

NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING

VIRTUAL ATTENDANCE AVAILABLE

Santa Fe, New Mexico

September 19, 2023

A regular meeting of the New Mexico State Board of Finance was called to order on this date at 9:00 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. Howie Morales, Lt. Governor [left at approximately 10:30 a.m.]

The Hon. Laura M. Montoya, New Mexico State Treasurer

Mr. Joseph Badal, Public Member

Mr. Paul Cassidy, Public Member

Mr. Michael S. Sanchez, Secretary, Public Member

Ms. Wendy Trevisani, Public Member

Members Excused:

The Hon. Michelle Lujan Grisham, President

Staff Present:

Ms. Ashley Leach, Director

Mr. Marcos B. Trujillo, Deputy Director

Legal Counsel Present:

Ms. Jennifer Salazar

2. APPROVAL OF AGENDA

Treasurer Montoya moved approval of the agenda. Member Trevisani seconded the motion, which passed unanimously.

3. APPROVAL OF MINUTES: July 18, 2023 (Regular Meeting)

Member Cassidy moved for approval of the July 18, 2023, regular meeting. Member Badal seconded the motion, which passed unanimously. [Abstaining: Treasurer Montoya.]

Submitted by: Patrick Trujillo, County Attorney, Taos County

8. Taos County—Requests Approval of the Donation of Real Property, Located at Filemon Sanchez Park, to the Town of Taos

- Contingent upon director's and counsel's receipt and review of (1) a fully executed donation agreement, (2) a fully executed quitclaim deed, and (3) a resolution of the Taos County Commission that evidences approval of the donation of the property that includes Tract "A" and "B."

Submitted by: Michelle Romero, Director of Purchasing, Los Lunas Public Schools

9. Los Lunas Public Schools—Requests Approval of the Lease of Real Property, Located at 22 Marlink Road in Los Lunas, to Vertical Bridge Development LLC (\$18,000/year)

- Contingent upon director's and counsel's receipt and review of a fully executed lease agreement

Submitted by: Gerald Hoehne, Director of Capital Projects & Interim Director of Institutional Finance Divisions, Higher Education Department

10. New Mexico State University—Requests Approval of Capital Expenditures for Construction of Cabins and a Laboratory at the Corona Agricultural Science Research Ranch (\$1,510,000)

11. University of New Mexico—Requests Approval of Capital Expenditures for the Renovation and Replacement of the La Posada Dishwasher (\$650,000)

Submitted by: Arsenio Garduño, Collateral Manager, State Treasurer's Office

12. Consideration of Amended Broker-Dealer List for Fiscal Years 2024 and 2025

Submitted by: Ashley Leach, Director, State Board of Finance

13. Seventh Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2018S-D

14. Sixth Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2020S-B

15. Second Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2020S-D

16. Ninth Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2021S-B

17. Ninth Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2021S-D

18. **Second Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2022S-D**
19. **First Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2023S-B**
20. **Second Amending Resolution for State of New Mexico Supplemental Severance Tax Note Series 2023S-A**
21. **Amending Resolution to the 2023 Resolution Reauthorizing Certain Severance Tax Bond Projects**

Treasurer Montoya moved for approval of the Consent Agenda based on the contingency list directed by staff. Member Badal seconded the motion, which passed unanimously.

INFORMATIONAL ITEMS

Presenter: Ashley Leach, Director, State Board of Finance

Submitted by: Anna Silva, Deputy Cabinet Secretary, GSD

22. **Capital Buildings Repair Fund Financial Status Report for Months-Ended July 31 and August 31, 2023**
23. **Legislative Capital Projects Financial Status Report for Months-Ended July 31 and August 31, 2023**

Submitted by: Vikki Hanges, Chief Investment Officer, STO

24. **State Treasurer's Office Investment Report for Months-Ended July 31 and August 31, 2023**

Submitted by Ashley Leach, Director, Board of Finance

25. **Emergency Balances – September 19, 2023**

	<u>Balance</u>	<u>Appropriation</u>
Operating Reserve Fund	\$4,000,000.00	\$4,000,000.00
Emergency Water Fund	\$ 109,900.00	\$ 109,900.00

26. **Fiscal Agent and Custodial Bank Fees Report for Month-Ended August 31, 2023**
27. **Joint Powers Agreements for Months-Ended July 31 and August 31, 2023**
28. **Updated FY24 through FY28 Bonding Capacity Sources & Uses**

29. Report of the Board of Finance Audit Subcommittee

Member Badal noted the subcommittee's suggestion that 12-6-15 NMSA be amended to eliminate this required review because it is a duplicative process.

Member Cassidy noted that this is the third year in which the subcommittee has made this suggestion.

PRESENTATIONS

Introductions: Ashley Leach, Director, State Board of Finance

Presenter: Ken Simonson, Chief Economist, Associated General Contractors of America

30. US & New Mexico Construction Outlook

Mr. Simonson made this presentation. He said that the Associated General Contractors of America has 27,000 member companies with 89 chapters, including two very strong chapters in New Mexico: AGC of New Mexico, representing vertical or building contractors; and the Associated Contractors of New Mexico, representing highway and other civil and so-called horizontal construction firms.

Responding to Treasurer Montoya, Mr. Simonson said he did not have New Mexico county data immediately available but would provide it for staff after the meeting.

Referring to slide 10 (construction inputs & labor costs), member Cassidy asked what the cumulative change was over from Covid forward in terms of cost. He said the Board of Finance is seeing construction project costs escalate to as much as \$800 a square foot, and asked Mr. Simonson if he could foresee costs eventually reversing.

Mr. Simonson responded that materials costs have increased by 40 percent in the 42-month period from February 2020 to August 2023, and labor costs are catching up to that after being held down in part by union contracts signed in previous years that put in 2-3 percent increases year over year. As they expire and are replaced, substantially higher increases can be expected on the union side.

Member Badal noted that 68 percent of the respondents [slide 8] cited difficulties in filling available positions because available candidates were not qualified to work in the industry. He asked what the AGC is doing about trying to fill that void, and what can be done by the state of New Mexico to help.

Mr. Simonson responded that many of the AGC chapters, including in New Mexico, are working with school districts, community colleges and state universities to get programs that support more career and technical education in specialized training to meet the needs

of specific projects. These can be a semiconductor plant or a project at one of the labs or military facilities.

Member Sanchez noted that the slide presentation does not include information on profit margins being made by contractors and asked if that was relevant.

Mr. Simonson responded that this is hard data to pin down and on a timely basis. The IRS has corporate income tax statistics, but they lag by several years. He commented that construction firms are doing better now than they were during the time when there were 20 percent increases in materials. He said it depends on the mix of materials and projects and whether they are able to pass along any of those costs. A number of DOTs do allow adjustments for fuel, asphalt or steel costs, which the board might want to look into.

Member Sanchez asked what AGC is doing to help New Mexico state institutions at the high school, college or junior college level in terms of supplying monetary benefits or any programs that these schools can use.

Mr. Simonson responded that AGC of America works through the chapters, which support particular colleges. AGC of America also has an education research foundation, which awards scholarships every year for students in construction management programs at universities. Many of the construction firms also work directly with high schools or provide internships for students in career or technical training.

Member Badal requested that a future meeting include a presentation from HED about what programs are available to train people for the construction industry in New Mexico.

Presenters: Cally Carswell, Financial Analyst, Legislative Finance Committee; Tim Bedeaux, Senior Policy Analyst, Legislative Education Study Committee

31. Explaining Rising Construction Costs

Ms. Carswell and Mr. Bedeaux made this presentation.

Member Badal noted that, before Covid, big projects tended to attract firms from outside of New Mexico, and wondered what the situation was now. He said part of the supply and demand imbalance was created by a lack of interest in out-of-state firms coming in, which is putting pressure on local firms.

Ms. Carswell responded that she didn't know what the case was in the private sector, but on the public side, they were not seeing many out-of-state contractors. Those projects are mostly drawn from a small pool of major GCs within the state. The state's procurement policies also favor in-state contractors.

Mr. Badal said it appears that the state is its own worst enemy, having so much cash to spend and creating the supply-and-demand problem to some degree. He wondered what

kind of responsibility the state has in trying to stabilize the environment instead of creating spikes that could lead to unemployment problems and collapse of some construction companies.

Mr. Badal commented that the problem statement slide, which states that continued cost escalation will limit the state's ability to meet increased demand, is very important. Based on the state's revenue projections of its long-term construction needs for the next five to 10 years when compared to projected state revenues, he asked what sort of impact these elevated rates would have on the state's ability to pay for state projects, including higher education, high schools, etc.

Ms. Carswell agreed with Member Badal's observation that the state is contributing to the demand problem, and they have been looking at ways they can try to control this. On the demand side from the state, they are seeing an incredibly quick increase in the amount they are able to spend, and the public and private system that can meet that demand isn't capable of ramping up at the same rate. She and the Chief Economist have been working with Director Leach, Deputy Trujillo and DFA staff on strategies the state might consider pursuing, such as spreading out immediate term capital spending on a more predictable basis over a long period of time.

Treasurer Montoya observed on slide 6 that the 2024 NMGOB is nearly three times higher than the other four comparables, which are comparable to wages, salaries, and everything else in New Mexico. On slide 15, she noted that construction spending peaked in 2007, and the peak is nearly at that level now, and that was right before the market crashed. She said these are critical factors to consider when approaching the legislatures.

Treasurer Montoya also asked if there is a push to ask the legislature to fund apprenticeships to assist with the supply and demand issue.

Ms. Carswell responded that the state traditionally funds projects in large chunks during the GOB cycle for both design and construction of projects, and there is a significant delay between when the appropriations are made and when the money actually becomes available, and they have to go to voters. The requests that HED and the Capital Outlay Committee are considering right now are assuming a lot of inflation, and in some cases very high contingency rates because they aren't going to start for another two years. She said it is very hard to make appropriation decisions on projects that won't start for another two years and haven't been designed yet.

Mr. Bedeaux stated that career technical education is a massive priority for members of the LESC, and there have been a lot of appropriations over the past few years to broaden that, including studying whether it would be appropriate to add farming to the state funding formula for public school education, which would increase the amount of money that school districts would get for career education generally. On the capital side, he toured the CTECH Career and Technical Education Center in Hobbs, which cost \$15 million, and that

was through private and public partnerships. While the state made an appropriation last year for CTECH facilities, there is responsibility from the private sector through partnerships to stretch the state's dollar as much as possible.

Ms. Carswell added that HED capital requests for 2024 include about five institutions that are requesting funding for vocational training facilities. She pointed out, however, that building these facilities will take a few years, and then it takes time to get the programs up and running and getting students trained.

Member Sanchez suggested that the legislature might want to rethink its commitment to prioritize local contractors over out-of-state contractors in order to increase competition and potentially lower costs. He said it would be very useful if this slide presentation were shown to every legislator.

[Lt. Governor Morales left the meeting.]

Presenter: Leonardo Delgado, Chief Economist, NM Department of Finance & Administration

32. Oil and Gas Revenue Outlook

Mr. Delgado made this presentation.

Referring to the effect on the general fund from the taxation of out-of-state sales, Member Cassidy asked if that is being viewed as a net positive for the general fund or for the community. Mr. Delgado responded that it has been a net positive for the state and most municipalities and counties. While some communities have argued that some of the legislative changes have negatively impacted them, he feels the effect on the state is a net positive.

HIGHER EDUCATION

CAPITAL EXPENDITURES

Presenters: Gerald Hoehne, Director HED; Dr. Dan Lopez, President; Richard Cervantes, VP Administration & Finance; Alex Garcia, Director of Capital Projects

33. New Mexico Institute of Mining and Technology—Requests Approval of Capital Expenditures for Phase I Construction of a New Petroleum Research Recovery Center (\$16,645,051)

Mr. Hoehne stated that this is a request by New Mexico Institute of Mining and Technology (NMIMT) for approval of capital expenditures totaling \$16,651,051 for phase I of a new Petroleum Research Recovery Center (PRRC). This project will result in construction of a two-story 26,000 square foot structure. The first phase includes constructing 16,234 square feet and doing utility work, and will include eight of 15 research

labs and four of 20 staff offices. A temporary wall will enclose the space so that the building will be fully functional until it is expanded into phase II, which will require an additional \$8.4 million. The remaining seven labs and 16 offices, as well as additional restrooms and graduate student office space, will be built once additional funding is secured. Phase I will be a standalone project in case the funding for the second phase does not materialize.

Dr. Lopez stated that the threat from Artificial Intelligence to the current makeup of the workforce will happen a lot faster than people realize. With that in mind, NMIMT is making sure it does not add space on campus, and this project actually eliminates part of the available space they have today. He stated that, over the next ten years, robots will probably replace half of the state's workforce, and it is very important for HED to proactively adapt to that new environment.

Member Badal moved for approval. Member Cassidy seconded the motion, which passed unanimously.

CONTRACTS

Presenters: Renada Peery-Galon, Administrative Services Division Director & Chief Financial Officer, NMERB, Megan Mannila, Employer Bureau Chief; Deputy Director Lawrence Esquibel

34. New Mexico Educational Retirement Board—Requests Approval of the Contract with Enterprise Builders Corporation for the Construction of Its New Headquarters, Located at 5211 Las Soleras Drive in Santa Fe (\$12,395,042)

Ms. Peery-Galon stated that this is a request to enter into a contract totaling \$11,457,000 with Enterprise Builders Corporation to construct a new headquarters at 5211 Las Soleras Drive in Santa Fe. The new building will consist of 19,443 square feet and will serve as the NMERB's headquarters and will house 82 of the NMERB's 91 FTEs. Currently, staff is located in three different locations in Santa Fe.

Ms. Peery-Galon made a slide presentation. Because of inflation in cost, it took the NMERB a few years of appropriations to come up with the total amount needed for completion of this project, and finally issued an RFP for construction in June 2023. Two proposals were received, with Enterprise Builders Corporation offering the "best value" with their overall bid of \$12,395,041.88. The total budget for this project is \$15,809,000.

Mr. Esquibel said investment staff will be relocated from the Albuquerque office, with six of the 12 staff housed there remaining in Albuquerque to serve the needs of members in the Greater Albuquerque area. He stated that all NMERB employees are working in the office.

Ms. Leach said approval is contingent upon director's and counsel's receipt and review of a fully executed contract.

Treasurer Montoya moved for approval. Member Trevisani seconded the motion, which passed unanimously.

EMERGENCY FUNDING REQUESTS

Presenters: Beth Gillia, Executive Director, OFRA; Monica Zamora, Retired District & Appellate Judge and Board Chairman, OFRA Board; Lisa Fitting, Director, Administrative Services Division; Theresa Benavidez, CFO

35. Office of Family Representation and Advocacy—Requests Approval of an Emergency Operating Grant to Fulfill its Statutory Mandate to Provide Legal Counsel for Parties in Certain Cases under New Mexico’s Children’s Code (\$1,500,000)

Ms. Zamora said the Office of Family Representation and Advocacy (OFRA) is requesting an emergency operating grant of \$1.5 million to meet its statutory mandate to provide legal counsel to parents, children, and eligible adults in certain cases under New Mexico’s Children’s Code. The grant money would cover a projected shortfall for contract attorneys of \$1,277,847 and \$222,153 for experts, interpreters/translators, and mileage for legal teams to visit clients. Prior to the creation of OFRA by the legislature this year, the courts would appoint attorneys and the Administrative Office of the Courts (AOC) would contract with them for payment. Now the courts appoint OFRA, which assigns counsel from a pool of contract attorneys. She said the new arrangement will provide high quality legal representation for clients. Ms. Zamora also noted that OFRA is required to establish five regional offices and a statewide appellate unit using a new model that includes social workers and peer mentors, while ensuring that attorneys are paid appropriately, have reasonable caseloads, and are provided training, mentoring and other support.

Ms. Gillia said they are statutorily required to provide attorneys for each parent, guardian or custodian, as well as the children and youth in all child abuse and neglect cases, which are the overwhelming majority of cases OFRA is involved in. She also noted that each abuse and neglect case can involve two attorneys or multiple attorneys. As of yesterday, roughly 1,900 children’s court cases are requiring OFRA attorneys across the state.

Responding to Member Badal, Ms. Leach stated that this request is for \$1.5 million to cover OFRA’s projected need through the end of the fiscal year. She added that it is OFRA’s intention to go in for a supplemental appropriation during the legislative session. Should the board approve this, a draft resolution has been prepared that lays out how that funding will be provided. The board will release the funds as OFRA submits evidence of the expenditures through the legislative session until a supplemental appropriation is received. At that points, the board will not release further funds unless there is some reason that OFRA states that the appropriation was not sufficient, etc. While this request is for the end of the fiscal year, the board has the resolution drafted so that funding will be provided until the supplemental funding is in place. She also confirmed that the monies from the emergency

fund would be mitigated not just by the supplemental funding from the legislature but also from grant money OFRA receives from other sources.

Responding to Treasurer Montoya, Ms. Leach stated that the board reviewed OFRA's emergency request and agreed that it meets the requirement that this was an unforeseen event, which in this case was the caseload that was unforeseen at the time of the budget request, and the fact that \$1.5 million in federal grants included in the budget and considered by the LFC was not available.

Chairman Sanchez asked how the attorneys are paid. Ms. Gillia responded that they are paid by tier, a system the court developed over time. There are tiers of cases, with four to five cases per tier, and the attorneys get a monthly rate based on the number of cases in the tier they are assigned. If they get more cases, they go to a higher tier, which has a higher monthly rate. She added that a monthly rate would be a much better model, but the court tried that and expended their entire year's budget in less than six months when attorneys were billing by the hour.

Member Cassidy moved for approval. Member Trevisani seconded the motion, which passed unanimously.

Presenters: Lori Ortiz, Deputy Clerk, Town of Hurley; Blas Rodrigues, Maintenance Supervisor, Town of Hurley; George Esqueda, Engineer, Stantec; Ed Stevens, Mayor, Town of Hurley

36. Town of Hurley—Requests Approval of an Emergency Operating Grant to Address the Septage Pump Issue in the Town of Hurley (\$210,000)

Mr. Stevens stated that this request is for an emergency operating grant of \$210,000 to do upgrades to its wastewater lift station, which requires critical repairs.

Mr. Esqueda stated that the lift station was constructed in 2010 using USDA funding. The funding was also used to install 25,000 linear feet of 10" piping, which connects the Town of Hurley to the wastewater treatment system. The proposed improvements would rehab or replace existing components in the lift station, including a new power supply to meet PNM standards, replacing the two pumps in the wet well of the lift station and replacing other electrical components. He said this would not be a Band-Aid to the system but would get them back up and functioning efficiently. He added that, since the application for \$210,000 request was submitted to the Board of Finance, their backup generator is now causing problems.

Member Badal asked what it would cost to replace the entire system. Mr. Esqueda responded that they did not run the numbers for that, but the contractor who was awarded the project in 2009 submitted a bid for the lift station at \$137,500. Mr. Esqueda said he thought replacing the entire system today would cost about \$1.2 million.

Member Badal asked what the useful life of the system not being replaced is estimated to be. His concern is that the Board of Finance could be hearing a request to replace the rest of the equipment in a year or two.

Deputy Director Trujillo responded that their application states that the equipment they are replacing has met its useful life of 15 years, but he would have to follow up with Priscilla Lucero, Executive Director of the Southwest New Mexico Council of Governments. He said she did mention that they are trying to connect to the general system that belongs to other communities in the area.

Member Cassidy moved for approval. Treasurer Montoya seconded the motion, which passed unanimously.

STAFF ITEMS

Presenter: Ashley Leach, Director, State Board of Finance

38. Second Amendment to the Contract with Wells Fargo for Fiscal Agent and Treasury Services

Ms. Leach stated that staff anticipated this amendment at the time the board entered the contract. The amendment appends a service description to the contract for Account Validation Services (AVS), which is a fraud protection tool provided by Wells Fargo that provides a way for the State to confirm the owner of an account and whether that account is at risk of administrative returns. The Department of Finance and Administration Financial Control Division completed a trial of AVS and believes it to be a useful tool for fraud prevention. Other state agencies such as CFD and Workforce Solutions may elect to utilize AVS in the future.

Treasurer Montoya moved for approval. Member Badal seconded the motion, which passed unanimously.

39. Consideration of Delegation of Authority to Board of Finance Staff for Review and Approval of Public School Capital Outlay Council Recertifications

Ms. Leach requested that the board delegate the approval of Public School Capital Outlay Council (PSCOC) recertifications to staff. Staff has historically memorialized PSCOC recertifications for Supplemental Severance Tax Notes proceeds via amending resolutions for each note series to which the rectification is tied. This was primarily to ensure proper oversight of PSCOC recertifications and capital expenditures. Following extensive, productive, and positive work with Public School Facilities Authority (PSFA) staff on the reconciliation of historical certifications, recertifications, and capital outlay expenditures, staff has worked with PSFA staff to create a process in which they can verify their reconciliation as recertifications are approved by the PSCOC. Staff is confident they will be able to verify the reconciliation and provide administrative approval. This will improve

efficiency at the PSFA, PSCOC, and Board of Finance levels and expedite reimbursement to school districts.

Member Cassidy moved for approval. Member Badal seconded the motion, which passed unanimously.

EXECUTIVE SESSION

The Board may enter executive session pursuant to §10-15-1(H)(6) to discuss competitive sealed proposals in response to RFP# 24-341-4000-00003 Bond Counsel and RFP# 24-341-4000-00004 Tax Counsel

Presenter: Ashley Leach, Director, State Board of Finance

40. Finalist Award for Bond Counsel and Approval of Contract for Bond Counsel Services with Delegation to Staff to Finalize Contract and Submit to the Contracts Review Bureau for Approval

41. Finalist Award for Tax Counsel and Approval of Contract for Tax Counsel Services with Delegation to Staff to Finalize the Contract and Submit to the Contracts Review Bureau for Approval

Member Badal moved to enter into executive session as permitted by Section 10-15-1(H)(6) to discuss competitive sealed proposals in response to RFP# 24-341-4000-00003 Bond Counsel and RFP# 24-341-4000-00004 Tax Counsel to discuss agenda item 40, Finalist Award for Bond Counsel and Approval of Contract for Bond Counsel Services with Delegation to Staff to Finalize Contract and Submit to the Contracts Review Bureau for Approval; and item 41, Finalist Award for Tax Counsel and Approval of Contract for Tax Counsel Services with Delegation to Staff to Finalize Contract and Submit to the Contracts Review Bureau for Approval. Treasurer Montoya seconded the motion, which passed unanimously by roll call vote.

[The board was in executive session from 1:31 p.m. to 1:45 p.m.]

Member Sanchez stated that the only matters discussed in executive session were as stated in the motion to go into executive session.

Item 40: Chairman Sanchez moved to approve the delegation to staff to finalize the bond counsel contract with Rodey, Dickason, Sloan, Akin & Robb and submit to the Contracts Review Bureau for approval. Member Badal seconded the motion, which passed unanimously by roll call vote.

Item 41: Chairman Sanchez moved to approve the delegation to staff to finalize the tax counsel contract with Sherman & Howard and submit to the Contracts Review Bureau for approval. Member Cassidy seconded the motion, which passed unanimously by roll call vote.

STATE TREASURER'S OFFICE

Submitted by: Vikki Hanges, Chief Investment Officer, STO

37. State Treasurer's Investment Review for Quarter-Ended June 30, 2023

Ms. Hanges reported that, at the end of June, STO managed about \$17 billion in assets. For the fiscal year ended June 30, 2023, the portfolios earned \$372 million, which includes the mark-to-market. For the quarter ended June 30, the portfolios earned \$103 million, including mark-to-market.

ADJOURNMENT: 1:55 p.m.

Michelle Lujan Grisham, President

Date

Michael S. Sanchez, Secretary

Date

DRAFT