the PPRF in a separate presentation. The PPRF was created to assist a wide range of governmental entities in accessing the capital markets at an all-in cost that is highly competitive. The PPRF is purely a loan-source program and not a grant. Qualified applicants range from local governments to special districts, and interest rates are not dependent on the borrower's credit rating. Funding amounts vary from as little as $500 to several million dollars — projects in excess of $1 million require legislative authorization. The PPRF maintains a AAA/Aa1 credit rating, and the PPRF's AAA interest rates are passed down to the borrower regardless of underlying credit. Applicants must have some type of collateral for a loan; typical loan revenue streams include law enforcement funds, governmental gross receipts taxes, general obligation (property taxes), mill levies and special assessments.

Since its inception, the NMFA has made 1,289 PPRF loans totaling over $2.75 billion. More than 667 PPRF loans contain disadvantaged funding totaling more than $82.3 million. In response to suggestions from the NMFA Oversight Committee given during the previous interim, changes to the PPRF's rules and regulations pertaining to disadvantaged funding have been made. These changes include lowering the three percent disadvantaged rate to two percent; increasing funding maximums from $200,000 to $500,000 per fiscal year; and revising the median-household-income qualifying criteria. Because these changes are relatively new, Mr. Dillenback provided the committee with data for the last six months that reflect the revisions to the PPRF disadvantaged funding.

In response to questions from the committee, the following topics were addressed:

- the importance of the continual education of the committee on the various funds to better prioritize projects in the state;
- various details of the programs — clarifying their purposes, advantages and differences;
- the locations of funded projects and loan recipients around the state;
- the approval process for WTB projects;
- the eligibility of charter schools for the New Markets Tax Credit Program;
- the membership composition of the WTB and the Colonias Infrastructure Board;
- issues of taking funds from these programs to address solvency in the state budget; and
- a requested report that illustrates the fund balances over time and their funding sources.

Report from Lower Des Montes (LDM) MDWCA on Infrastructure Replacement and Capital Funding Needs

Mike Martinez, president, LDM MDWCA, addressed the committee regarding infrastructure needs facing the LDM and the Valdez MDWCAs. Mr. Martinez thanked the committee for the opportunity to give a presentation and introduced several members of the board. After providing the committee with a geographical reference of where the two associations are located, Mr. Martinez read a statement outlining the issues and needs. The LDM water system was built in 1967, and the Valdez system was built in 1959. For the past six years, the boards of directors have worked to get funding for the improvements desperately needed for the infrastructure of the water systems. The LDM MDWCA currently has 105 members and a waiting list of approximately 10 families wanting to acquire membership. The water is available; however, the current system lacks the ability to deliver the water. The Valdez MDWCA has 37 members — its system is also in desperate need of repairs, with leaking tanks and corroded pipelines.

Mr. Martinez summarized some of the projects that have been accomplished and the funding that has been secured over the past several years. Working collaboratively since June 2012, the LDM MDWCA and the Valdez MDWCA were approved for multiple grants and loans, including one for a community development block grant of $100,000 for the preparation of a preliminary engineering report; a rural infrastructure program loan for $60,000 to complete the design for both water systems; and a $125,000 grant from the NMED. There is currently $385,000 to work with for their systems. The entire project will cost approximately $1.5 million over three separate phases. Mr. Martinez noted that the project is approved and construction of phase one started in May of this year. He added that every project requirement has been complied with, including budgets, audits, surveys and inspections. Even though the MDWCAs are two small communities with dedicated volunteers, they have been held to the same compliance standards as large utilities in the state, including the Town of Taos. Mr. Martinez stated that the MDWCAs would like to be considered for programs that feature funding at a ratio of 90 percent grant and 10 percent loan. He hopes that the committee can see the desperate need to help the LDM and Valdez MDWCAs complete the project at hand to provide drinking water to their communities.

Scott Medina, engineer, Medina Consulting, explained that these are two adjacent organizations and there are seven water systems that have attempted to regionalize. The two communities have merged administratively to combine their financial, accounting and reporting efforts. Mr. Medina talked about the extreme need of the aging systems and the several updates required. The construction has already begun, but the MDWCAs are in need of additional funding to complete the project.

Ms. Russel noted that the NMFA did award a grant under the Drinking Water State Revolving Loan Fund and encouraged the MDWCAs to apply for funding through the WTB. She added that the NMFA did not receive an application from them last year, but with the new requirements, they could have a very good chance of receiving the funding they need.

Committee members made the following inquiries regarding the presentation:

- the efforts of regionalization to benefit smaller systems;
- water rights settlements happening in the area;
- limited resources for completing resources; and
- difficulty in getting the younger generation active and involved in community water issues.

Adjournment

Senator Cervantes reminded members about the upcoming meeting in Deming with a tour of the Columbus and Palomas areas. There being no further business before the committee, the July meeting of the NMFA Oversight Committee adjourned at 11:54 a.m.