MINUTES OF THE

NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING

Santa Fe, New Mexico

March 15, 2016

A Regular Meeting of the New Mexico State Board of Finance was called to order on this date at 9:05 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 [present 9:05-11:00 a.m. and 11:35-1:45 p.m.]
The Hon. Tim Eichenberg, State Treasurer [arriving 9:15 a.m.]
Mr. Robert J. Aragon, Public Member [arriving 9:25 a.m.]
Mr. Adelmo Archuleta [leaving 1:45 p.m.]
Mr. Michael Brasher, Public Member, Secretary
Mr. John Kormanik, Public Member

**Members Absent:**
The Hon. Susana Martinez, President

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

**Legal Counsel Present:**
Ms. Sally Malavé, Attorney General’s Office

**Others Present:**
[See sign-in sheets.]

2. **APPROVAL OF AGENDA**

**ANNOUNCEMENT: NEXT REGULAR MEETING – TUESDAY, APRIL 19, 2016**
Mr. Brasher moved approval of the agenda, as published. Mr. Archuleta seconded the motion, which passed 4-0 by voice vote. [Not present: Mr. Eichenberg and Mr. Aragon.]

3. **APPROVAL OF MINUTES: JANUARY 20, 2016 (REGULAR MEETING)**

Mr. Archuleta moved approval of the January 20 minutes, as submitted. Mr. Brasher seconded the motion, which passed 4-0 by voice vote. [Not present: Mr. Eichenberg and Mr. Aragon.]

4. **APPROVAL OF MINUTES: MARCH 3, 2016 (SPECIAL MEETING)**

Mr. Brasher moved approval of the March 3 minutes, as submitted. Mr. Kormanik seconded the motion, which passed 4-0 by voice vote. [Not present: Mr. Eichenberg and Mr. Aragon.]

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

5. **Emergency Balances – March 2016**

- Operating Reserve Fund $1,944,192.40
- FY14 Emergency Water Fund $118,100.00

Ms. Kleats reported these balances.

**EMERGENCY FUNDING REQUEST**

Presenter: Ron Spilman, State Controller and Financial Control Division Director

6. **New Mexico Martin Luther King, Jr. State Commission – Approval of Modification of Emergency Grant Resolution**

[Mr. Eichenberg joined the proceedings during the course of this presentation.]

Mr. Spilman stated that he was seeking approval to repurpose a portion of the $55,807.60 emergency grant approved by the Board in December 2015. He noted that a portion of the grant has been expended to pay 12 vendors a total of $30,000.

Mr. Spilman stated that $34,015.65 in additional funding is required to cover remaining payments due. He proposed coming back to the Board to seek additional funding once he is comfortable that there would be no more invoices coming in.

Responding to Dr. Clifford, Mr. Spilman said the State Treasurer’s Office has assigned Clarence Smith to work with the New Mexico Martin Luther King, Jr. State Commission (the “Commission”). He stated that the Commission’s adjusted Fiscal Year (FY) 2016 budget of $334,000 will be sufficient for it to conduct all necessary activities, and with Mr. Smith’s help, it
will not be necessary to hire new personnel before the end of the fiscal year. He added that two audits are pending (FY 2014 and FY 2015); however, the books are currently with the Attorney General's Office.

Mr. Archuleta asked Mr. Spilman if, to the best of his knowledge and based on the best information available to date, everything that the Board has paid for or has appropriated to pay for has been for businesses services that were delivered. Mr. Spilman responded yes.

Mr. Brasher asked if e-Read is a for-profit organization. Mr. Spilman responded that he could not answer that question and would have to report back. Mr. Brasher said his concern was whether the goods and services acquired by e-Read may be subject to gross receipts taxes.

Mr. Archuleta moved for approval of the resolution, as prepared. Mr. Kormanik seconded the motion, which passed 4-0 by voice vote. [In abstention: Mr. Eichenberg. Not present: Mr. Aragon.]

DEPARTMENT OF FINANCE AND ADMINISTRATION
Presenter: Ron Spilman, State Controller and Financial Control Division Director
7. Financial Control Division – Requests Approval to Transfer Funds from the Operating Reserve Fund to the Appropriation Account to Cover Fiscal Year 2015 Obligations ($39,359,006)

[Mr. Aragon arrived during the course of this presentation.]

Mr. Spilman requested approval to transfer funds from the operating reserve fund to the appropriation account to cover FY 2015 obligations. The General Appropriation Act of 2014, Section 13, provides that if revenues and transfers to the general fund at the end of FY 2015 are not sufficient to meet appropriations, the Governor, with Board approval, may transfer up to $60 million to the appropriation account of the general fund the amount necessary to meet the fiscal year's obligations from the operating reserve. In addition, Laws of 2015, Chapter 101, Section 12A, provide the authority to transfer $140 million from the general operating reserve fund to the appropriation account fund to meet FY 2015 obligations, with approval from the Board of Finance.

Mr. Spilman stated that, for FY 2015, apportionments exceeded revenues by $39,359,006. He requested approval to transfer this amount from the operating reserve to the appropriation account.

Mr. Kormanik moved for approval. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

SEVERANCE TAX BONDS
Presenters: David Buchholtz and Luis Carrasco, Co-Bond Counsel, Rodey, Dickason, Sloan, Akin & Robb, P.A.; Jill Sweeney, Co-Bond Counsel, Sherman & Howard, LLC
8. **Approval of Resolution Reauthorizing Certain Severance Tax Bond Projects**

Mr. Buchholtz stated that the items on the list before the Board were reauthorizations left from the 2015 legislative session that were not ready when bond counsel came before the Board in December seeking approval of the Severance Tax Bond resolution.

Mr. Carrasco stated that all but one project were included on the list, and only one was determined to be non-compliant with Executive Order No. 2013-006 at this point.

Dr. Clifford noted that there was a $4 million reauthorization through the Department of Environment to Otero County for the design and construction of a desalination treatment facility, and that was originally appropriated for a storage system, booster station and related items in 2014 (Project No. 14-1726). He said the Board is relying on their certification that the desalination project is going to move ahead in an appropriate timeframe, although they originally certified to the Board that they were ready to proceed with the previous project.

Dr. Clifford said his concern is that the reauthorization bill passed this session, which was a huge amount of money, included a lot of projects that weren’t ready to proceed to construction. He said perhaps the Board ought to do more diligence to make sure that these projects move ahead so the Board isn’t funding things using tax-exempt funds and paying debt service on projects that are not moving ahead. He commented that the money for this particular project has been sitting for almost two years.

Mr. Buchholtz responded that he shared Dr. Clifford’s concerns and would welcome suggestions. He added that there are a great many projects that are vetted in a short period of time using computerized questionnaires that are studied by staff, bond counsel and the Attorney General’s Office, “but the problem is...you can’t sit in everybody’s chair in regard to their answering of the questionnaires and make sure they’re doing their job...[and] when you have so many projects for so many purposes, as I think the Governor rightfully criticized, an expectation for some of those projects to move forward quickly... in a complex vetting system, it’s unfortunate that some people don’t take the vetting system as seriously as they have.”

Dr. Clifford expressed concern about the lack of accountability apparent in this process, with monies essentially being wasted, and stated that he was developing some ideas for improvements that he planned to bring forward to the Board.

Mr. Archuleta said he applauded the Governor for trying to overhaul the capital outlay process because there are major problems. He suggested that some funds be dedicated to requiring communities to first have a preliminary engineering report that goes all the way through the planning process and which includes all of the necessary permits and other documentation, and only at that point should monies be authorized.

Lt. Governor Sanchez stated that it would take the full participation of the legislative branch to reform this.
Mr. Archuleta moved approval of the resolution. Mr. Kormanik seconded the motion, which passed 6-0 by voice vote.

PROPERTY DISPOSITIONS

Presenter: Dennis P. Maupin, Chairman
9. Artesia Special Hospital District – Requests Approval of Lease of Real Property Located at 606 N. 13th Street, Suite 400, in Artesia to Yucca Dental Center, P.C. ($54,000 per year)

Mr. Maupin requested approval of a lease of approximately 2,149 square feet of real property located at 606 N. 13th Street in Artesia to Yucca Dental Center for a term of ten years with an option to extend for two additional five-year terms. An appraisal report was prepared in January 2016, and the gross annual market rent as determined by the appraisal is $54,000.

Mr. Aragon moved for approval. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.

Presenters: Leandro Cordova, County Manager; Quela Robinson, Assistant County Attorney; Richard Sanchez, Construction Manager
10. Taos County – Requests Approval of Lease of Real Property Located in the Taos County Administrative and Judicial Complex, 105 Albright Street in Taos to the United States Forest Service ($29,991.60 per year)

Mr. Cordova stated that Taos County (the “County”) is requesting approval of the lease of 1,442 square feet of office space located at 105 Albright Street in Taos to the United States Forest Service (“USFS”) dispatch center to operate alongside the County E911 dispatch center. The lease amount is $29,991.60 per year.

Ms. Kleats said the lease agreement did not have certain provisions that the Board prefers to see. For example, there was no default provision, no provision allowing the lessor to terminate the lease, no indemnification clause, and the lessee is not required to provide insurance. In addition, no appraisal was provided with the lease, but the County would like the Board to approve a waiver from the rule requirement for that. Ms. Kleats said she reviewed some leases that were approved by the Board in the past with the U.S. Government, and for the most part, all of these features were present in those prior leases.

Ms. Kleats also noted that section 11 of the lease (Legal Compliance) states, “If there is a conflict between this Lease and the County Rules, this Lease shall govern.”

Ms. Robinson said this is a lease with the U.S. Government, so there is no indemnification clause. Regarding the default provision, she said their remedy would be to go through the U.S. Court of Federal Claims.
Responding to Dr. Clifford and Ms. Kleats, Ms. Robinson stated that the Board of County Commissioners has approved the lease and has also approved the “County Rules.”

Ms. Kleats suggested that the Board vote on the waiver of the appraisal.

Ms. Malavé said the issue of the waiver goes to the Board’s definition of a “public body” under the rules. While the federal government is a public body, it doesn’t fall within the definition, which refers to state agencies and local public bodies such as municipalities and counties. Generally speaking, when the Board is entering into a contract with the U.S. Government, the appraisal is to ensure that the Anti-donation clause is not implicated, which it is not. She said the Board can choose to approve the waiver or not, but she does not have a concern that the Anti-donation clause is implicated in this instance.

Mr. Archuleta said this is not the only case where the Board is considering a lease involving the federal government, and suggested that the Board be consistent and not approve waivers on a case-by-case basis. He suggested that a policy be considered, if necessary.

Ms. Kleats said that, of the three prior leases with the U.S. Government that the Board approved, two did not have an appraisal and one did. [Ms. Kleats later stated that there was no waiver granted for the two leases that did not have an appraisal.]

Mr. Aragon agreed with Mr. Archuleta that a policy involving leases with the federal government should be established, but moving forward with a waiver in this case would be an open door for arguing for that in the future. He suggested looking at this on an individual basis.

Mr. Archuleta moved approval of the proposed lease as presented based on counsel’s opinion that a waiver is not required. Mr. Aragon seconded the motion.

Mr. Archuleta restated his motion to move approval of the lease. Mr. Aragon seconded the motion, which passed 6-0 by voice vote.

Presenters: Rebecca Avitia, Director, National Hispanic Cultural Center; Erin K. McSherry, General Counsel, Department of Cultural Affairs; Anna Sanchez, Director, National Hispanic Cultural Center Foundation; Alberto Cuessy, Deputy Director; National Hispanic Cultural Center; Edward Lujan, Board Member, National Hispanic Cultural Center Foundation

11. Department of Cultural Affairs, National Hispanic Cultural Center — Requests Approval of Lease of Real Property Located at 1701 4th Street, S.W. in Albuquerque to the National Hispanic Cultural Center Foundation ($31,965 per year cash or in-kind services)

Ms. McSherry stated that the Department of Cultural Affairs, National Hispanic Cultural Center ("NHCC"), is requesting approval to lease 2,006 square feet of office, retail and storage space to the National Hispanic Cultural Center Foundation ("NHCCF") to operate its business,
including a gift shop that sells merchandise related to NHCC's mission. The lease term is one year, renewable for up to five one-year terms. She stated that an appraisal was done, which appraised the fair market value of the spaces along with the ancillary services that they would be sharing with the NHCC. The appraisal came in at $12.50 per square foot for the office and gift shop, and $6 per square foot for the storage. She said $5 per square foot was added for the services that would be shared, which was at the recommendation of the appraiser.

Ms. McSherry stated that there is an option for in-kind services, in lieu of cash rent. All in-kind services being proposed — advertising, lodging and travel — are exempt from the Procurement Code.

Ms. Avitia said the space under consideration is not the type of space that would otherwise be leased. They are excited to be able to turn space that would otherwise not generate any value into space that would generate value.

Ms. Avitia said the hotel and airlines described in Exhibit D are the kinds of things that they cannot typically obtain on the market. She said it is very difficult to obtain 380 hotel nights on any day desirable with no notice, no blackout dates, and no penalties.

Ms. Avitia said the NHCCF is exclusively focused on supporting the NHCC, so their close proximity is very critical to their operations. She said they work constantly in tandem, and the NHCCF’s general operations are to NHCC’s sole benefit.

Ms. McSherry said this is very similar to the gift shop lease that the Department of Cultural Affairs had with a private entity at the New Mexico Farm & Ranch Heritage Museum, where it was appraised and the lessee paid a combination of in-kind and cash, and the in-kind portion was exempt under the Procurement Code.

Mr. Kormanik said it was not clear to him how airline tickets and hotel rooms could be in-kind services that would have been provided under another arrangement by the government.

Ms. Avitia responded that the NHCC receives funding from the state for operations, but the exhibitions and programming needs are covered through fundraising. The performers, artists and educators all provide public programming and the airline tickets and hotel rooms are intended for them.

Ms. Avitia stated that, without the in-kind provision of airline tickets and hotel rooms, the entertainment contracts would have to be increased to pay for those items.

Mr. Archuleta asked if the NHCC will keep records on what the actual value was for a specific airline ticket or hotel room, or would a hotel room always be credited at $250 per night and an airline ticket at $200. Ms. Avitia responded that they will be keeping track of what dates airline tickets were used and by whom, but they will be receiving 60 one-way ticket vouchers to any destination the airline travels and which can be used all at once or spread out. She said the
real value of the ticket is that it is interchangeable at any moment, and the idea would be that they would use a ticket on that basis. Rather than receipts after the fact, they would use vouchers. She explained that an artist may become available within a few days to perform at the center, and they would have the airline tickets to address that performer’s need immediately. She commented that there is a premium for having that flexibility with airlines and hotels that would make the actual cost much higher than it would be otherwise. She added that NHCC reached out to one hotel chain to get an estimated fair market value for a block of hotel rooms, but did not hear back.

Mr. Lujan stated that the NHCCF was founded in 1983, and then the NHCC was created ten years later. He said the two entities are virtually one, and if the NHCCF should somehow cease to exist, it would leave all of its funds, equipment and everything else to the NHCC. He stressed that this is an unusual relationship and not at all typical of a foundation.

Mr. Brasher said the Board would be entering into an agreement with a nonprofit, and the question is whether this new activity would go out for bid.

Ms. Malavé said the Board’s rule on leasing properties has several requirements, most of which have been satisfied. She said #6 under subsection B states that if consideration is provided by the lessee, which would be the NHCCF in this case, partially or completely in the form of services tangible property or construction, then evidence that the selection of the lessee complies with the procurement code or is expressly exempted if the term of the lease complies with subsection 150. She commented that she and Ms. McSherry “have gone back and forth on this” language in terms of evidence that the selection of the lessee complies with the procurement code. Generally speaking, a public entity with space to let would request bids of some kind or engage in some type of procurement process or open process, and she does not see that in this instance.

Responding to Lt. Governor Sanchez, Ms. McSherry said lodging and travel are not subject to the Procurement Code, and there are other layers of justification that she believes also support that these are small purchases, or can be made to be limited to small purchases, which the NHCC would be required to do if they weren’t exempt, which would mean a comparison of the bid, which the NHCC was trying to obtain. Given that they are exempt, that is not actually required under the Procurement Code, however. She commented that this is exactly the same as some of the other leases the Department of Cultural Affairs has done, where they have gotten an appraisal, have not sought bids, and worked with a private business. She cited the Heart of the Desert gift shop in Las Cruces, which provides both cash and in-kind exempt services.

Mr. Aragon commented that he greatly admires the NHCC and the services it is providing to the South Valley, but said he has serious concerns about the entire lease and very possibly the arrangement the NHCCF has with the NHCC. He said he was not sure that the two entities necessarily have to be linked, as this is a state-run institution with a unique history. He stated that he shares Mr. Archuleta’s concerns about how the in-kind services are to be accounted for;
and in reading the State Auditor’s Act, he did not know how the NHCC could comply with it without knowing the value of the in-kind services.

Mr. Aragon noted that paragraph 1 of the lease states that “the Foundation shall retain all revenues from the operation of the gift shop.” He asked why the Foundation is doing that and why it is retaining all of the revenues, and whether that portion of the operation had gone out for request for proposals (RFP), since that is normal procedure in his experience as a member of the Board. He said it would seem to him that the gift shop would be for the sole benefit of the NHCC and would belong to the NHCC.

Ms. McSherry said the value of the gift shop lease was based on a tenant operating it as a private business.

Mr. Aragon said he would tend to think the gift shop was there for the benefit of the NHCC. He asked why this issue hasn’t been bifurcated with the operation of the gift shop going out for RFP.

Ms. Avitia responded that the NHCC does not have sufficient staff to operate a gift shop or to buy inventory for it. She said they have been trying very hard to divest themselves of operating things that are not clearly related to their public mission, the restaurant being one example.

Mr. Aragon asked Ms. Avitia if the NHCC reached out to other entities that might be interested in operating the gift shop and was Board staff informed. Ms. Avitia responded that they did “soft requests” but did not inform Board staff. She said it was “everyone’s” preference that they bring in a private entity to run the gift shop because it would relieve the NHCC of the operating costs of running it. They reached out to the Masks y Mas shop, the Natural History Foundation and to a woman who used to operate the Natural History Foundation, and all of them indicated they had no interest because the gift shop has previously operated at a loss. She said the appraiser had stated that this type of space is usually operated through a flat fee rather than a percentage arrangement.

Lt. Governor Sanchez recommended that this matter be deferred to allow the NHCC and Board staff to work together and resolve some unanswered questions.

Mr. Archuleta agreed that this item should be tabled, but stressed the need for consistency to be applied across the board so the Board can state with confidence that they have considered and approved a “fair deal both ways.”

Mr. Aragon moved to table. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

[Lt. Governor Sanchez stepped away from the proceedings.]
Ms. Tafoya requested approval of a concession contract for a term of 30 years for the purpose of operating and maintaining a full service marina, store, and dry storage facility at Navajo Lake State Park to Navajo Dam Enterprises, Inc. ("NDE")

Ms. Tafoya introduced current concessionaires Margaret Vandervalk and Jarrett Johnson.

Ms. Tafoya stated that Navajo Lake State Park is the second-largest state park in the State Parks Division, with 531,000 visitors a year. The current marina is the largest marina concession in the State Parks System. In 2013, Ms. Vandervalk and Mr. Johnson appeared before the Board to take on the very old marina concession, and they have been the concessionaires since then. During that time, they have invested quite a bit of money into the concession, and are up to 310 boat slips. They have also done a lot of work with the pontoon area, with a restaurant and store, and they also provide fuel, storage and boat repairs. She said they have made many cosmetic changes to improve the look of the marina. She stated that, at that time, NDE had a rate of 4 percent for marina sales and 13 percent for split services.

Ms. Tafoya said a request for proposals was issued last summer to take over this contract; and after only one bid was received during the 30-day bidding period, State Parks Division extended it another 30 days.

Secretary Brasher asked if State Parks Division questioned whether the RFP may have been designed to limit the number of bidders so that only one concessionaire would be able to provide that service.

Ms. Tafoya responded that these marina concessions are very specific types of services and it is difficult to find people willing to take on the variety of things that go with this type of concession. For instance, someone has to be willing to make repairs underwater at the boat slips. She said they reached out to California and Texas by providing more information about the concession, but there was no bid.

Mr. Primm requested that approval of this item be contingent upon Director’s receipt, with counsel review, of fully executed Concession Contract, including all exhibits and containing staff’s changes.
Mr. Primm also noted the following amendment to paragraph 7C (Alterations and Improvements). Staff has discussed this with the parties, who are amenable to the change: "Sale of improvements and personal property shall be at replacement cost appraised value and conducted as follows." He explained that the rule does not dictate that it is to be appraised from a replacement cost perspective, and staff feels it appropriate to leave it open to a professional appraiser to determine which methods it should use to valuate assets at the end of the concession agreement.

Responding to Mr. Kormanik, Ms. Tafoya said it is estimated that revenues to the state would be $105,000 for the first year and then $138,000 by the end of the first 5-year term. The marina’s gross revenues are expected to be $1.7 million per year. She said State Parks is thinking there will be an escalator of 2 percent per year because they will be investing another $455,000 this year into the marina. State Parks is hoping the revenues will increase by 2 percent or more per year, so by the 5th year we would have $115,000.

Mr. Kormanik asked how much the current vendor has invested in the marina at this point. Ms. Vandervalk responded that they have invested about $6 million in the marina. They purchased the facility for several million dollars and have invested $1 million in the last two years. She said additional docks are currently under construction.

Responding to Mr. Archuleta, Ms. Vandervalk said they have 10 full time employees (FTEs), which jumps to about 20 in the summer.

Mr. Archuleta asked why the lease has a 30-year term, and Ms. Tafoya responded that they have already invested quite a bit of money into the marina and have a very ambitious business model, and the longer term helps assure that they can get the necessary financing for improvements. She said such long-term leases are very typical for the State Parks Division.

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

HIGHER EDUCATION DEPARTMENT
Presenters: Ronald James, Capital Projects Director, New Mexico Higher Education Department; Dr. Clayton Alred, President of Eastern New Mexico University - Ruidoso; Dr. Steve Gamble, President of Eastern New Mexico University System

13. Eastern New Mexico University, Ruidoso Branch Community College—Requests Approval of Acquisition of Real Property Located at 721 Mechem Drive in Ruidoso from The Westcap Corporation (of Delaware), a Delaware Corporation, and Acceptance of Certain Special Exceptions ($900,000)

Mr. James stated that Eastern New Mexico University (ENMU) Ruidoso Branch Community College is requesting approval of financing to purchase the property adjacent to their existing campus facility. The Ruidoso location was elevated to a branch community college in 2005 by
the legislature. He stated that the Ruidoso branch is the youngest and smallest campus of all of the campuses, with an FTE per square foot of 156, while the average per branch college is 248.

Mr. James said the Ruidoso Branch has leased a building from the Ruidoso Municipal School District for the last five years. The School District recently decided not to renew the lease and plans on gutting the building to meet their master plan. ENMU has made arrangements during the interim period to house the programs in firehouses, churches and other facilities. Funding from this acquisition is from institutional reserves, and the project is part of the institution’s five-year plan.

Mr. Archuleta said ENMU will have to make improvements to the space, and asked if they have the funding to make the necessary improvements and put the building to good use. Dr. Alred responded no, but they are looking ahead at the use of Severance Tax Bond monies and general obligation bond monies in order to make the space habitable. He said the designated purpose of the 2016 special legislation Severance Tax Bond monies was to plan, design, renovate and construct classroom space. He said they will make some renovations on their current space and would like to use some of those dollars to start the planning process for the other space.

Mr. Archuleta asked if they anticipate a break in service in the programs, especially because you are adding three new programs. He said your understanding is correct and yes we are facing some difficult times, but we will meet our mission of serving the public of Lincoln County and will continue offering the current programs and add the new programs over time.

Mr. Archuleta expressed concern that the Board not face a predicament where it would authorize buying this space and then discover there is no program to fill the space. Dr. Alred said that would not be an issue.

Ms. Kleats requested that any approval of this issue be contingent upon Director’s receipt with counsel review of (a) recorded replat of real property located at 721 Mechem Drive, Ruidoso, Lincoln County NM; (b) revised title binder, including deletion of standard exceptions, conveyance by special warranty deed and revised legal description; (c) parties to ensure all documentation (i.e., purchase agreement, appraisal, deed, phase I, and board resolution) contains proper legal description based on recorded replat of property.

Mr. Aragon asked if there was title insurance, and Dr. Alred responded yes.

Dr. Alred said they are requesting a waiver from the Board’s standard procedures to require a general warranty deed, and allowing ENMU to convey the property by special warranty deed. He said the seller purchased the property while it was in foreclosure and they are unwilling to sign the warranty deed and have already consented to the special warranty deed.

Mr. Eichenberg asked if the seller actually accepted ownership of the property, and Dr. Alred responded that the person who took possession of the property has held it for more than
20 years. Mr. Eichenberg said he did not understand why a special warranty deed was necessary. Dr. Alred responded that they inquired about the possibility of a warranty deed and the present owner declined, saying they were unwilling to warrant the property prior to their acquisition of it.

Mr. Aragon commented that, if the seller acquired the property in foreclosure, then a judge certainly signed an order conveying it to him fee simple. He said there is no exception to the law in that respect.

Dr. Clifford asked what enrollment was this past fall and Dr. Alred responded 722, a drop from 922 in the fall of 2014. He said the population in Ruidoso has declined, and there also has been a shift in enrollment to online courses. With the implementation of performance-based funding, some of their classes have been realigned to satisfy the requirements of that funding. He added that there has been an issue involving the State Auditor regarding their Emergency Medical Services (EMS) classes, and so they offered no EMS classes this past fall. He stated that they are aggressively pursuing three new programs through a United States Department of Education grant that are designed to build enrollment.

Dr. Clifford said he was somewhat troubled over the fact that this is a one-time grant, since ENMU will likely come to the state for future funding of these programs.

Ms. Kleats noted that the binder contains the special master's deed that was conveyed pursuant to the judgment of foreclosure in 1990, followed by a special warranty deed provided to the current owner in 1999. She also noted some special exceptions with this acquisition (page 47), which ENMU's general counsel has indicated will not interfere with the intended use of the facility.

Mr. Archuleta moved for approval, subject to the contingencies cited by staff. Mr. Eichenberg seconded the motion.

Mr. Archuleta moved to amend his motion to include the waiver. Mr. Aragon seconded the motion, which passed 5-0 by voice vote.

The motion, as amended, passed 5-0 by voice vote.

Lt. Governor Sanchez returned to the proceedings.

Presenters: Colonel David West, Chief of Staff; Colonel Judy Scharmer, Chief Financial Officer; Kent Taylor, Director of Facilities
14. New Mexico Military Institute – Requests Approval of the Science Laboratory Renovations ($1,500,000)

Mr. James stated that New Mexico Military Institute (NMMI) requests approval of the science laboratory renovations located in both Wilson and McClure Halls, which are slightly
over 55,000 gross square feet. The project involves the renovation or replacement of equipment that is several decades behind in meeting the current curriculum. All 370 junior college cadets are required to take at least two science classes, no matter their concentration, during their studies at NMNI. He stated that all of the labs are utilized by all 871 cadets. The project is being funded from the 2015 special session severance tax bonds, and the project is part of NMNI’s five-year plan.

Mr. Kormanik moved for approval. Mr. Archuleta seconded the motion, which passed 5-0 by voice vote. [Mr. Eichenberg was not present during the vote.]

Presenters: Glen Haubold, Associate Vice President of Facilities and Services; Heather Zack Watenpaugh, Interim University Architect and Campus Planning Officer for Facilities and Services; Alton Looney, Executive Director for Project Development and Engineering, Facilities and Services; Henry Espalin, Assistant Director for Project Development and Engineering, Facilities and Services; Dr. John Gratton, President, NMSU Carlsbad

15. New Mexico State University, Grants Campus – Requests Approval of Martinez Hall Improvements ($1,300,000)

Mr. James stated that New Mexico State University ("NMSU"), Grants Branch, is requesting approval of financing in the amount of $1,300,000 to renovate a portion of Martinez Hall. Renovations include upgrades to the facility offices, faculty offices and a classroom as well as improvements to sidewalks, parking lots, lighting and landscape in order to comply with Americans with Disabilities Act and life safety requirements. Work will include remediation of structural issues resulting from the ground settling in the vicinity of the faculty offices. The source of funding would be the 2014 General Obligation Bonds and the project is part of the college’s five-year plan.

Mr. Kormanik asked if any local general obligation bonds were used for this program, and Mr. Haubold responded no.

Responding to Dr. Clifford, Ms. Watenpaugh said seven faculty offices were slated for renovation along with one classroom.

Dr. Clifford observed that enrollment decreased 15 percent, and asked if that number (597) was from 2014. Ms. Watenpaugh responded that these numbers were from 2014. Mr. James said the fall 2015 numbers are not yet available.

Mr. Brasher expressed concern about the declining enrollment along with expansion of the facilities. He asked if consolidation has been considered if these numbers continue to decline.

Mr. Haubold responded that they are concerned about the declining enrollment and are taking "a very hard look at everything we do." He apologized that interim president Harry Sheski was not present to respond to questions.
Dr. Clifford asked why it has taken so long to put this project together, as the funding has been available for a year. Mr. Looney responded that the building was added in the 1980s and there is considerable settling of the building because of soil conditions. He said it took time for people to work through the issue of whether to tear the building down or renovate it.

Mr. Kormanik said it appears that the Higher Education Department (HED) should be looking at changing populations at the various branches and community colleges and developing a position on how to make adjustments to these changes. He said everyone knows that revenues are not going to be as robust as they have been in the past.

Mr. Aragon commented that declining enrollments can be attributed to the changing demographics of New Mexico, with talent leaving the state to find work elsewhere, while at the same time the cost of higher education for some “inexplicable reason” continues to rise dramatically with no one able to give a viable explanation as to why. He said, “Maybe we should be seriously, seriously looking at closing some of these campuses...I don’t get it, other than the political maneuvering that occurs when folks come back and say look what I’ve done for my district.” He said the state’s universities can’t be centers of excellence because the dollars are so diluted.

Dr. Clifford noted that a facility condition analysis rates the facility at 28.6 percent, which is a “pretty good score on a condition index.” Mr. Haubold stated that, in 2006, the state funded facilities analyses for all HED facilities. Since then, NMSU has updated and incorporated it into their work order system.

Dr. Clifford said he would like to know how HED uses this information in ranking projects in the future before bringing them forward to the legislature. He asked if other universities are updating their condition assessments.

Mr. James responded that he proposed a statewide facility condition assessment in the last legislative session, but funding was not available for it. He said University of New Mexico (“UNM”), Central New Mexico Community College (“CNM”) and NMSU have updated those assessments but the other institutions have not. He agreed to provide a report to the Board.

Lt. Governor Sanchez asked what the result would be if the Board did not approve this project.

Co-Bond Counsel Jill Sweeney stated that she would provide a legal opinion of what happens if general obligation bonds or severance tax bonds proceeds are not spent.

Mr. Haubold said that there are critical health and safety issues involved in this project, and not moving forward would cause further deterioration.

Mr. Archuleta stated that the state couldn’t afford to continue paying for these projects. He asked, “At what point do we take a look at this whole thing and say we’re better off to do this in
a way that puts the money where it best serves New Mexicans." He said perhaps the Board should take the lead and start a strategy discussion with the HED Secretary.

Mr. Kormanik commented that the public has approved the capital outlay for this project, so it is a different situation.

Mr. Archuleta moved for approval. Mr. Kormanik seconded the motion, which passed 6-0 by voice vote.

16. New Mexico State University, Carlsbad Campus – Requests Approval of Main Building, Upper Level, New Fire Sprinkler System, Phase 1 ($2,185,400)

Mr. James stated that NMSU, Carlsbad Campus, is requesting approval of the installation of a new sprinkler system in the upper floor of the main building at Carlsbad Campus, installation of two new fire risers and a new addressable fire alarm system for the main building. The local fire marshal recommends an upgrade to bring it into compliance with fire code. This project is being funded by voter-approved 2014 general obligation bonds and is part of the Carlsbad Branch Community College’s five-year plan.

Mr. Archuleta commented that one standpipe would be less expensive than two, and suggested investigating this possibility.

Mr. Archuleta also noted that the architectural and engineering services fee of $240,000 is meant to cover both the first and second phases of this construction project, and asked if they are allowed to use money from this appropriation to design the second phase. Dr. GRATTON responded that the bulk of the money is coming from reserve funds and he does not anticipate any problems with that.

Mr. Archuleta moved for approval. Mr. Aragon seconded the motion, which passed 6-0 by voice vote.

17. New Mexico State University – Requests Approval of Rentfrow Hall Renovation Budget Increase ($2,650,000)

Mr. James said the Board approved this project in April 2015 at a budgeted project cost of $2 million. Bids plus alternates for Jett Hall came in lower than expected and allowed $650,000 to be moved over to the Rentfrow Hall project, where the original bid came in higher than estimated. The project has been rebid and has come in under the revised budget the Board will be considering today, and will allow for the inclusion of two alternates. He stated that the source of funding is 2014 general obligation bonds, and the project is part of the institution’s five-year plan.
Mr. Archuleta moved for approval. Mr. Aragon seconded the motion, which passed 6-0 by voice vote.

Presenters: David Harris, Executive Vice President for Administration, Chief Operations Officer and Chief Financial Officer; Chris Vallejos, Associate Vice President for Institutional Support Services; Lisa Marbury, Executive Director for Institutional Support Services

18. University of New Mexico – Requests Approval of the Farris Engineering Center Renovation ($25,526,400)

Mr. James stated that the University of New Mexico is requesting approval of financing in the amount of $25,526,400 for the School of Engineering renovation at Farris Engineering Center ("FEC"). The FEC renovation includes 77,278 square feet of existing and new square footage, and the renovation encompasses 12,875 square feet. Originally constructed in 1977-78, the FEC no longer meets the needs of its occupants, and programs that will utilize this project will be computer science, chemical and biological engineering and nuclear engineering programs. He said the project is funded by voter approved 2014 general obligation bonds and 2015 Severance Tax Bonds. He said the project is part of UNM’s five-year plan.

Dr. Clifford asked why it has taken a year to bring this project forward, as the bonds were sold last spring. Mr. Harris responded that Dean Joe Cecchi had been in the Middle East on an assignment, and when he returned and saw the way the project had been scoped, he determined that it was incomplete. He said there were a number of research laboratories in FEC that cannot be shut down during construction, so the project was expanded to complete and to transfer these labs to the Centennial Engineering Building. He said this caused the delay, and also changed the scope and the cost.

Mr. Harris agreed to provide a facility condition index to the Board.

Dr. Clifford noted that this project has been on the drawing board for at least two and a half years. He said he would like to see university projects move forward more quickly to avoid what is millions of dollars in debt service payments.

Mr. Archuleta commented, "This project has been a long time coming. From an engineering standpoint, this is a dire need. They have antiquated facilities."

Mr. Aragon moved for approval. Mr. Kormanik seconded the motion, which passed 6-0 by voice vote.

19. University of New Mexico, Gallup Campus – Requests Approval of Completion of Zollinger Library Shell Space ($1,350,000)

Mr. James stated that this project is to renovate the lower level of the Zollinger Library at the Gallup branch campus. The building is built into the side of a hill, with the upper level being
the main entrance and the only public access space. The project will include the addition of a new elevator and staircase, as well as replacement of the mechanical system. The lower level, which has a dirt floor, will be renovated and completed. He said the project is being funded by 2015 General Obligation Bonds and Gallup campus matching funds, and is part of the Gallup branch’s five-year plan.

Dr. Clifford noted that there has been a 17 percent decrease in enrollment over a five-year period and asked if it makes sense to put money into facilities where enrollment is declining.

Mr. Harris said enrollment has been fairly stable and he does not think it is an issue. He said many of the students ultimately come to the main campus, and the Gallup campus has the largest Native American enrollment in the state.

Mr. Aragon moved for approval. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.

Presenter: Sue Brawley, Consultant, Facilities & Real Estate Management
20. University of New Mexico Health Sciences Center – Requests Approval of the Health Education Building, Phase III ($27,300,000)

Mr. James stated that University of New Mexico Health Sciences Center ("HSC") is requesting to build the third and final phase of the Health Education Building complex. This three-story 66,257 square foot building will provide an active learning classroom and simulation labs with advanced technology and will provide venues for nursing, pharmacy and medicine classes. Also to be included is 10,188 square feet of alterations. The sources of funding would be 2015 General Obligation Bonds, 2015 Severance Tax Bonds, and funding from various funds in Laws of 2015, Senate Bill 1; and HSC capital initiative funds.

Dr. Clifford said it was difficult to get a sense of how this space fits into the overall need. He said this seems like a significant increase and asked where people are coming from who will use this space.

Ms. Brawley responded that they have had numerous changes in health sciences with regard to not only accreditation requirements, but also there has been an increase in enrollment of 17-19 percent, and there have been changes in methodology of teaching. Many of the facilities on the North Campus are outmoded. She said they are replacing classrooms built 30-40 years ago with modern active learning classrooms. She said the other spaces will be backfilled to meet other needs in health sciences, for which bond monies will not be used.

Ms. Brawley said another big change in health education is the use of simulation labs, and they have run out of that space in Phase II. She stated that some accreditations are looking at implementing a component of simulation in licensure and graduation requirements. She stated that they have taken many factors into account, have made tradeoffs, and are allowing for some modest growth over the next ten years.
Dr. Clifford commented that this is a substantial increase in the overall footprint. He noted that the project includes renovations to a food court and fitness facility, which do not seem essential to him. Ms. Brawley clarified that they will not be paid for with bond funds.

Dr. Clifford expressed concern about the rate of escalation in construction costs. He said he would be interested in seeing ways of controlling that.

Mr. Vallejos said the lifecycle of a project is 36 months from pre-programming to construction and occupancy. If the state could shorten that by providing the funding up front rather than in two different legislative sessions, it would cause less disruption in the lifecycle of the project.

Responding to Mr. Kormanik, UNM Hospital administrator Steve McKernan said the capital initiative fund from UNM Hospital comes from their clinical operations only. He said Medicaid would be in the stream of revenue. The hospital’s revenues this year are about $1 billion, with Medicaid making up $400 million of that top line revenue.

Mr. McKernan said they have been attending the Human Services Department meetings regarding Medicaid changes, where they have conveyed that they expect the rates paid to the providers will go down about 3 percent. UNM Hospital expects their topline revenues will drop by that percentage.

Responding to Mr. Brasher, Ms. Marbury said the renovation includes parts of Phase I and Phase II. She said programming for Phase I began in 2001 and was occupied in 2007, and Phase II began in late 2006 and was occupied in 2010. Mr. Brasher commented that it appears that buildings need to be renovated in a very short window. He said he understood that teaching methodology and the number of students coming into the program had changed, but wondered if Phase III would require renovations in 10-15 years.

Ms. Brawley responded that in order to provide adjacencies in the simulation center, which is in Phase II, they need to add in-patient and acute care facilities, and they will take the pharmacy care lab (the least technical unit) and move it to Phase III so they can take the vacated pharmacy care lab and create the adjacencies that they need for acute care and in-patient facilities. She said this is not due to facilities wearing out; it is just to provide needed adjacencies, which were not anticipated eight years ago. In terms of future needs, they have worked with Mr. Harris’s team as well as the architects to provide room on the north to add more adjacencies in the future, if needed.

Mr. Aragon moved for approval. Mr. Archuleta seconded the motion, which passed 6-0 by voice vote.
Presenter: Steve McKernan, Chief Executive Officer and Vice President of Clinical Operations

21. University of New Mexico Hospital – Requests Approval of the Eubank Women’s Care Clinic of Albuquerque ($5,500,000)

Mr. James stated that this request from University of New Mexico Hospital ("UNMH") is to approve funding to renovate the Charter Bank building, which was purchased at 2130 Eubank, N.E., in Albuquerque following Board approval in February 2014. He said the building is 23,200 square feet and will include 31 exam rooms and 9 procedure rooms, a blood laboratory, ultrasound, and therapy services. Services also include behavioral health and financial counseling and a research component addressing women’s healthcare issues. The source of funding would be the UNMH capital initiatives fund, and the project is part of UNMH’s five-year plan.

Responding to Dr. Clifford, Mr. McKernan said they expect this clinic to have about 40 percent Medicaid patients as well as a substantial Medicare program. Their Milagro program, for opiate addicted pregnant women, will also be housed there. With the expansion of the Medicaid program and a growing aging population in the metropolitan area, there is a “gigantic demand” for services. He said they have also found out that people with chronic illness are also increasingly using community-based clinics, which is UNMH’s goal. He said the “550” rule means that 5 percent of patients will use 50 percent of the healthcare expenditure in a year, and the next 20 percent will use another 25 percent, which means 25 percent of the patients use 75 percent of the expenditure. UNMH’s goal is to keep the 20 percent with complex illnesses from falling into the 5 percent, and try to manage the 5 percent back up to the 20 percent. He said these take clinics with multidisciplinary programs with lots of medical and social wraparound services.

Dr. Clifford expressed concern about a loss of focus in taking on so much and in anticipation of future growth at the current pace. He said, “I just think we need to be careful about overreach in response to this increase of funding, which really I think the system is in the process of digesting.”

Mr. Brasher said he feels this is a good project. He said everything Mr. McKernan has mentioned today leads the Board to believe that, in the long haul, it will reduce the number of people who go to the emergency room. He said the hours are not long enough, however, and people wind up at the emergency room because of a child’s earache, for instance.

Expressing concern about redundancy, Mr. Aragon said Albuquerque Public Schools (APS) is planning to open up an employee health center that offers all of the services already offered by UNMH. He asked if APS discussed partnering up with UNMH, and Mr. McKernan responded not that he was aware of.

Mr. Aragon said he understands that he can go to UNMH even if he has Presbyterian Health Care insurance or other insurance, and Mr. McKernan responded that this was essentially
correct. Mr. Aragon asked what hours the UNMH physical therapy facilities would be open, and Mr. McKernan responded that he would have to investigate and report back.

Mr. Aragon moved for approval. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

PRIVATE ACTIVITY BONDS

Presenters: Jay J. Czar, Executive Director; Susan Biernacki, Tax Credit Program Manager

22. New Mexico Mortgage Finance Authority – Requests Approval of Private Activity Bond Allocation for Multi-family Partnership 2015, LLLP’s Dona Ana 6 Project for Renovation of Loma Del Norte Apartments in Anthony, Meadow Vista I, Meadow Vista II, Playa I, Playa II and Vista Del Rey Apartments in Sunland Park (not to exceed $9,100,000)

Mr. Czar requested approval of private activity bond cap for a multi-family housing development encompassing six apartment complexes located in Anthony and Sunland Park, collectively known as the Dona Ana 6 Project, for a total of 204 apartments. The project will help to preserve and maintain the state’s already-short supply of affordable housing. These properties serve families who earn 60 percent of area median income, in many cases far less. He said the properties are in dire need of rehabilitation.

Ms. Biernacki introduced the developer, Karen Buckland of Community Preservation Partners, and provided additional details about the projects.

Responding to Dr. Clifford, Mr. Czar said this involves replacing roofs, stucco, doors, windows, paint, flooring, cabinets, electrical, HVAC and other amenities. These properties after 20 years get very heavy use and very heavy turnover, which is why they need so much work.

Mr. Primm requested that approval of this item be contingent upon Director’s receipt of evidence of appropriate jurisdiction’s approval of zoning change for Vista Del Rey Apartments.

Mr. Aragon moved for approval, with the contingency. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

23. New Mexico Mortgage Finance Authority – Requests Approval of Private Activity Bond Allocation for Santa Fe Community Living Multi-family Housing Development in Santa Fe, consisting of Hopewell/Mann, Gallegos Lane, Cerro Gordo, Agua Fria and Senda Lane Apartments (not to exceed $1,700,000)

Mr. Czar requested approval of $1.7 million in private activity bond cap for five multi-family housing developments in Santa Fe collectively referred to as the Santa Fe Community Living
Project. In November 2014, the Board approved an $11 million allocation of Private Activity Bond (PAB) cap for this project. It was subsequently determined that unforeseen construction cost increases related to roofing, asbestos abatement and photovoltaic system upgrades would require an additional PAB cap in order for the 120-unit project to maintain eligibility for the state’s tax credit program through New Mexico Mortgage Finance Authority.

Ms. Biernacki stated that Santa Fe Civic Housing Authority director Ed Romero was present to respond to questions.

Ms. Biernacki said all residents are at 60 percent or below of area median income.

Mr. Archuleta moved for approval. Mr. Brasher seconded the motion, which passed 6-0 by voice vote.

[Lt. Governor Sanchez and Mr. Archuleta left the meeting.]

STATE TREASURER’S OFFICE
Presenters: Vikki Hanges, General Fund Investment Pool Manager; Sam Collins, Deputy State Treasurer
25. Quarterly Investment Reports for Quarter Ended December 31, 2015

Ms. Hanges and Mr. Collins presented these reports.

Responding to Mr. Kormanik, Ms. Hanges said that, in the 4th quarter, the State Treasurer’s Office raised $100 million out of the general fund core to meet cash needs of the general fund liquidity, and in January, they had to raise another $100 million to cover cash outflow. This month, they had to liquidate $200 million out of the general fund core to cover requirements of the state. She said they might have to raise another $50 million in April.

Mr. Collins stated that, through February they are down $545 million. He said 24.5 percent of the general fund has dropped within one year. He said spending is flat and revenues are declining.

GENERAL SERVICES DEPARTMENT
STAFF ITEMS
Presenter: Leila Burrows Kleats, Director
29.  Arbitrage Services Contract Procurement Update

Mr. Primm stated that, after staff notified the Board that it would be going out to RFP for arbitrage services, it was determined in consultation with the Department of Finance and Administration (DFA) that an alternative procurement path would offer greater flexibility and less staff time. He said the arbitrage calculations being procured are industry standard and are required by the Internal Revenue Service, and a number of large firms are qualified to provide those calculations. He said staff intends to seek the services through an informal quote process as the amount involved is well below the $50,000 threshold.

30.  Fiscal Agent/Custodial Bank Fees

Mr. Primm stated that staff was unable to reconcile some issues in this month’s fiscal agent contract billing. Staff continues to work with Wells Fargo to correct the irregularity in calculations and hopes to reach resolution soon.

Ms. Kleats reported that, following the Board’s approval of a letter of support for a special appropriation involving the Payment Card Industry compliance issue, the special appropriation was granted. DFA is now moving forward in seeking a vendor and determining the scope of the problem. She added VISA has notified the state that it will begin instituting fines of $5,000 a month beginning this month, and at this point, DFA is looking for a prioritized approach document. It is not clear whether the fines will be lifted once that document is provided, however. In consultation with Mr. Primm, it appears that the fine can be absorbed through the fiscal agent contract, although next year it may be necessary to allocate the fines to the agencies based on the number of transactions.


Ms. Kleats 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

4/19/16
Date

Michael Brasher, Secretary

4/19/16
Date