MINUTES OF THE
NEW MEXICO STATE BOARD OF FINANCE
REGULAR MEETING
Santa Fe, New Mexico
November 17, 2015

A Regular Meeting of the New Mexico State Board of Finance was called to order on this date at 9:10 a.m. in the Governor’s Cabinet Room, Fourth Floor, State Capitol Building, Santa Fe, New Mexico.

1. ROLL CALL: QUORUM PRESENT

Members Present:
The Hon. John A. Sanchez, Lt. Governor [Leaving at 12:55 p.m.]
The Hon. Tim Eichenberg, State Treasurer [leaving at 1:50 p.m.]
Mr. Adelmo Archuleta, Public Member
Mr. Robert J. Aragon, Public Member
Mr. John Kormanik, Public Member

Members Absent:
The Hon. Susana Martinez, President
Mr. Michael Brasher, Public Member, Secretary

Staff Present:
Dr. Thomas E. Clifford, Secretary of Finance and Administration
Ms. Leila Burrows Kleats, Director, State Board of Finance
Mr. Jeff Pimm, Deputy Director, State Board of Finance

Legal Counsel Present:
Mr. Luis Carrasco, Attorney General’s Office
Ms. Sally Malave, Attorney General’s Office

Others Present:
[See sign-in sheets.]

2. APPROVAL OF AGENDA

ANNOUNCEMENT: NEXT REGULAR MEETING – TUESDAY, DECEMBER 15, 2015

Ms. Kleats stated that the following items have been withdrawn from the agenda:

12. Luna County – Requests Approval of Transfer of Real Property Known as the Tulip Landfill to the City of Deming
21. Facilities Management Division – Requests Approval of the Acquisition of Real Property by Donation from the City of Gallup at I-40, South of Hasler Valley Road in Gallup and Acceptance of Certain Special Exceptions

Ms. Kleats stated that, under Emergency Funding Requests, the representatives for Item 5 (Timberon Water and Sanitation District) will not be present, but the Board has discretion to act on that item.

Mr. Aragon moved approval of the agenda, as amended. Mr. Kormanik seconded the motion, which passed 5-0 by voice vote.

3. **APPROVAL OF MINUTES: October 20, 2015 (Regular Meeting)**

Mr. Aragon moved approval of the minutes of the October 20, 2015 meeting, as submitted. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote.

**EMERGENCY FUND BALANCES**
Presenter: Leila Burrows Kleats, Director

4. **Emergency Balances -- November 2015**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Balance</th>
</tr>
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<tbody>
<tr>
<td>Operating Reserve Fund</td>
<td>$ 2,000,000.00</td>
</tr>
<tr>
<td>FY14 Emergency Water Fund</td>
<td>$ 118,100.00</td>
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Ms. Kleats reported these balances.

**EMERGENCY FUNDING REQUESTS**

Presenters: [None]

5. **Timberon Water and Sanitation District – Requests Approval of Modification of Loan Terms or Conversion of Loan to Grant ($24,000)**

Lt. Governor Sanchez noted that representatives were not present, and asked staff to address this item.

Mr. Primm referred a draft resolution that would extend the repayment terms of the outstanding loan. The loan was originally granted in 2010 and has been modified once before to delay repayment. He said the loan is in good standing; and Timberon representatives approached the Board about a payment that was due in December before it actually came due. He commented that these are things that the emergency funding policy looks upon favorably in terms of granting requests for modification to loan terms.

Mr. Primm said staff’s recommendation would be to not grant the conversion of the loan to a grant at this time, but instead to delay the payment due in December 2015 to December 2016. The loan repayment dates would therefore be modified to December 31, 2016; December 31, 2017; and December 31, 2018, at $8,000 per payment.
Mr. Aragon moved to adopt the resolution, as presented. Mr. Eichenberg seconded the motion, which passed 5-0 by voice vote.

DEPARTMENT OF FINANCE AND ADMINISTRATION
Presenter: Ron Spillman, State Controller and Financial Control Division Director
6. Update on Payment Card Industry Data Security Standards Compliance Efforts

Mr. Spillman made this presentation, which included a discussion of the Board’s status with respect to industry standards and the potential for penalties.

-- To combat fraud, the Payment Card Industry (PCI) developed Data Security Standards (DSS). They were first established in 1999 by Visa and have gone through three major iterations.

-- In April 2014, Wells Fargo advised the state that it was a Level 2 merchant, i.e., processing 1-6 million transactions annually. In fact, the state processes over 2 million currently. The state was advised it must comply with PCI-DSS by the end of 2014.

-- There are three compliance requirements. In March 2015, Wells Fargo indicated the state was overdue with the possibility of fines in 1Q 2016 of $5,000 to $50,000 monthly.

Responding to Mr. Kormanik, Mr. Spillman said the fine is assessed by the PCI, which is a consortium of five entities that issue credit cards. They will fine the merchant bank (Wells Fargo), which passes the fine on to the state. In addition, they could pull the state’s right to use credit cards.

-- In summer 2015, assisted by qualified PCI vendors, DFA identified 32 agencies currently accepting payment cards. A gap analysis of four agencies suggested that the state was just over 60 percent on its way to compliance.

-- In September 2015, the Enterprise PCI Steering Committee was chartered, with seven members presenting three oversight agencies and four of the largest card users.

-- The committee is in the process of developing a PCI Compliance Plan. It has identified PCI Compliance Officers for each agency accepting cards. The committee is circulating a funding proposal to achieve and sustain compliance. Initial compliance is expected to cost $1 million. The committee is working with Wells Fargo Merchant Services to provide training on PCI regulations.

Responding to Mr. Archuleta, Mr. Spillman said a key task of the committee is to develop a schedule for attainment. Mr. Archuleta said he thought it crucial for the committee to identify a realistic schedule with realistic targets along with a final cost figure.

Mr. Aragon said he was concerned about security issues around entities that are currently accepting credit card payments. He asked if there is any continuity in the security standards to mitigate the state’s exposure; and if not, should the Board be doing something today to mitigate that. He commented that it is the holiday season and a time when people are hacking credit cards to sell to the black market.

Dr. Clifford stated that, based on his discussions with the entities that handle large volumes of transactions, they are fully aware of the need to protect data. He said this is a big step in the continuum
of activities they have been undertaking. He said DoIT has extensive security apparatus to protect the state. He commented that the volume of attacks on the state system is “phenomenal...you’d be amazed.”

Responding to Mr. Kormanik, Mr. Spillman said the preferred method is one set of policies and one set of procedures; in other words, a unified standardized process.

Mr. Kormanik asked if the Board of Finance will be paying for the standardized approach, and is some statutory clarification needed.

Mr. Spillman responded that he believed the state would be on the line for this financially.

Dr. Clifford said Ms. Kleats had just suggested to him that a look at the rule would be advisable with an update specifically related to these requirements, which she would bring back to the Board for review.

Mr. Kormanik asked if DFA is looking at any potential legislation, and Dr. Clifford responded that perhaps only a rule change would be necessary.

Ms. Kleats also suggested that a letter of support be drafted for a special appropriation to cover the cost of compliance.

Mr. Archuleta agreed that the Board should support the appropriation request.

Mr. Aragon commented that the Board has given authority to various agencies in the past to accept credit cards, which raises the issue of grandfathering in. He suggested that it may be prudent for the Board to develop its own set of rules, rescind the approvals for the prior authority it has granted, and require those entities comply with any suggestions from either DFA, the Controller or staff moving forward. He recommended that this process begin right away.

Dr. Clifford said DFA would come back to the Board in December with either a recommended amendment to the rule or a more comprehensive revision as described by Mr. Aragon.

[There was no one present wishing to address this item from the floor.]

SEVERANCE TAX NOTES
Presenter: David Buchholtz, Co-Board Counsel, Rodey, Dickason, Sloan, Akin & Robb, P.A.

7. Approval of Severance Tax Note Resolution, Series 2015S-C

Mr. Buchholtz stated that this begins the process of the semiannual issuance of short-term notes to the State Treasurer’s Office in order to fund capital outlay projects that were approved by the legislature, and also to fund projects of the Public School Capital Outlay Council (Item 8).

Mr. Buchholtz said the resolution before the Board calls for the issuance of a short-term note in order to fund projects that were not included in the last round of note issuances and bond issuance in the spring. The bonds were determined yesterday not to be in excess of $15 million.
Mr. Buchholtz noted that only $15 million is available due to a combination of things, including the reduced amount being deposited into the Severance Tax Bonding Fund because of lower oil and gas prices; and because of changes made to HB236.

Responding to Mr. Aragon, Ms. Kleats said total oil and gas value has fallen by about 50 percent this year.

Mr. Aragon commented that this would have a dramatic impact in the upcoming legislative session.

Mr. Buchholtz concurred. He pointed out that the short-term note issued in the spring was in the amount of $50 million, and the one under discussion today is at a maximum of $15 million. He added that the good news is that the senior note funded most of the projects that needed to be funded, and the $15 million “matches up nicely with what’s left.”

Ms. Kleats clarified that the $15 million was not driven by revenue decline but was determined based on the remaining projects on the authorized but unissued list. She commented that the original amount was $18 million, but three projects totaling $3 million were removed from the list.

Dr. Clifford said the public schools will see a substantial reduction from what they had budgeted for December due to the decline in revenues.

Mr. Buchholtz said he would be back in December with the final list of projects and the final number for this bond issue.

Mr. Aragon moved for approval of the resolution. Mr. Kormanik seconded the motion, which passed 5-0 by voice vote.

8. Approval of Supplemental Severance Tax Note Resolution, Series 2015S-D

Mr. Buchholtz said this resolution would fund projects of the Public School Capital Outlay Council (PSCOC). The Board approved a long-term supplemental issue for the PSCOC in July. This amount is based on the limitations that are imposed relative to HB236 and the pace of collections in the account to date, which is measurably smaller than the supplemental note done in the last round.

Mr. Buchholtz said the amount of this issuance is at a maximum of $45 million, but he has not yet seen a number from the PSCOC as to what they will certify to.

Mr. Kormanik moved for approval. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote.

PRIVATE ACTIVITY BONDS

Presenter: Jeff Primm, State Board of Finance Deputy Director
9. Private Activity Bond Cap Allocation Expiration Date

Mr. Primm said staff is recommending a final expiration date for this year’s allocation of Private Activity Bond Cap of December 26, 2015.
Mr. Aragon moved for approval. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote.

Presenters: Jay J. Czar, Executive Director; Gina Hickman, Deputy Director of Finance


Mr. Czar and Ms. Hickman reported on the New Mexico Mortgage Finance Authority’s (MFA) projected needs for private activity volume cap for 2016, 2017 and 2018, and 2015 carry-forward. Mr. Czar noted that this is the MFA’s 40th anniversary, and in its history, MFA has assisted more than 50,000 New Mexico families.

Ms. Hickman said MFA’s needs have shifted over the last few years because they are selling about 75 percent of their mortgages into the secondary market. Rather than bonding for those and earning administrative fees and residuals over time through the bond transaction, they are earning one-time fees on the sale of those loans into the secondary market. This has allowed MFA to maintain competitive mortgage rates for first-time homebuyers and generate down payment assistance without subsidizing bond programs. This type of funding execution does not require private activity bond cap. While this isn’t MFA’s historical business model, it has allowed them to maintain viability of the organization, so it has been an important shift.

Ms. Hickman said that, for 2016, MFA is requesting no current-year PAB cap for its single-family first-time homebuyer mortgage program. They have projected needs of $150 million for the single-family program for 2017 and 2018; and are requesting $50 million in cap for multifamily projects around the state for each of the next three years. In addition, they are requesting $150 million in 2015 carry-forward.

Mr. Czar stated that there are two multifamily rental projects in the MFA development pipeline, one in Shiprock and the other in Doña Ana County. He noted that the latter is actually six sites in Sunland Park and Anthony for a total of 200 units. He said this is a perfect application for PAB bond cap, and they will probably be requesting Board approval in January or February 2016 for that particular program.

Board members individually thanked Mr. Czar and Ms. Hickman for their dedication and service. Lt. Governor Sanchez commented that the MFA fills a huge gap in meeting the housing needs of New Mexico residents, and congratulated MFA on its 40th anniversary.

PROPERTY DISPOSITIONS

Presenters: Dennis Maupin, Chairman; Joel Carson, Attorney and Legal Counsel for Artesia Special Hospital District, Hinkle Shoran, LLP; Bruce Wiggins, Attorney and Legal Counsel for Artesia General Hospital, Williams and Wiggins, PC

11. Artesia Special Hospital District – Requests Approval of Lease of Real Property at 702 N. 13th Street in Artesia with Artesia General Hospital ($915,600 per year)

Mr. Maupin stated that, in 1999, the Artesia Special Hospital District (ASHD) Board found it desirable to have a hospital that would be operated by a third party. For a period of time prior to November 1999, the ASHD had a management agreement with a New Mexico management company that left the ASHD...
financially vulnerable and owing the management company more than $2 million in operating losses. At that time, the decision was made to lease the hospital as a business unit, shifting most of the financial risk of operating the hospital. As of October 31, 1999, the ASHD entered into a series of agreements to lease the hospital to Artesia General Hospital (AGH), and to operate the hospital through an associated operating agreement with Community Hospital Corporation (CHC). The State Board of Finance approved the 2005 renewal of the facility and equipment lease agreement in 2007, and the 2009 renewal in October 2009. The ASHD did not renew the operating agreement with CHC, which expired in October 2014, but did agree to continue the facility and equipment lease agreement and began the process of entering in a new renewal lease agreement and an associated hospital funding agreement similar to the operating agreement with CHC, but this time with AGH.

Mr. Maupin said the new lease agreement is very similar to the previous lease agreement with AGH, with the main difference being a change in the lease amount based on an update in the fair market value. He said it should be noted that the facility and equipment lease agreement is unique and not comparable to a typical lease of assets. Under the hospital funding agreement, it is understood that the revenues from the operation of the hospital, including revenues in excess of expenses, should be used for the ongoing operation and capital expenses of the hospital and for no other purpose. Thus, no economic benefit can accrue to the lessee during the term of the lease and funding agreements.

Mr. Maupin stated that ASHD is seeking approval of the lease of real property, which includes the facility and equipment, to AGH for a term of five years, beginning November 17, 2015, with the option of an additional five-year renewal term. The lease amount has been established at $915,600 per year based on an updated current fair market valuation report. This is an increase from the original amount of $378,000 per year.

Dr. Clifford asked what factors contributed to the significant increase in the valuation amount. Mr. Maupin responded that, in 2005 and 2006, the ASHD used general obligation bond proceeds to expand the hospital another 65,000 square feet, for a total of 110,000 square feet. They recently entered into another general obligation bond (2013) for $14.5 million for additional equipment and addition of a building that will serve as a bone and joint center. He said they brought in a new administrator in 2005-2006 who has done a great job of growing the hospital, particularly through outpatient revenue sources, and they now have a number of specialty doctors on staff that they did not have before.

Dr. Clifford noted comments in a letter from Taxation & Revenue that there are no comparables identified in New Mexico, so apparently this is a unique type of arrangement in New Mexico. Mr. Maupin said that was correct. He said there are four special hospital districts, but this is the only one that operates this way. He said Lovington has a special hospital district, for instance, but they operate it themselves.

Responding to a question raised earlier by Dr. Clifford with respect to any requirement that the ASHD issue an RFP for a lessee to operate the hospital, Mr. Carrasco said the hospital did provide a citation to NMSA 13.1.98.2(c), which specifically exempts special hospital districts from the Procurement Code.

Ms. Kleats recommended that any approval of this item be contingent upon Director’s receipt, with counsel review, of a revised resolution making approval of the lease subject to Board of Finance approval.
Mr. Aragon moved for approval, with the contingency outlined by staff. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote.

12. WITHDRAWN.

Presenter: Douglas A. Echols, Deputy County Attorney

13. San Juan County – Requests Approval of Sale of Real Property at the Intersection of Road 350 and Road 3500 in Flora Vista to Robert H. Durbin ($28,525)

Mr. Echols stated that San Juan County is requesting approval to sell this remnant of property from a road-widening project, consisting of 0.37 acres, to Robert H. Durbin. The County issued an invitation to bid and received one bid offer that exceeded the appraised value of $22,000. He said the County has not yet heard from the TRD Property Tax Division, so realize approval would be contingent upon their approval.

Ms. Kleats requested that any approval of this item be contingent upon Director’s receipt, with counsel review, of a favorable review of the appraisal by TRD’s Property Tax Division.

Mr. Aragon moved for approval, with the contingency. Mr. Kormanik seconded the motion, which passed 5-0 by voice vote.

Presenters: Laura M. Castille, Legal Counsel, Cuddy & McCarthy, LLP; Benjamin Potts, IT Director; Les Gutierrez, Local Liaison, Verizon Wireless

14. Silver Consolidated Schools – Requests Approval of Lease of Real Property at Silver High School Football Field in Silver City with RSA 5 Limited Partnership dba Verizon Wireless ($12,000 per year)

Ms. Castille requested approval of a lease of a 26-foot by 12-foot parcel containing approximately 312 square feet, or 0.0072 acre, located at the Silver High School Football Field in Silver City with Verizon Wireless for an initial term of 5 years with an option to extend for 4 additional 5-year terms, for a total of 25 years.

Mr. Potts stated that the Silver Consolidated Schools see this project as beneficial to the community for two major reasons: safety and access. He said this tower is within a mile of four of their schools and includes over 60 percent of their population on any given day. Some classrooms at Silver High School have no signal at all. He said this is a security issue, as most of their administrators carry cell phones and would be unable to call out in case of an emergency. Mr. Potts also stated that, in this valley, which is in the northern part of Silver City, lies Gila Regional Medical Center along with 60 percent of the medical offices in the town, the State Police, VA clinic, magistrate court, EMS, regional dispatch and six recreational fields. He also noted that three low-income housing facilities would have access to the tower signal, which is very important because often the cell phone is the only means of communication for poor families and the only means for students to complete online projects.

Mr. Gutierrez said Verizon would like to create a long-term income stream for the school district. While he has not yet seen the appraisal, he believes revenues would be $250,000 to $300,000 over the 25-year lease term.
Responding to Mr. Kormanik, Ms. Castille said the lease amount would increase by 2 percent annually. Staff has asked her to negotiate with Verizon for a reevaluation of that at each five-year mark to determine if the 2 percent is comparable to the CPI and to make sure that the school district is getting the best deal. She said Verizon has been responsive to this.

Ms. Kleats recommended that any approval of this item be contingent upon Director’s receipt, with counsel review, of 1) an executed lease agreement reflecting staff changes, which would include a five-year reassessment of the lease rate so that it is still consistent with fair market value; and 2) school board resolution reflecting revised lease.

Mr. Aragon moved for approval, with the contingencies. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote.

**HIGHER EDUCATION DEPARTMENT**

**Discussion**

HED Secretary Barbara Damron stated that the Higher Education Department (HED) will be requesting approval today of three masters programs. All of the proposals have gone through three rigorous screenings in addition to all of the internal institutional vetting that is done. In addition, each request goes before the Council of Graduate Deans, the Academic Council of Higher Education (university provosts) and a committee comprised of HED, LFC and DFA representatives.

Mr. Archuleta asked Dr. Damron to discuss the process followed by the vetting groups she had mentioned. He said he was seeking assurances that the vetting was such that programs would not be duplicated.

Dr. Damron stated that the Council of Graduate Deans is comprised of deans from the seven universities. The deans look at these programs based on quality of the curriculum and faculty; is there replication in the state; is this needed; and will the school be able to recruit the students, have faculty available to teach them, and will there be jobs for the students after they complete the program. She said the request then goes to the Academic Council of Higher Education, which is comprised of the provosts of the seven universities. They look further at this across the state, whether there is replication, and whether the program meets their criteria. She said the third step involves going before the Higher Education Committee, in conjunction with DFA and LFC. The committee looks at budgetary needs, additional building needs, and costs associated with the program, if any. She said the committee also looks long and hard at any potential duplication.

Mr. Kormanik noted that the cost of education is rising faster than the CPI, and asked if HED is going beyond simply looking at the costs associated with these programs and addressing the increased costs to students, etc.

Dr. Damron responded that it is definitely a concern. If there is any additional faculty or additional facilities needed to accommodate a program, the program would not be allowed to proceed. Currently, given their scant resources, they do not want to add new programs that will bring additional costs to HED. The three programs being addressed today will use existing facilities and existing faculty.
Dr. Clifford commented that, in terms of HED funding, the only way these programs can impact the institutions' budget is through the funding formula. In terms of the general fund contribution, the formula gives the institution most of what it got the previous year plus an increment that is related to the number of degrees and certificates the institution is producing. The only way these programs can impact the general fund contribution is if they in fact increase the output of degrees and certificates. Dr. Damron said that was correct.

Dr. Clifford said there are a set of research & special projects programs (RPSPs) conducted at various campuses, and general fund money flows to those programs. He asked if the proposed masters programs have any relationship to those programs. Dr. Damron responded that none of the RPSPs has any impact on these three masters programs, although occasionally a special project may be tied into a new program that is brought to the Board for approval.

Mr. Aragon asked if the HED analysis included a discussion of job availability for new graduates. He said several people have spoken to him recently about difficulties recent graduates of masters programs are having in finding jobs in New Mexico. He added that, with the exception of Eastern New Mexico University, all of the universities in the state have been experiencing decreased enrollment, which is a cause for concern.

Dr. Damron responded that there is no question that, in years back, HED funded higher education based on square footage and number of students enrolled in the beginning of a class. Under Dr. Garcia's leadership, HED has moved to a very good performance funding formula, looking at outputs, and they have nationally acclaimed best practice outputs.

Dr. Damron commented that creating cohesion between industry, business and the workforce in HED is an extremely high priority for her and the Governor, and this is one of the three buckets of initiatives that they have. To that end, they are working with workforce and industry to address that. As part of the review process, HED also drills universities before they appear before the Board on how they are planning to meet the workforce needs in their region and in other areas of the state and what jobs graduates can fill with this degree that they could not have filled otherwise.

Mr. Aragon said he continues to ask college presidents who appear before the Board why there is such a disproportionate increase in tuition fees for students. He said many students who graduate are faced with crushing debt that makes living a reasonable lifestyle very challenging for them.

Dr. Damron responded that HED has taken a very aggressive role in limiting the number of hours it takes someone to get through school, since the longer someone is in school and the more hours they take that don't apply to their major, the more debt they accrue. HED has worked with all of the four-year universities and the two-year community colleges to limit a four-year degree to 120 hours and a two-year degree to 60 hours.

Dr. Damron said HED has also talked with all of the schools about ways of driving costs down.

Dr. Clifford commented that "trying to be everything to everybody" is one of the more serious problems facing higher education today. He said graduates going into the workforce today are expected to have adaptable skills rather than just a narrow set of knowledge that they can carry with them throughout their career. For that reason, he would think HED would be looking at less specialized
degrees rather than more specialized degrees, and therefore fewer degrees, in a sense. He said this is one of his concerns about the proliferation of new degree programs.

Dr. Damron responded that one of their initiatives in HED is to work with each of the higher education institutions to determine what their niche or specialty area is and to make sure there is no replication elsewhere. She noted that two degree programs brought to HED for consideration were not approved for that very reason.

Dr. Damron stated that she continues to have conversations with legislators, the Executive and with higher education institutions to look at how to govern the higher education institutions in the state and whether 32 governing boards are really necessary.

Presenters: Dr. Barbara Damron, Cabinet Secretary, New Mexico Higher Education Department; Dr. Sam Minner, President; Kerry Loewen, Chair, Department of Media Arts and Technology; Miriam Langer, Professor of Media Arts; Mariah Fox Hausman, Assistant Professor of Media Arts; Ron James, Capital Projects Director, HED

15. New Mexico Highlands University – Requests Approval of a Master of Fine Arts in Media Arts and Cultural Technology

[Lt. Governor Sanchez stepped away from the proceedings during the presentation of this item. Mr. Aragon acted as chair in his absence.]

Dr. Minner made a presentation on the Master of Fine Arts in Media Arts and Cultural Technology degree. He noted that New Mexico Highlands University (NMHU) has been working on this particular degree program for five years, their goal to make sure that the degree was really needed.

Dr. Minner said this MFA replaces the existing masters program at NMHU, so is not using any new resources and makes the students far more marketable. Not only does it give them in-depth knowledge, it allows them to teach in community colleges and universities. He commented that it has been very difficult for NMHU to recruit faculty because no one has the skillset, so they recognize that this is a need at other universities.

Dr. Minner said NMHU wants to keep this program small and competitive. They also have many former students who are “itching to get into this” and so they will have no problem with getting applicants. He also noted that this degree is very affordable and should attract many people. He also stated that the program will be in the Trolley Building, which is fully funded and on schedule to be completed in July 2016.

Mr. Kormanik asked if this program will be mostly revenue neutral in terms of the state funding formula.

Mr. Archuleta commented that this masters program was a “tremendously great addition” to NMHU.

Mr. Archuleta moved for approval. Mr. Kormanik seconded the motion, which passed 4-0 by voice vote.
Presenters: Melissa Binder, Associate Professor of Economics; Mark Peceny, Dean of the College of Arts and Sciences; Julie Coonrod, Dean of Graduate Studies; Chaouki Abdallah, Provost

16. University of New Mexico – Requests Approval of a Masters in Public Policy

Dr. Abdallah stated that University of New Mexico (UNM) has worked to reduce the number of hours required to graduate to 120 hours and has also cleaned up several of its degree programs. In addition, students are also given degree maps that give them a clear path to graduation. Instead of lowering their standards, they have increased demands on their students while at the same time offering them more support. This includes placing incoming students in appropriate courses to help them prepare for their college education. He added that 70 to 80 percent of UNM students are graduating in four and a half or five years.

Dr. Peceny made a presentation on the Masters in Public Policy (MPP) program, which would be a new interdisciplinary graduate degree offered by The College of Arts and Sciences departments of Economics, Political Science and Sociology and the School of Public Administration. He said the proposed MPP program would train a new generation of analysts who can serve the state by identifying and championing data-driven policy options. The MPP curriculum would develop students’ skills in applied research, critical thinking, and oral and written communication. The program will build state capacity in policymaking and program evaluation for the public, private and nonprofit sectors.

Dr. Peceny said UNM sees this as a program to train the next generation of New Mexicans to work in state and local government and for a variety of nonprofit organizations that are serving the state. People already doing policy work for the government would also be able to expand their skills through this program.

Dr. Peceny said UNM expects to admit 10 students per year to the program, so there would be 20 students in the program at any given time. No new faculty would be needed for this program and no new space would be required.

Mr. Kormanik said he received his degree in Economics from UNM, and in his working life has not seen a need for policy analysts. In the finance area, he has seen a need for a masters in public finance and public accounting, particularly in state and local government. He said the idea of policy analyst is great, but state government needs people who can run accounting and finance systems and can basically provide the information that can allow someone to make policy decisions.

Dr. Clifford stated that it is his understanding that there are no programs in the state that are directly focused on governmental accounting, and there is a huge need. When he tries to recruit for those positions, he has a very hard time finding qualified personnel. He stated that there are 130 different executive agencies in state government that need this kind of personnel.

Dr. Binder explained that this is not a finance program. She said they are seeing a large demand at the Institute for Social Research for people who can do evaluations of public programs and public policy. She noted that the Department of Economics is considering replacing their MA program with this program, and students would have the option of specializing in economics within the MPP. She added that this program was developed as a result of conversations with people in government, including DFA and Taxation & Revenue. They are looking to train people who have the equivalent of a masters of economics but with more focus on practical applied research rather than theory. She said MA programs
now tend to be en route to a PhD, but they are looking to give students who want to do applied research in the social sciences in the public policy domain a professional degree. She said the three departments have been talking about this for three years because they recognize the need.

Mr. Kormanik said he was looking at two different concerns. While policy analysis is important, there is also an operational aspect to public accounting and public finance that requires a specialized financial background that these agencies need. Furthermore, with the development of technology and artificial intelligence, every year government is falling behind. He said he did not see how this degree would address that issue.

Mr. Aragon asked if he understood correctly that there was room for some “nipping and tucking.” If so, where and how would that happen.

Dr. Peceny responded that flexibility is built in through their Substantive Specialization (15 credit hours). He said there is nothing in the way the program is constructed that would keep them from collaborating with the Anderson School to build courses in economics and finance and public administration that would be relevant.

Dr. Clifford said the involvement of Anderson and, in particular, discussing with them developing governmental specializations within their programs would be very helpful.

Dr. Clifford said DFA would work with UNM and Anderson, and the other universities as well, to develop more coursework in governmental accounting.

Dr. Clifford said he would encourage UNM to retain their Masters in Economics program rather than eliminating it. He commented, “It’s a two-year dash to a lot of information, and it’s valuable.”

Mr. Aragon moved for approval. Mr. Eichenberg seconded the motion, which passed 5-0 by voice vote.

Presenters: Dr. Barbara Damron, Secretary, New Mexico Higher Education Department; Daniel Ortega, Research Professor of Law; Sergio Pareja, Dean, School of Law; Alfred Mathewson, Dean, School of Law; Julie Coonrod, Dean of Graduate Studies; Chaouki Abdallah, Provost

17. University of New Mexico – Requests Approval of a Master of Studies in Law

Dr. Damron stated that this program is not for a midlevel lawyer degree, but is a Master of Studies in Law that allows people to have expertise in regulation matters and compliance matters.

Mr. Ortega made a presentation on this proposed program. He discussed why there is a need for this Master of Studies in Law (MSL) degree when there is already a JD program at University of New Mexico (UNM).

Mr. Ortega said there is a generalized need for legal education in many fields, and laws and regulations are intertwined with many specialized fields these days. For example, there is a need for compliance work in healthcare and environmental compliance work at Sandia Labs, and in the oil and gas industry. He said the MSL is a condensed education about law and the legal process and is a graduate degree and not a professional degree.
Mr. Ortega said the primary goal of the MSL is to enhance the skills of mid-career professionals and recent college graduates through law courses relevant to current or future jobs. Its secondary goal is to enhance the JD program through law students’ interactions with MSL students from a variety of fields likely to be encountered in law practice and other jobs.

Mr. Ortega said the MSL does not duplicate any other degrees in New Mexico because UNM hosts the state’s only law school. He said they had to apply to the American Bar Association for acquiescence (not approval) in the degree, and the ABA imposed a cap of ten students because this program cannot have any adverse impact on UNM’s law program. Enrollment is eight FTE students at any one time.

Mr. Ortega stated that there are 32 law schools around the country that offer similar degrees, for a total of 36 programs.

Mr. Ortega stressed that graduates of this program cannot take the bar exam nor practice law, and they will not have a “limited license” to practice, as was recently launched in the state of Washington. He said credits couldn’t be transferred to a law program, either.

Mr. Ortega said UNM will use $45,000 of the Dean’s Fund to cover startup costs, and UNM will pay the $6,400 for the benefits that are required. He stressed they will be using current facilities and resources now and in the future. No additional faculty or resources will be needed.

Mr. Archuleta asked what caused this program to come about. Mr. Ortega responded David Herring, the previous Dean of the School of Law, had come from Pitt University Law School, which has had a similar masters program for years. UNM was originally looking at an LLM (master of law degree), but that is for JDs or foreign attorneys who want to learn about U.S. law. He said there are hundreds of LLM programs but only about 36 of the masters programs, and UNM thought that would be more responsive to the state’s needs. While an LLM program would allow upgrades of a few lawyers who are going to practice in New Mexico, foreign attorneys would take that knowledge back to their country of origin and it would not benefit the state as much.

Mr. Archuleta asked how the proposed program would be more responsive to the state’s needs. Mr. Ortega responded that this came from discussions within the university as well as discussions with people who have provided letters of support. He said the program would be of tremendous benefit to the tribal community, as well. Mr. Ortega stated that his experience is in federal Indian law, and he could easily see where someone with a bachelor’s degree from one of New Mexico’s universities could spend an extra year to get this degree, return to their tribal communities, and take positions within tribal government or in tribal enterprises.

Mr. Archuleta commented that he thought this degree was “spot on” and would be very useful to small companies that cannot afford a fulltime attorney. He predicted that the program would grow in future years once small companies learned about it.

[Lt. Governor Sanchez left the meeting. Mr. Aragon served as acting chair for the remainder of the meeting.]

Dr. Clifford noted that law is a highly specialized skill, and he knows the difference between a good lawyer and a bad lawyer when he works with them. He said a good lawyer knows there is more research
that needs to be done, more information available, or more case law that needs to be reviewed. He said
the result with a bad lawyer could be to arrive at the wrong answer.

Dean Pareja said there are many smaller companies that simply cannot afford to have a lawyer on
staff or on retainer. He commented that this is a significantly worse choice than being able to hire
someone who has enough familiarity with the law that they can spot a legal issue and know when it is
appropriate to call for legal expertise. He said UNM held a law school for legislators recently, after
which several legislators commented that it was very helpful and that they wished they knew more
about the law. He said this is what this degree would be offering.

Dr. Clifford commented, “a little knowledge is a dangerous thing,” and said he would just urge UNM
to be cautious with this program.

Dean Mathewson said a classic example of how this degree would apply would be for a legal
journalist, who reports on what is happening in a court case.

Mr. Aragon said his concern is that someone with this degree might be tempted to “cross that line”
into the actual practice of law. He wondered if the NM Supreme Court’s Disciplinary Board shouldn’t be
asked to render an opinion. He commented that he supported this program otherwise.

Mr. Ortega responded that it will be up to the Law School to communicate very clearly with the
students in this program, as well as with the general public, to make bright line distinctions between
what a JD graduate is licensed to do and what graduates of this program can do.

Dean Pareja said UNM hasn’t yet designed the details of the curriculum, but certainly in the
introductory course, it would make a lot of sense to bring in William Slease, who teaches ethics on a
regular basis at the law school. He said he was positive that Mr. Slease would be happy to do this
regularly as a key part of the curriculum, in helping students define what the lines are and what lines
they should never cross.

Mr. Aragon asked Dean Pareja and Dean Mathewson if they would be amenable to approaching the
Disciplinary Board to address the Board of Finance concerns. Dean Mathewson responded yes, but
added that the only issue that board would address, as far as he knew, would be if a graduate of the
program were to offer legal advice.

Dr. Abdullah commented that other universities have been graduating students from this program
for decades, so he was confident that any issues of concern could be satisfactorily addressed.

Dean Pareja said his sense would be that UNM would have a very hard time getting an opinion at
this point from the Disciplinary Board or Supreme Court because it would be premature. As Dean
Mathewson had said, the practice of law does not happen through this degree program, so a graduate is
never authorized to practice law. The only issue that they might raise is whether this program creates a
greater risk of the unauthorized practice of law, and they would be speculating on whether it does or
not. He commented that, if UNM does this right and incorporates the ethical component into the
curriculum, it would actually be reducing the unauthorized practice of law. He said he taught in the
clinical program for a year, and there is an abundance of people, particularly low income families, who
are just “winging it” with various programs online.
Mr. Archuleta moved for approval of the degree. Mr. Aragon seconded the motion, which passed 4-0 by voice vote.

**STATE TREASURER’S OFFICE**
Presenter: Vikki Hanges, Local Government Investment Pool Portfolio Manager
18. **Monthly Investment Reports for Month-Ended September 30, 2015**
19. **Quarterly Investment Reports for Quarter-Ended September 30, 2015**

Ms. Hanges presented these reports.

[By unanimous consent, the agenda was reprioritized.]

**STAFF ITEMS**
Presenter: Leila Burrows Kleats, Director
22. **Adoption, Amendment or Rejection of Proposed New Rule: Determinations of the State Board of Finance**

Acting Chair Aragon stated, “The next item on the agenda is the proposal of adoption of a new board rule, 2.61.9 NMAC. Staff has proposed the new rule and we will start with staff explaining the proposed new rule, public comment received and why the new rule should or should not be adopted and then, the Board may start deliberating the merits of the rule. We may modify the rule as long as it is the logical outgrowth of the record generated through the rulemaking process.

“I need to state two legal items for the record. First, rules become effective upon publication in the New Mexico Register; and second, the legal standard is that we need to ‘inform the public’ of our reasoning when we choose to add a new rule. The comments of one member on the record, if it explains our reasoning, satisfies this legal standard.

“We are ready for Ms. Kleats to make her presentation.”

Ms. Kleats stated that this rule change is being proposed because the legislature has delegated certain duties to the State Board of Finance, but there is not a clear framework on how to administer those duties. These rule changes are meant to address that. She said the rules will ensure a fair, impartial and consistent process where this authority might be exercised.

Ms. Kleats stated that one public comment was received in response to the changes, from Santa Fe County Attorney Greg Shaffer. These comments are included on page 712 of the electronic agenda.

Dr. Clifford commented that this is a very important issue in terms of economic development policies of the counties. He noted that Mr. Shaffer has raised several major concerns with the proposed rule. First, Mr. Shaffer suggested that, with respect to the burden and standard of proof, the rule should specify who bears the burden of proof, and argues that it should be the existing business or enterprise that feels they might be harmed by the county action. Second, Mr. Shaffer argues that these proceedings are quasi-judicial and that the process should reflect that. Third, he makes the argument that a written determination of the decision should be made within 90 days, and that the decision should be based upon the preponderance of evidence rather than the alternative.

Dr. Clifford said staff is basically recommending that points 1 and 3 be accepted but not point 2.
Ms. Kleats said the highlighted changes in the rule, as distributed to the Board this morning, are the direct result of Mr. Shaffer’s public comment as well as recommendations from legal counsel.

There was no one present from the public wishing to discuss this proposed rule change. This concluded the public comment period.

Former Board of Finance Director Stephanie Schardin Clark appeared before the Board and stated that several county representatives (Santa Fe County and the Association of Counties) had been present earlier but had to leave. She said she discussed with them the incorporation of Mr. Shaffer’s comments, and they seemed satisfied with that, saying they were generally supportive of the rule. She said she would interpret their absence as an indication that they did not feel the need to comment.

Ms. Malavé stated that this rule is intended to provide a map for the Board to follow and was developed following the Board’s experience last year when it discovered that Section 4-59-15 did not provide any framework or guidance for conducting the hearing mandated by the statute. She said Mr. Shaffer’s comments were very thoughtful and helpful, and she added a new section to the rule addressing ex parte communications. She discussed additional changes made to the rule as a result of Mr. Shaffer’s comments and her research of statute.

Ms. Malavé said she felt the Board would satisfy its statutory obligation of making a determination within 90 days of receiving a request for the same by announcing its decision within the 90-day period and then having the written determination approved at the next board meeting. Because the Board meets monthly, she thought that would be sufficient to comply with the statute.

Ms. Malavé stated that, with respect to the elements of due process and whether a hearing is quasi judicial versus non judicial, this rule is essentially a hybrid. While Section 4-59-15 requires a hearing, it does not create a vested right or interest in the bonds. It requires that the Board make a determination that the proposed project will not directly or substantially compete with an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project. She said a hearing could be simply a public participation hearing, so the public is being given the opportunity for public input, but not going to the point of determining any rights. She said the underlying law does not give an existing business or a new business the right to the bonds; that is at the discretion of the county. The enterprise can petition for that, but that doesn’t give any type of vested right. For that reason, she said she did not agree with the County’s contention that this is quasi-judicial; and the Board, in making a determination, wouldn’t be determining what their rights are, because they have no rights in that sense. She said the only determination would be whether or not a new business would be competing with an existing business, and nothing else, and then it would be up to the county to issue the bonds.

Mr. Kormanik moved to approve the rule for the reasons offered by Ms. Kleats and as presented today. Mr. Archuleta seconded the motion, which passed 4-0 by voice vote.

[Mr. Eichenberg left the meeting.]

GENERAL SERVICES DEPARTMENT

21. WITHDRAWN.

STAFF ITEMS
Presenter: Leila Burrows Kleats, Director

23. Gross Receipts Tax Increment Development Districts – Annual Reports from Las Cruces Downtown; Mesa del Sol; Taos Sky Valley; Western Albuquerque Land Holdings; and Winrock Town Center Districts

Ms. Kleats reported that annual reports were received from all of the entities listed on the agenda, with the exception of Mesa del Sol, and were available to the public upon request.

Ms. Kleats stated that she would contact Mesa del Sol representatives and ask them to provide their annual report, as they are out of compliance with the rule.

Mr. Kormanik asked staff to provide a brief report on whether anticipated gross receipts were being received from these TIDDs; in other words, was the program working or not. He said he was wondering whether they were meeting the benchmarks as articulated to the Board originally.

24. Fiscal Agent/Custodial Bank Fees

Mr. Primm stated that these reports were included in the electronic agenda.

25. Joint Powers Agreements for Month-ended October 2015

Ms. Keats read the Joint Powers Agreements into the record.

ADJOURNMENT

Its business completed, the State Board of Finance adjourned the meeting at 2:00 p.m.

Susana Martinez, President

Date 12/15/15

Michael Brasher, Secretary

Date 12/15/15