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. Michelle Lujan Grisham, President [leaving at 9:50 a.m.]
The Hon. Howie Morales, Lt. Governor
The Hon. Tim Eichenberg, State Treasurer
Mr. Joseph Badal, Public Member
Mr. Michael S. Sanchez, Public Member, Secretary [arriving 9:30 a.m.]
Ms. Wendy Trevisani, Public Member

**Members Excused:**
Mr. Paul Cassidy, Public Member

**Staff Present:**
Ms. Ashley Leach, Director
Mr. Marcos B. Trujillo, Deputy Director
Ms. Olivia Padilla-Jackson, Secretary of Finance and Administration

**Legal Counsel Present:**
Ms. Sally Malavé, Attorney General’s Office
Mr. John T. Grubesic, Attorney General’s Office

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

2. **APPROVAL OF AGENDA — ANNOUNCEMENT: NEXT REGULAR MEETING — TUESDAY, OCTOBER 15, 2019**

Governor Lujan Grisham said Item 29 (State Treasurer’s Monthly Investment Reports) was incorrectly shown on the agenda as an action item rather than an informational item.
Lt. Governor Morales moved for approval of the agenda, as amended. Ms. Trevisani seconded the motion, which passed 5-0.

3. APPROVAL OF MINUTES: JULY 16, 2019 (REGULAR MEETING)

Lt. Governor Morales moved approval of the minutes of the July 16, 2019, meeting, as submitted. Mr. Badal seconded the motion, which passed 5-0.

CONSENT AGENDA

Submitted by: Deanna Miglio, Real Estate Manager, Bernalillo County

4. Bernalillo County – Requests Approval of the Least of Real Property Located at 11700 Paseo Del Norte NE in Albuquerque to PTI US Towers II. ($14,000 per year)

* Contingent upon Director’s receipt and counsel review of fully executed revised lease agreement.

Submitted by: Connie Clark, Strategic Assets Coordinator, Los Alamos Public Schools

5. Los Alamos Public Schools – Requests Approval of the Second Amendment to a Lease Agreement between Los Alamos Public Schools and Los Alamos Makers ($14,236 annually, unchanged)

* Contingent upon director’s receipt of signed resolution from governing body approving the lease.

6. Los Alamos Public Schools – Requests Approval of the Lease of Real Property (Tract A-15-1-B1) Located along the North Frontage of DP Road in Los Alamos to Paul Parker Construction ($16,000 per year)

* Contingent upon Director’s receipt of signed resolution from governing body approving the lease.

7. Los Alamos Public Schools – Requests Approval of the Lease of Real Property (Tract A-15-1-B2) Located along the North Frontage of DP Road in Los Alamos to Paul Parker Construction ($16,000 per year)

Submitted by: Mark Santiago, Director, NM Farm & Ranch Heritage Museum

8. Department of Cultural Affairs, New Mexico Farm & Ranch Heritage Museum -- Requests Approval of the Lease of Real Property Located at 4100 Dripping Springs Road in Las Cruces to Dickerson’s Catering, LLC ($87,500 per year, cash and in-kind)
Contingent upon Director’s receipt and counsel review of fully executed revised lease agreement.

Submitted by: Gerald Hoehne, Director, Capital Projects Division New Mexico Higher Education Department

9. Eastern New Mexico University – Requests of Approval of Capital Expenditures for Replacement of the Roof of Greyhound Arena ($1,600,000)

10. Northern New Mexico College – Requests Approval of Capital Expenditures for Phase II of the Campus-wide Upgrade to the Fire Alarm System ($947,689.92)

11. University of New Mexico – Requests Approval of Capital Expenditures for Development of the Formula Society of Automotive Engineers Racing Lab ($1,500,000)

12. University of New Mexico Health Sciences Center – Requests Approval of Capital Expenditures for the Renovation of PET/CT Scanner Space ($732,710.93)

13. Emergency Fund Balances – September 17, 2019

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<tr>
<td>Emergency Water Fund</td>
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14. Fiscal Agent and Custodial Bank Fees Report

15. Joint Powers Agreements for Months-Ended July 31, 2019, and August 31, 2019

Mr. Eichenberg moved approval of the Consent Agenda, as presented. Ms. Trevisani seconded the motion, which passed 5-0.

EMERGENCY FUNDING REQUESTS

Presenters: Margaret Trujillo, Board Vice President, SCWA; Dennise Trujillo, Project Manager/Coordinator; Dennis Trujillo, SCWA System Operator/Contractor, III-D General Contracting, Inc.; Andrea Telmo, Project Manager, Construction Programs Bureau, New Mexico Environment Department; Jerry May, Engineer, Martin/Martin Consulting Engineers

16. Santa Cruz Water Association – Requests Approval to Convert Its Outstanding Emergency Water Loan Balance to a Grant ($119,274.53)
Ms. Margaret Trujillo summarized this request, which requests forgiveness of an outstanding emergency water loan totaling $119,274.53. In August 2017, the Santa Cruz Water Association (SCWA) received an emergency water loan from the Board of Finance totaling $151,123.50. The loan was provided so that SCWA could conduct a hydrogeological study and design and construct a new well and associated connections in order to expand the water supply and address naturally occurring uranium that was exceeding safe levels. Upon completion of that project, SCWA determined it did not need $31,848.97 of the loan, and that amount was returned, leaving a total loan balance of $119,274.53, which was used to drill the well. The SCWA has regionalized with El Llano Mutual Domestic Consumer Association, and the combined district distributes water through two systems.

Ms. Dennise Trujillo stated that the request for the loan to be converted to a grant is driven by SCWA’s need for additional funding from the Water Trust Board via the New Mexico Finance Authority (NMFA). SCWA is required to address a New Mexico Environment Department uranium administrative order but has not been able to do so because it would require running lines through tribal property, where the SCWA is currently trespassing on 132 feet. The Water Trust Board funds would allow the SCWA to avoid that by capping an existing main line and constructing a new distribution system that bypasses the tribal property. She said having the $119,274 converted to a grant would mean the SCWA could open up its infrastructure and bring money to the SCWA; for example, they would not have to continue to renew leases and pay the associated legal fees.

Mr. May stated that he came into the Santa Cruz project 30 days into construction on a $1.3 million project after the previous engineer walked away from it. He said they had to do some redesign work, which depleted some of the initial first phase funding, and a good part of the work he is doing is finishing up that phase. Two uranium treatment systems went in during phase one, one for the Santa Cruz Association and the other for the El Llano Association. He said there is some tribal land in between the major part of the El Llano system and where their groundwater supply wells and storage tanks are. Not being able to come to terms with the tribe for that easement can be addressed by putting in a third uranium system in the El Llano primary well and tank site. He commented that he has worked on six uranium treatment systems in New Mexico, and the upfront capital cost for this kind of system is in the range of $50,000 to $60,000.

Mr. May said the other problem is that the media that absorbs the uranium lasts about five years and can be extended to six or seven years by doing some blending and bypassing. Media replacement costs $40,000 and is not really fundable because it comes under the category of operation & maintenance. This is a long-term occurrence, and communities with such systems have to set aside money for this expenditure in their budgets.
Ms. Dennise Trujillo added that they have to save money for the Santa Cruz distribution system, as most of the phase one work is around the El Llano system. The major source of their income will come from that system, as the Santa Cruz system is made up of low-income customers, and it is hard for them to continue to raise rates. She said the second phase will mean using the right-of-way that is currently encroaching on Santa Clara tribal property, and this will involve surveying expenses, etc. She stated that people in the Santa Cruz section are getting their water from 1969 galvanized pipes, and the water is very low pressure and brown on occasion. Their infrastructure is underutilized in the El Llano section, because they cannot treat the uranium from the well on the bottom since they can’t cross tribal property, and they can’t turn on the booster pumps in the Santa Cruz section because it will “blow up” the lines, and they cannot afford to fix the lines while also paying right-of-way expenses.

Ms. Margaret Trujillo said the Santa Cruz section is also unmetered because the system is so old, so there is a constant problem of collecting fees from the residents, who also have to keep replacing their water heaters because of the sand that collects in them.

Mr. Trujillo said they have exhausted all efforts to find alternative solutions, such as tapping into the city’s water system; however, they have been unsuccessful. He noted that the Santa Cruz section had no water for about two years and water was distributed manually from a 500-gallon tank.

[Member Sanchez arrived at the meeting.]

Responding to Mr. Badal, Ms. Margaret Trujillo said receiving this grant from the board would prepare them to be able to work with the Water Trust Board to finish what they started. The second phase would entail seeking easements and rights-of-way, and working with the pueblos.

Responding to Mr. Eichenberg, Ms. Dennise Trujillo said they have 116 current users and 21 inactive members, some of whom are in the Santa Cruz section. Another 20 have signed up for membership and will be coming on line in the next 12-18 months on the El Llano side. She said the rate is $40 a month, and six accounts are a total of $14,000 in arrears. All of those accounts are in the Santa Cruz section.

Mr. Eichenberg asked what steps have been taken to collect on those accounts. Ms. Margaret Trujillo responded that they have tried to be fair to these delinquent users and have not tried to shut off their water because the lines are so brittle. She said they are hardly getting any water through the lines anyway. She commented that they have been going door-to-door trying to build a relationship with the residents, but it has been “rough.”

Mr. Trujillo said people have questioned why they should have to pay for a service they are not really receiving, and are being told that the SCWA needs those funds to fix
the problem. He said most people are at least paying something. He stated that they cannot turn off these lines because of the condition they’re in, and also because they would have to get permission from Santa Clara Pueblo to do the necessary digging.

Governor Lujan Grisham commented that Northern New Mexico’s water issues are highly complex and there are many outstanding litigable water questions and issues that have to be identified and untangled before any requests can be made to the legislature to address a statewide water plan.

[Governor Lujan Grisham excused herself from the meeting to attend the formal signing of the 611(g) agreement under the Aamodt Litigation Settlement Act.]

Mr. Eichenberg said his concern was that he saw no long-term plan for “getting out of this,” especially without the cooperation of the pueblos. He asked Mr. May to elaborate on what work had to be redone.

Mr. May responded that most of the work that had to be redesigned was at the El Llano section on the northern end of this regional collaboration. There was a new storage tank site to the east at a higher site to create more pressure, and the SCWA was able to negotiate taking over a private well to bring the well into their system. Unfortunately, the design engineer didn’t incorporate pressure-reducing valves as the piping went down the hill, so pressure stations had to be incorporated. Also, the uranium treatment systems were over-designed to 50 gallons a minute for wells capable of producing only half of that, so there was a waste of media. This means that Mr. Trujillo has to go out there every day to switch out cylinders when they get wet. He also stated that the SCWA wanted to expand their services further to the east to undeveloped land so they could provide water to that area for future development, and that required a new booster station at the El Llano site where the tank and well was.

Mr. May said there was also the problem with one of the well pumps at the Santa Cruz well, which collapsed when they pulled the pump out, and which had generated the emergency funding request to replace the well. Although the well was replaced exactly the way it was originally constructed, it wasn’t able to produce as well as the old one had because of a declining water table, so they sought additional funding for a second well, and this is the one currently in use.

Mr. May also pointed out that the survey work provided by the previous engineer was incorrect, so the SCWA had to use some of the funding they had to get a surveyor to reestablish some of the grades and the site that was given to the SCWA for their new tanks and new wells.

Responding to Mr. Eichenberg’s concern about the lack of a plan, Mr. Trujillo stated that converting this emergency loan into a grant would allow the SCWA to go to the Water Trust Board for funds to create the uranium treatment for the El Llano section.
This would make that section completely independent and preclude the need to deal with the pueblos on that section.

Ms. Dennise Trujillo explained that they would not be able to pay off the $119,000 emergency loan along with payments to the Water Trust Board of $48,500 per year. Converting the Board of Finance loan to a grant would allow the SCWA to meet the Water Trust Board’s matching requirement of $120,000. She said the 20 new El Llano memberships would help provide the funds for the Water Trust Board payments.

Ms. Margaret Trujillo said the City of Española has expressed an interest in leasing the upper uranium treatment facility. Since they would not have to go through pueblo property, it would be easy to tie the two systems together. They are looking at other ways of bringing in revenues.

Mr. Trujillo stated that a number of water connections in the Santa Cruz section are from house to house so can’t be counted. Once they get metering in and address other issues there, he suspected they would have a total of about 40 extra services by the time they finish the project.

Lt. Governor Morales asked if any legislative requests were made by the SCWA in the last session. Ms. Dennise Trujillo responded that they made no requests because they were still using capital outlay funds from the 2009 administrative order and working to finish the project.

Responding to Lt. Governor Morales on whether they qualify for USDA money, CDBG funds, Tribal Infrastructure money or other such funds, Mr. Trujillo said they have made inquiries and would qualify for additional funding if the Board of Finance would convert their loan into a grant.

Lt. Governor Morales asked Secretary Olivia Padilla-Jackson if it is permissible for capital outlay funds to be used to pay off a loan that has already been acted on. Secretary Padilla-Jackson responded yes, but added that this is almost an indirect way to do that; by converting this from a loan to a grant, those are funds that would otherwise go into the general fund. In effect this is getting to the same place, but it would have taken a lot longer for them go through that other process.

Lt. Governor Morales asked if this is a unique request for the board. Ms. Malavé responded that these types of issues are fairly common in terms of the types of requests that come from rural water associations.

Mr. Eichenberg stated that he has advocated for grants rather than loans in such situations because of the burden that is otherwise put on the ratepayers. He finds this situation somewhat unique, however, because a requirement for a loan application calls for easements and rights-of-way to be in place, and the SCWA doesn’t have the
cooperation from either pueblo in achieving those. He wondered whether the board should delay making a decision so the SCWA can address that.

Ms. Malavé said she understood SCWA representatives to be saying that getting funding from the Water Trust Board would allow them to bypass the pueblos.

Ms. Dennise Trujillo stated that the response from Santa Clara Pueblo was very positive in terms of working with the SCWA in the second phase, although at this point they do not have an agreement in writing.

Mr. Eisenberg asked what currently projected costs are right now, with the easements. Mr. May responded that he would expect a cost of about $1 million to $1.5 million for the second phase.

Mr. Badal moved to approve this request contingent upon the SCWA providing a pro forma to staff on exactly how they will cover the debt service for the Water Trust Board loan and to submit a formal report to staff explaining exactly what phase one and two entail and how they plan on funding each phase.

Mr. Badal commented that there was no question in his mind that the SCWA had a problem. He said he was concerned about the long-term survivability of the community and understood the importance of water to that survivability, and the board needs to have a better feeling for what the long-term plan is. He said he would encourage staff to get the board the same kind of information in the future on any other project like this.

Mr. Eichenberg seconded the motion, which passed 5-0.

Presenters: Raul Torrez, District Attorney; Carla Martinez, Chief Administrative Officer; Melissa Spangler, Chief Financial Officer, 2nd Judicial District Attorney’s Office

17. 2nd Judicial District Attorney’s Office – Requests Approval of an Emergency Operating Loan to Fund Operations of the Crime Strategies Unit ($450,000)

Mr. Torrez said the 2nd Judicial District Attorney’s Office is requesting a short-term loan of $450,000 to correct what he thinks is a technical issue with respect to appropriated funds previously designated by the legislature in 2018. Total funds appropriated by the legislature were $2.5 million, of which $1.1 million was placed in an account the DA’s Office cannot access because of language stating that these are non-reverting funds. He said the plan is to request the insertion of new language during the upcoming legislative session so the funds can be released.

Mr. Torrez said the DA’s Office had originally planned to use the remaining appropriation balance in 2019 to fund its Crime Strategies Unit (CSU) operations and support staff focused on backlog cases. At the current time, the jobs of eight full time employees and one contractor inside the CSU are in jeopardy. The CSU is working on
active investigations on a number of high profile, high impact organized gangs operating in Albuquerque. It also is addressing a historic rape kit backlog, where there were nearly 5,000 untested rape kits inside of Bernalillo County, and the CSU is currently running the first test program to identify a rapist using forensic genealogy.

Mr. Torrez said the proposed new language would state in effect that any unexpended funds from those special appropriations would carry forward until they were fully expended. He thanked Secretary Padilla-Jackson and her staff for working through these issues. He said the DA’s Office had planned to draw down about $900,000 from the $1.7 million that was remaining, but when they weren’t able to do that, they crafted a solution that is effectively contingent on the request before the board today. To address some of the shortfall, they have drawn down $290,000 from the Southwest Border Prosecution Initiative fund, $28,000 in previously appropriated funds, and $131,000 in vacancy savings. This effectively covered half of the shortfall. He said the $450,000 being requested today in emergency funding would be paid back upon insertion of the corrective language in the upcoming legislative session.

Mr. Torrez said another wrinkle in the appropriations process is that the DA’s Office has $3 million in BAR authority that is set forth in the legislation. Although they can draw on grant monies, federal monies and any other monies they have secured from other revenue sources, they cannot draw on special appropriations funding for this shortfall.

Secretary Padilla-Jackson thanked DA Torrez and his staff for sharpening their pencils. When they came to DFA with this shortfall, they were asked to go back and look at vacancy savings and other funding sources, and they have done that. She assured the board that DFA is working with the Legislative Finance Committee, as well, so everyone is on board in agreeing that the transfer authority was lacking in terms of the ability to adjust the budget with fund balances, and legislative language will be needed to address that, as well. She said DFA supports this emergency loan request.

Ms. Trevisani moved approval of this request. Mr. Eichenberg seconded the motion, which passed 5-0.

**PROPERTY DISPOSITIONS**

Presenter: Deanna Miglio, Real Estate Manager, Bernalillo County

18. Bernalillo County – Requests Approval of the Sale of Real Property Located at 501 Tijeras Avenue NW in Albuquerque to Townsite QO21, LLC ($1,910,000 per year)

Ms. Miglio requested approval of the sale of 501 Tijeras Avenue NW in downtown Albuquerque to Township QO21. She said this is part of a larger project that Bernalillo County is working on, which is consolidating all of their division offices to one location and disposing of buildings that become vacant as a result. The building currently houses the County Assessor’s office.
Responding to Mr. Eichenberg on the lease time for the County Assessor’s office, Ms. Miglio said the county will not close on this sale until May 2020 and then they plan on vacating by the end of March 2021, so the lease will be less than a year. The lease rate is $5 per square foot for this 30,000 square-foot building, for a total of about $70,000-$75,000 for the 10-month period. She stated that waiting until May to close will save the county having to pay lease monies; so the shorter the term, the less money the county will have to put out.

Mr. Eichenberg commented that capturing a 5 percent interest rate on the $1.9 million sale price would have earned $1 million over a period of 10 months. If the economy continues to grow over the next six months, issuing an RFP based on a new appraisal might have resulted in a higher sale price.

Ms. Miglio responded that the county has had the property appraised twice, and the value has not increased.

Ms. Trevisani asked why not try to maximize the value by putting it through a more competitive bidding process.

Ms. Miglio explained that Townsite representatives approached the county to purchase this building and others, and the county agreed to negotiate with the LLC directly. She added, however, that the county plans to seek bids on some of the other properties in the future.

Mr. Eichenberg noted that this is in conjunction with the sale of the courthouse across the street, which will be purchased by the same individual. Ms. Miglio said that was correct, but it is a separate sale.

Ms. Leach requested that approval of this request be contingent upon Director’s receipt and counsel review of fully executed revised lease agreement.

Mr. Badal moved for approval. Mr. Sanchez seconded the motion, which passed 4-1, with Mr. Eichenberg voting against the motion.

**HIGHER EDUCATION DEPARTMENT**

**REVENUE BONDS**

Presenters: Gerald Hoehne, Director, Capital Projects Division, New Mexico Higher Education Department; Scott Stevens, EPC Business Development Manager; John McAllister, Regional Solutions Sales Engineer, ENGIE Services; David West, Chief of Staff; Kent Taylor, Director of Facilities; Judy Scharmer, CFO; Katherine McKinney, Board Counsel, New Mexico Military Institute; Erik Harrigan, Financial Advisor, RBC Capital
19. New Mexico Military Institute – Requests Approval of the Issuance of System Improvement Revenue Bonds Series 2019A Senior Lien (Not to Exceed $5,300,000) and Series 2019B Subordinate Lien (Not to Exceed $6,800,000)

Mr. Hoehne stated that this item will provide funding for Items 20 and 21 on this agenda through the issuance of these revenue bonds. He said it is important to note that the 2019A Senior Lien Bond proceeds will provide funding for renovations to Cahoon Hall (Item 20), and the 2019B Subordinate Lien proceeds will provide funding for various energy cost savings improvements throughout the New Mexico Military Institute (NMMI) campus (Item 21).

There were no questions from members of the board.

Ms. Leach read Parameters A through J of the resolution approving the issuance of the bonds.

Ms. Scharmer stated that NMMI is very familiar with the parameters and can comply with all of them.

Mr. Badal moved for approval. Mr. Eichenberg seconded the motion, which passed 5-0.

CAPITAL EXPENDITURES
Presenters: Gerald Hoehne, Director, Capital Projects Division, New Mexico Higher Education Department; Scott Stevens, EPC Business Development Manager; John McAllister, Regional Solutions Sales Engineer, ENGIE Services; David West, Chief of Staff; Kent Taylor, Director of Facilities; Judy Scharmer, CFO; Katherine McKinney, Board Counsel, New Mexico Military Institute; Erik Harrigan, Financial Advisor, RBC Capital

20. New Mexico Military Institute – Requests Approval of Capital Expenditures for Cahoon Hall Athletic Facility Renovations ($17,437,561)

Mr. Badal moved for approval. Mr. Eichenberg seconded the motion, which passed 5-0.

21. New Mexico Military Institute – Requests Approval of Capital Expenditures for Campus-Wide Energy Performance Renovations ($6,877,153)

Mr. Badal moved for approval. Mr. Eichenberg seconded the motion, which passed 5-0.

PRIVATE ACTIVITY BONDS
Presenters: Mayling Armijo, Director, Economic Development, Bernalillo County; Carol Sugarman, Consultant, DBG Properties; Daniel Beaman, Economic Development Special Projects Coordinator, Bernalillo County

22. Bernalillo County – Requests Approval of Private Activity Bond Volume Cap for the Ceja Vista Senior Apartments Project ($16,000,000)

Ms. Armijo requested approval of a Private Activity Bond volume cap allocation of $16,000,000 for a new affordable multifamily apartment project in Southwest Albuquerque. Ceja Vista Senior Apartments is to be developed by DBG Properties LLC. The project is to construct a 156-unit complex at 10001 Ceja Vista Road, SW, and will be 100 percent affordable.

Responding to Mr. Sanchez, Ms. Armijo stated the units would be offered to low income families with income at 60 percent or below median income in age range of 55+. Ms. Sugarman said small cats and dogs are allowed. There will be a common kitchen for serving meals and having parties, and a large community center will be built as part of the project. In addition, there will be an exercise room, and there will be lots of walking paths around the property.

Mr. Sanchez said there is an affordable housing problem in Valencia County, and he has not seen city, village or county officials discuss any solutions. He said he would like information on how to begin the process for that so he can present it to some entities in Valencia County.

Ms. Armijo discussed the role of the Bernalillo County Economic Development Department as project facilitator. She commented that DBG Properties has done several projects for them, so they are very confident that when DBG brings a project forward, it will get to completion.

Ms. Sugarman stated that there are several different pools of money that can be accessed. The program DBG uses is 4 percent low income housing tax credit bonds that come from the federal government, and those are administered through the New Mexico Mortgage Finance Authority (MFA). She added that this is one of the only federal programs that are out there, unfortunately, for low-income housing. She said another program, the 9 percent low-income housing tax credit program, doesn’t use bonds. This is a competitive round and application is made to the MFA. Out of 20 applications a year, they fund five or six. She added that the subsidy is much deeper than it is for the 4 percent program.

Ms. Sugarman offered to go down to Valencia County to discuss the program in detail.

Mr. Eichenberg moved for approval. Ms. Trevisani seconded the motion, which passed 5-0.
Presenters: Mayling Armijo, Director, Economic Development, Bernalillo County; Carol Sugarman, Consultant, DBG Properties; Daniel Beaman, Economic Development Special Projects Coordinator, Bernalillo County; Angela Heyward, Cesar Chavez Foundation

23. **Bernalillo County – Requests Approval of Private Activity Bond Volume Cap for the SV-PDC Apartment Project ($24,500,000)**

Ms. Armijo requested approval of the Sandia Vista and Plaza David Chavez Limited Partnership Private Activity Bond in the amount of $24.5 million. The project will be two adjacent 100 percent affordable multifamily properties. Sandia Vista Apartments is an existing 138-unit complex located at 901 Tramway Boulevard, N.E., and a 75-unit project located at 2821 Mountain Road, N.W. Sandia Vista Apartments has 108 Project Based Section 8 voucher units and 30 Section 236 units; and all of Plaza David Chavez’s units have Project Based Section 8 vouchers.

Mr. Sanchez moved for approval. Mr. Badal seconded the motion, which passed 5-0.

**GENERAL SERVICES DEPARTMENT CONSTRUCTION CONTRACTS**

Presenters: Ricky Serna, Deputy Secretary; Sara Brownstein, CFO/ASD Director, New Mexico Department of Workforce Solutions; Alex Montañó, Yearout Energy; Amber Fayerberg, General Counsel

24. **New Mexico Department of Workforce Solutions – Requests Approval to Enter into an Energy Savings Performance Contract with Yearout Energy for Renovations and Installation of Facility Improvement Measures for Guaranteed Energy and Operational Savings at the TIWA Building in Albuquerque ($20,986,011)**

Deputy Secretary Serna requested approval to enter into a contract with Yearout Energy Services (YESCO) to renovate the Department of Workforce Solutions (DWS) main TIWA building in Albuquerque to address the need for energy and water cost saving equipment and services. The building was constructed in 1976.

Deputy Secretary Serna said the project began about a year ago under the prior administration, when DWS executed a contract with YESCO. The $12 million appropriations request for that project made its way to the 2019 legislature, when it was approved and signed by the Governor. Around that time, DWS realized that the energy audit did not include the entire building, so they met with YESCO and requested that they expand their scope of services to include the entire facility. The total project cost rose as a result, so they restructured the project into two phases, the first of which would get them through the $12 million appropriation in addition to the $3.9 million the agency can offer. The remaining $5 million will be paid for either through an appropriation they hope to secure in the upcoming legislature; and if that does not materialize, they can issue an
RFP for a lender for the remaining amount. The debt service would be paid for with energy savings guarantees from the project.

Responding to a request from Mr. Eichenberg, Mr. Montañó discussed the scope of the project. He stated that the condition of the facility, which has been untouched for about the last half century, “is in pretty bad shape.” He said they are literally gutting the building all the way to the exterior wall and building it back up, so it will be completely brand-new. This will include new HVAC systems, replacing the roof, upgrading and relocating IT systems, “new everything in a nutshell.” He stated that the work being done is substantially more than what one would typically see in an energy retrofit project. He said the building is 88,000 square feet, which works out to $236 per square foot. He stated that an alternative, such as building a new facility at this location, would be substantially more than what this renovation project would cost. He said it would extend the life of the facility for at least another 40 years.

Ms. Leach requested that approval of this request be contingent upon Director’s receipt and counsel review of (1) fully executed revised agreement, as revised, (2) letter from secretary of General Services Department indicating his review and approval, as required by Section 6-23-5, and (3) certification from DWS general counsel that agreement complies with the requirements of the Public Facility Energy Efficiency and Water Conservation Act, NMSA 1978, Section 6-23-1 to -10 (1993, as amended).

Ms. Fayerberg said DWS is in agreement with the first two contingencies. With respect to the third contingency, she said it would be extremely unusual to make a personal certification on her part of compliance with the law. She pointed out that the contract contains a signature line where she will be able to certify legal sufficiency. She said any legal certification is, by definition, a legal interpretation; so any certification she gives of compliance is meaningless in the face of a separate and contradicting interpretation. That said, she has reviewed the Act and believes it to be in compliance. Also, she was not the drafter of the contract, so it would not make sense for her to certify it.

Ms. Malavé said she didn’t believe the certification was personal. She suggested that Ms. Fayerberg could instead write a letter saying she reviewed the contract and believes it complies with the Act. Ms. Fayerberg responded that she would be comfortable with doing that.

Ms. Leach restated staff’s contingencies as follows: Approval of this request is contingent upon Director’s receipt and counsel review of (1) fully executed revised agreement, as revised, (2) letter from secretary of General Services Department indicating his review and approval, as required by Section 6-23-5, and (3) a letter from DWS general counsel stating her belief that the agreement complies with the requirements of the Public Facility Energy Efficiency and Water Conservation Act, NMSA 1978, Section 6-23-1 to -10 (1993, as amended).
Ms. Trevisani moved for approval. Mr. Sanchez seconded the motion, which passed 5-0.

Presenters: Ken Ortiz, Cabinet Secretary; Anna Silva, Director, Facilities Management Division, General Services Department

25. General Services Department – Requests Approval of the Contract Change Order for the New Meadows Three Building Addition in Las Vegas
($7,056,994.74)

Secretary Ortiz stated that GSD was requesting approval of a contract change order for the construction of the New Meadows 3 Building Addition in Las Vegas.

Ms. Silva stated that the contract is with Jaynes Corporation to incorporate a change order in the amount of $7,056,994.53 for the addition of Add Alternative 1. Due to budget constraints, the Facilities Management Division (FMD) did not include this in the original contract, which allowed FMD to add the alternate in the bid amount up to August 30. The change order was signed on that date after negotiations took place; therefore, they were requesting approval of this change order.

There were no questions or comments.

Mr. Sanchez moved for approval. Mr. Badal seconded the motion, which passed 5-0.

TEMPORARY TRANSFER OF EMPLOYEES
Presenters: Teresa Casados, Chief Operating Officer, Governor’s Office; Jeff Young, General Counsel, State Personnel Office; Matthew Garcia, General Counsel to the Governor

26. Governor Michelle Lujan Grisham – Requests Authorization for the Executive Department Detailing Program under NMSA 1978, 10-7-1

Ms. Casados stated that Governor Lujan Grisham is requesting a delegation of authority to the Office of the Governor and State Personnel Office (SPO) for a temporary transfer of employees. Pursuant to Section 10-7-1 NMSA 1978, the Governor is authorized, subject to approval of the State Board of Finance, to temporarily transfer such employees as the Governor may deem necessary or convenient at any time to further the economical and efficient conduct of state government. SPO, in conjunction with the Office of the Governor, would be responsible for establishing and monitoring the process for detail assignments of both classified and exempt employees.

Ms. Casados said the detailing would be voluntary for the employee. Because Temporary Salary Increases are not required when an employee is transferred to a higher classification level or takes on additional duties, there would not be any budget impact. She said a detail might be needed if, for instance, a CFO of a small department is out on administrative leave pending investigation, is out on medical leave, or retires or resigns.
from their position. She said small departments would be able to continue operating without any interruption in service while the regular employee is out or a replacement has to be found. In addition, there may be a situation when a new employee doesn’t have all of the necessary skills for their position and needs mentoring.

Ms. Casados stated that, if a detailing were needed for more than 30 days but less than a year, an MOU would be done between the two agencies.

Mr. Eichenberg questioned the necessity of asking the Board of Finance to give carte blanche approval going forward rather than after the fact, when the board would be informed of the justification for a detail. In addition, it would be taking away the legislative prerogative of funding the positions. Ms. Casados responded that her reading of the statute is that the board must give approval of an assignment in advance. This could create a critical situation if, for instance, a CFO leaves a position the day after a Board of Finance meeting and there is a one-month wait for approval of a temporary assignment until the next board meeting.

Ms. Casados also stated that the Office of the Governor is not currently looking to do temporary salary increases for these transfers, the thought being that these transfers can offer the opportunity for someone to expand their work skills; however, if three months into this program the Governor’s Office determines that would be beneficial to the transferee, it would have that conversation with the Board of Finance.

Mr. Sanchez asked if the statute defines “temporarily.” Mr. Young responded that SPO requested the temporary transfer of 63 positions last year from the Board of Finance, and the question came up at that time, and there was no defined timeframe with that transfer. With this particular transfer, they are talking about up to a year, possibly renewable for another year, subject to approval by the Board of Finance. He said he is not aware of any statutory definition of the word “temporarily,” or any Attorney General opinion or case law. He noted that this statute dates back to 1935.

Mr. Sanchez commented that offering incentives to employees for new ideas that benefit the state should be considered, because it really goes a long way in creating greater efficiencies that save taxpayer dollars. He said someone who is transferred to another department has fresh eyes and may offer a new and helpful idea, and that should be rewarded.

Mr. Badal asked if this approval is good for only one year.

Ms. Malavé said that, based on her reading of the statute, she didn’t believe the Governor needed the Board of Finance to give approval of that authority, which is granted by the statute. To Mr. Eichenberg’s question about when the board enters the process, she said she didn’t believe this particular statute contemplates that the board would be giving SPO or the Governor authority to institute this program. She said she
believes the Governor and SPO may at this point adopt the detailed program as a matter of policy; and at the time they have identified the employees they want to move, they would appear before the Board of Finance with that specific plan, naming the employees or positions involved, the term, and justification for the transfers. Periodically, as they are implementing the plan, they would come to the board for approval.

Mr. Sanchez said he would respectfully disagree with Ms. Malavé’s interpretation of statute, since then the Board of Finance would be exercising HR authority. In addition, requiring the board to approve individual transfers would result in unwanted delays.

Mr. Eichenberg said his concern was that, while six employees might be transferred from DFA to Taxation & Revenue to deal with an urgent need, and thus get the work done more efficiently and so forth, these positions weren’t appropriated by the legislature.

Mr. Badal said this was exactly his concern. He said he would prefer that the program be operated as interpreted by Mr. Sanchez. While he would like to give the Governor the ability to make this decision and make this program work in a very robust fashion, he didn’t understand why the board was involved at this point.

Ms. Casados responded that what some board members were describing was a long-term transferring of employees, while this is a short-term program. In addition, the statute says that this can be done without regard to appropriation, so this wasn’t circumventing the legislature.

Mr. Garcia said the express purpose of the statute is to allow flexibility, and speaks to the economical and efficient conduct of state government. The statute allows the Governor, for necessity or mere convenience, to make these temporary transfers subject to the board approval. He said the statute doesn’t contemplate identifying specific employees, justifying the transfer, or specifying the duration of the transfer. He said the statute is written in such a way, however, that it does suggest approval from the Board of Finance is necessary prior to making these transfers. This is why they are before the board today.

Mr. Badal commented that it didn’t make sense to him that the board should be involved in making personnel decisions, but he was confused because he has heard different interpretations of the statute. He said he didn’t want to be involved in making personnel decisions or managing state government.

Mr. Eichenberg asked Ms. Malavé what the board’s practice has been historically with respect to this section of statute.

Ms. Malavé responded that her experience with the Board of Finance goes back as far as the previous administration. She said she could think of two or three instances where
the Governor and SPO came to the board, all related to the prior administration’s attempts to centralize human resources units under SPO. In each instance, they came to the board with a bloc of employees who were to be moved to SPO. While the first request had a specified timeframe, the second request had no time associated with it, and she reminded the board that statute contemplated temporary transfers only. She commented that is what the statute contemplates, in her view, which is that once the employees are identified, they are brought to the board for approval.

Mr. Eichenberg said SPO approached his office at that time, but they were also taking funding of the position to SPO, and this is what was being done throughout state government. He felt at the time that this was usurping the authority of the legislature.

Ms. Casados said that, with respect to today’s request, this has been a practice in state government for decades without requesting the proper authority to do so. They just want to be able to do this correctly so they can track data and see how the program is working.

Lt. Governor Morales expressed concern that approving this request could establish a precedent for future administrations.

Ms. Casados responded that they would be amenable to requesting approval for just one year, and coming back in six months with a report on how the program is going, where employees have been detailed, and what the benefit is.

Mr. Badal so moved, with Ms. Casados’ caveat. Ms. Trevisani seconded the motion, which passed 5-0.

**GENERAL SERVICES DEPARTMENT**

Presenters: Ken Ortiz, Cabinet Secretary; Anna Silva, Director, Facilities Management Division, General Services Department

27. **Capitol Buildings Repair Fund Financial Status Report for Months-Ended July 31, 2019, and August 31, 2019**

Ms. Silva presented this report.

28. **Legislative Capital Projects Financial Status Reports for Months-Ended July 31, 2019, and August 31, 2019**

Ms. Silva presented this report.

**STATE TREASURER’S OFFICE**

Presenter: Vikki Hanges, Chief Investment Officer and General Fund Portfolio Manager

29. **Monthly Investment Reports for Month-Ended June 30, 2019 and**
July 31, 2019

Ms. Hanges reported that STO managed $6.5 billion in assets in June, and earnings for FY 2019 were $118 million. For July 31, 2019, STO managed $6 billion in assets, with a total of $4 million in income.

Responding to Mr. Sanchez about the condition of the portfolios, Ms. Hanges noted that, for performance for the 12 months ended August 31, interest earnings were close to 5 percent, and prior to that around 4 percent. She commented that this is very attractive when stacked up against the SIC and other investment agencies.

Ms. Trevisani congratulated STO for these excellent returns in this low interest rate environment.

30. **Addition of Morgan Stanley to Broker-Dealer List**

Ms. Hanges requested approval to add Morgan Stanley to the Broker-Dealer list. Although they missed the deadline in this annual process, they are a very large primary dealer and STO would like to include them on the approved list.

Mr. Badal moved for approval. Ms. Trevisani seconded the motion, which passed 5-0.

**STAFF ITEMS**
Presenter: Ashley Leach, Director, State Board of Finance

31. **Approval of Staff to Issue Request for Proposals for Bond Counsel and Tax Counsel Services**

Ms. Leach requested approval to issue a Request for Proposals for Bond Counsel and Tax Counsel services. She said the subcommittee, consisting of Members Badal, Cassidy and Sanchez, met in August and gave feedback to staff on the RFPs. At this point in time, staff is preparing the RFP and incorporating feedback from the subcommittee members.

Mr. Eichenberg moved for approval. Mr. Sanchez seconded the motion, which passed 5-0.

**COMMUNICATIONS**

Ms. Leach introduced Board Administrator Ramila Baral to the board.

Ms. Malavé introduced colleague John Grubesic from the Attorney General's Office, who will act as counsel until a permanent replacement for departed counsel Stephen Vigil is identified.
ADJOURNMENT: 12:23 p.m.

Mr. Cassidy moved for adjournment. Mr. Badal seconded the motion, which passed 5-0.

Michelle Lujan Grisham, President

10/30/19

Date

Michael S. Sanchez, Secretary

10/30/19

Date
ADJOURNMENT: 12:23 p.m.

Mr. Cassidy moved for adjournment. Mr. Badal seconded the motion, which passed 5-0.

Michelle Lujan Grisham, President

10/30/19

Date

Michael S. Sanchez, Secretary

10/30/19

Date