

NEW MEXICO STATE BOARD OF FINANCE

REGULAR MEETING

VIRTUAL ATTENDANCE AVAILABLE

Santa Fe, New Mexico

March 21, 2023

A regular meeting of the New Mexico State Board of Finance was called to order on this date at 9:02 a.m. in the Governor's Cabinet Room, fourth floor, State Capitol Building, Santa Fe, New Mexico. The meeting was held with a virtual option for those who could not attend in person.

1. ROLL CALL -- QUORUM PRESENT

Members Present:

The Hon. Howie Morales, Lt. Governor [signing off 9:30 a.m.]

The Hon. Laura Montoya, New Mexico State Treasurer

Mr. Joseph Badal, Public Member, Acting Chair

Mr. Paul Cassidy, Public Member

Ms. Wendy Trevisani, Public Member

Members Excused:

The Hon. Michelle Lujan Grisham, President

Mr. Michael S. Sanchez, Secretary, Public Member

Staff Present:

Ms. Ashley Leach, Director

Mr. Marcos B. Trujillo, Deputy Director

Legal Counsel Present:

Ms. Jennifer Salazar

2. APPROVAL OF AGENDA

Treasurer Montoya requested that the following item be added to the agenda:

- 15.a) Discussion Regarding the Legislative Session

Treasurer Montoya moved approval of the agenda, as amended. Member Cassidy seconded, and the motion passed unanimously.

3. **APPROVAL OF MINUTES: February 21, 2023 (Regular Meeting)**

Member Cassidy moved approval of the February 21, 2023, Regular Meeting. Member Trevisani seconded the motion, which passed unanimously.

CONSENT AGENDA (Items 4-13)

Presenter: Ashley Leach, Director, Board of Finance

Submitted by: Gerald Hoehne, Director, Higher Education Department

4. **University of New Mexico—Requests Approval of Capital Expenditures for Renovations to the Exterior Envelope of Scholes Hall (\$1,040,000)**

Submitted by: David Chavez, Executive Director, Cooperative Educational Services

5. **Cooperative Educational Services—Requests Approval of the Lease of Real Property, Located at 1451 Innovation Parkway SE in Albuquerque, Suite 500, to Vic Myers Associates Corp. (\$17,893/year)**

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

Submitted by: Ben McIntosh, Real Estate Manager, Bernalillo County

6. **Bernalillo County—Requests Approval of the Lease of Real Property, Located at 100 Deputy Dean Miera Drive SW in Albuquerque, to Gordon Bernell Charter School (\$52,962/year)**

- Contingent upon director’s and counsel’s receipt and review of (1) a fully executed lease agreement and (2) a copy of the completed ALTA survey

Submitted by: Chris Jones, Executive Director, Albuquerque Bilingual Academy

7. **Albuquerque Bilingual Academy—Requests Approval of the Sale of Real Property, Located at 5201 Central Ave NW in Albuquerque, to GIG Holdings, LLC (\$1,700,000)**

- Contingent upon director’s and counsel’s receipt and review of (1) a revised and fully executed purchase agreement and (2) a revised and fully executed quitclaim deed

Submitted by Anna Silva, Director, Facilities Management Division

8. **Capital Buildings Repair Fund Financial Status Report for Month-Ended**

February 28, 2023

9. Legislative Capital Projects Financial Status Report for Month-Ended February 28, 2023

Submitted by Vikki Hanges, Chief Investment Officer, State Treasurer's Office

10. State Treasurer's Office Investment Report for Month-Ended January 31, 2023

Submitted by Ashley Leach, Director, Board of Finance

11. Emergency Balances – March 21, 2023

	<u>Balance</u>	<u>Appropriation</u>
Operating Reserve Fund	\$0.00	\$2,500,000.00
Emergency Water Fund	\$0.00	\$ 109,900.00

12. Fiscal Agent and Custodial Bank Fees Report for Month-Ended February 28, 2023

13. Joint Powers Agreements for Month-Ended February 28, 2023

Treasurer Montoya moved approval of the Consent Agenda, as presented. Member Cassidy seconded the motion, which passed unanimously.

BONDING PROGRAMS

Presenters: Ashley Leach, Director, State Board of Finance; David Buchholtz, Director, Rodey, Dickason, Sloan, Akin & Robb, P.A. Luis Carrasco, Director, Rodey, Dickason, Sloan, Akin & Robb, P.A.; Parker Schenken, Member, Sherman & Howard, LLC; Jill Sweeney, Member, Sherman & Howard (Co-Bond Counsel); David Paul, President, Fiscal Strategies Group

14. Authorizing and Delegating Resolution for State of New Mexico General Obligation Bonds, Series 2023 (not to exceed \$259,722,000)

Mr. Carrasco noted that \$259,722,000 is the sum of the amounts of the questions that the voters approved in the last election. These are long-term bonds to finance capital expenditures for certain senior citizen facility improvement, construction and equipment acquisition projects; certain academic, public school, tribal and public library resource acquisitions; and certain education, special schools and tribal schools capital improvements and acquisitions, all as specified in the 2022 Capital Projects General Obligation Bond Act and approved by the voters on November 8, 2022.

Mr. Carrasco said the maturities for these bonds extend no longer than March 1, 2033 and bear a true interest cost of no more than 5 percent. The Preliminary Official

Statement will be posted on or about March 31, 2023. Anticipated sale/pricing date is April 13, with closing scheduled on April 27.

Mr. Carrasco stated that there are a few projects that they are still working on with tax counsel. In the event one or more of the projects needs to be removed from the project list, they will bring an amending resolution to the board at next month's meeting.

Treasurer Montoya asked why some projects might be taken off the list. Mr. Carrasco responded that there are a couple of tax issues relative to the intended use of the proceeds and whether those intended uses comport with the parameters and rules established by the IRS. Tax counsel is taking an in-depth look at those projects to make sure they don't run afoul of IRS rules. There are also questions about whether some entities to which there are appropriations made are compliant with Executive Order 2013-06, which relates to having current audits in place.

Treasurer Montoya asked if she understood correctly that a clean audit is required in order to be eligible to participate in this bond issue. Ms. Leach responded yes, although in the past, DFA has placed conditions on becoming audit compliant, so there is the potential that the projects could be considered for the sale if DFA feels confident that the entity will become audit-compliant. Board of Finance staff, along with the Administrative Services Division and DFA counsel, is looking into whether that would be an appropriate situation in this case.

Lt. Governor Morales said he would like to see a review of those entities that may not be able to participate in the sale. While it is worth the effort to make sure they become audit compliant, he feels this can create a potential problem for rural communities and their water and ditch associations that often do not have the capacity or manpower to be able to provide the technical expertise needed for an audit.

Ms. Leach noted that, in those instances in particular, staff can require a fiscal agent for an entity that is challenged with becoming audit compliant. Also, a condition can be put in place that allows the entity to be included in the sale while allowing time to help them become audit compliant so those funds can be released.

Member Cassidy moved for approval. Lt. Governor Morales seconded the motion, which passed unanimously.

Presenters: Ashley Leach, Director, State Board of Finance; Ken Guckenberger, Partner, Kutak Rock; Noelle Graney, Partner, Kutak Rock

15. Approval of Preliminary Official Statement, State of New Mexico General Obligation Bonds, Series 2023

Ms. Graney stated that the timing this year is such that they will be asking for additional updates in the next week. Some of the legislation that passed could potentially have impacts that should be referenced in the offering statement.

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

15a. Discussion Regarding Legislative Session: Treasurer Montoya

Treasurer Montoya said her concern is HB 512, sponsored by Rep. Lara, Doña Ana County, which passed in both the House and Senate. [Relating to Public Property; Removing Counties from the Definition of “Local Public Body” that needs State Board of Finance Approval to Sell Property]

Treasurer Montoya said she was not made aware of this bill until staff alerted her, and at that point it had reached the Senate side. She understands the argument is that municipalities are excluded and counties therefore should also be excluded; so instead of allowing for more accountability and transparency, this has the effect of eliminating it altogether. Director Leach has told her that the board hears approximately 20 items for counties a year, which does not seem burdensome, although she (Treasurer Montoya) thought the board should consider raising the dollar threshold on these requests.

Treasurer Montoya said she was a county treasurer for eight years. During that time, there were a couple of “very shady” items that were brought to the county, and the only saving grace she had was that the Board of Finance or Local Government Division were able to reassure her that what she was reading was problematic as it related to requirements under the statute and the transactions before the county and whether or not the transaction violated statute. She said the Board of Finance helps with some of the expertise that counties don’t necessarily have, which can lead them to depend too much on outside vendors or contractors that have a vested interest in profiting from something.

Treasurer Montoya said she felt the Governor should be asked to not sign this legislation this year to allow time to review its effect.

[Lt. Governor Morales excused himself from the meeting, noting that the Governor’s Office is currently in the 20-day signing period.]

Member Cassidy said he understands the reason behind the bill is that counties are wondering why they were being treated differently from their municipal counterparties. While the equity issue is something to consider, the board should also consider staff’s suggestion to raise the threshold from \$25,000 to \$100,000 for transactions that need to come to the State Board of Finance.

Member Cassidy recalled that the original legislation was meant to address the fact that counties were not doing as good a job managing their affairs as their municipal government counterparties were. While that may seem unfair now, that was the counties' reputation 20 or 30 years ago when this requirement was put in place.

Member Cassidy noted that the board has been talking for the past couple of years about taking a careful look at all of the things that the State Board of Finance does. For instance, should property approvals and related items be an administrative function instead. He has noticed that staff is overworked because of all the approvals that come to the board. Should the Governor's Office decide not to approve this, there is a lot of time to look at this in the off session.

Mr. Buchholtz said Mr. Cassidy's recollection is correct that counties historically needed more help on this kind of thing. This is probably not the only area where counties have been given more help by the State Board of Finance over a very long period of time.

Treasurer Montoya asked that any board members concerned about this legislation share their concerns through a letter or phone call.

STAFF ITEMS

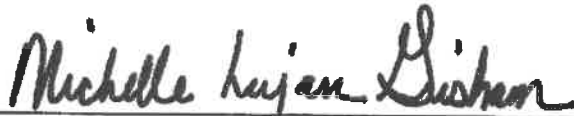
Presenter: Jennifer Salazar, Assistant Attorney General, New Mexico Office of the Attorney General

16. Presentation by Board Counsel on the Open Meetings Act

Ms. Salazar made a presentation. [See electronic agenda for slide deck.]

Ms. Leach thanked Judith Beatty for her help with taking the board minutes over the years.

ADJOURNMENT: 10:20 a.m.



Michelle Lujan Grisham, President

4-24-23

Date



Michael S. Sanchez, Secretary

4/24/23

Date