

**STATE OF NEW MEXICO
FUND #13300 LEGISLATURE**

FINANCIAL STATEMENTS

**FOR THE YEAR ENDED
JUNE 30, 2008**

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June 30, 2008

LEGISLATIVE COUNCIL MEMBERS

Sen. Timothy Z. Jennings	Co-Chairman
Rep. Ben Lujan	Co-Chairman
Sen. Pete Campos	Member
Sen. Carlos Cisneros	Member
Sen. Kent L. Cravens	Member
Rep. Daniel R. Foley	Member
Sen. John T.L. Grubestic	Member
Sen. Stuart Ingle	Member
Rep. Rhonda S. King	Member
Rep. W. Ken Martinez	Member
Rep. Rick Miera	Member
Sen. Leonard Lee Rawson	Member
Sen. Michael S. Sanchez	Member
Rep. Sheryl Williams Stapleton	Member
Rep. Thomas C. Taylor	Member
Rep. Jeannette O. Wallace	Member

ADMINISTRATIVE OFFICIALS

Paula Tackett	Director
Kathy Pacheco-Dofflemeyer	Assistant Director For Administration
John Yeager	Assistant Director for Legislative Affairs
Raul Burciaga	Assistant Director for Drafting Services



INDEPENDENT AUDITORS' REPORT

State of New Mexico,
Fund #13300 Legislature
Hector H. Balderas, New Mexico State Auditor

We have audited the accompanying financial statements of the State of New Mexico, Fund #13300 Legislature as of and for the year ended June 30, 2008, as listed in the table of contents. These financial statements are the responsibility of the State of New Mexico, Fund #13300 Legislature's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As discussed in Note A. 1., the financial statements of State of New Mexico, Fund #13300 Legislature, are intended to present the financial position, and the changes in financial position of the State of New Mexico, Fund #13300 Legislature. They do not purport to, and do not, present fairly the financial position of the State of New Mexico as of June 30, 2008, and the changes in its financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the State of New Mexico, Fund #13300 Legislature, as of June 30, 2008, and the changes in financial position thereof, and the budgetary comparisons for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 11, 2008, on our consideration of the State of New Mexico, Fund #13300 Legislature's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The State of New Mexico, Fund #13300 Legislature have not presented a management's discussion and analysis that accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be part of, the basic financial statements.

Kaldas, Abeyta & Werner, P.C.

Santa Fe, New Mexico
December 11, 2008

STATE OF NEW MEXICO
FUND #13300 LEGISLATURE
Statement of Net Assets

June 30, 2008

Statement of
Net Assets

Assets:

Investment in the State General Fund Investment Pool, Note B	\$ 3,212,708
Due from other state agencies, Note C	1,171,348
	<hr/>
	4,384,056

Liabilities:

Accounts payable	3,932
Due to Other State Agencies, Note D	89
Due to State General Fund, Note E	1,655
	<hr/>
	5,676

Net Assets:

Restricted, Note F	252,265
Unrestricted	4,126,115
	<hr/>
	\$ 4,378,380

The Accompanying Notes Are An Integral Part of These Financial Statements

For The Year Ended June 30, 2008

	<u>Statement of Activities</u>
Expenses:	
Personal services, contractual services and other	<u>\$ 3,633,016</u>
General Revenues/ Transfers:	
Appropriations - Note G	3,491,300
Miscellaneous revenue	203,376
Transfers:	
Transfers in - Note H	930,858
Transfers out - Note H	<u>(1,000,000)</u>
	<u>3,625,534</u>
Change in Net Assets	(7,482)
Net Assets:	
Beginning of year	<u>4,385,862</u>
End of year	<u><u>\$ 4,378,380</u></u>

STATE OF NEW MEXICO
FUND #13300 LEGISLATURE
Balance Sheet - Governmental Funds

June 30, 2008

Assets:

Investment in the State General Fund Investment Pool, Note B	\$ 3,212,708
Due from other state agencies, Note C	<u>1,171,348</u>

Total Assets

\$ 4,384,056

Liabilities:

Accounts payable	\$ 3,932
Due to Other State Agencies, Note D	89
Due to State General Fund, Note E	<u>1,655</u>
	<u>5,676</u>

Fund Balance:

Reserved, Note F	252,265
Unreserved	<u>4,126,115</u>
	<u>4,378,380</u>

Total Liabilities and Fund Balance

\$ 4,384,056

Amounts reported for governmental activities in the Statement of Net Assets are different because:

Fund Balance - Governmental Funds	\$ 4,378,380
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There are no reconciling items between the governmental funds balance sheet and the statement of net assets.

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Net Assets of Governmental Activities

\$ 4,378,380

The Accompanying Notes Are An Integral Part of These Financial Statements

Statement of Revenues, Expenditures, and Changes in Fund Balance - Governmental Funds

For The Year Ended June 30, 2008

Expenditures:

Personal services, contractual services and other \$ 3,633,016

Other Financing Sources (Uses):

Appropriations - Note G 3,491,300

Miscellaneous revenue 203,376

Transfers:

Transfers in - Note H 930,858

Transfers out - Note H (1,000,000)

3,625,534

Net Change in Fund Balance

(7,482)

Fund Balance:

Beginning of year 4,385,862

End of year \$ 4,378,380

Reconciliation of Statement of Revenues, Expenditures, and Changes in Fund Balance to
Statement of Activities

For The Year Ended June 30, 2008

Amounts reported for governmental activities in the statement of net
assets are different because:

Net Change in Fund Balance - Total Governmental Funds	\$ (7,482)
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There are no reconciling items between the net change in fund balance and
change in net assets.

Change in Net Assets - Governmental Activities	<u>\$ (7,482)</u>
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Statement of Revenue and Expenditures - Budgeted and Actual (GAAP Basis)

For Year Ended June 30, 2008

	<u>Budgeted Amounts</u>		<u>Actual (Budget Basis)</u>	<u>Variance with Final Budget Favorable (Unfavorable)</u>
	<u>Original</u>	<u>Final</u>		
Revenues:				
Appropriation - 2008	\$ 1,804,400	\$ 1,804,400	\$ 1,804,400	\$ -
Appropriation - 2007	1,686,900	1,686,900	1,686,900	-
Miscellaneous	<u>200,000</u>	<u>200,000</u>	<u>203,376</u>	<u>3,376</u>
	<u>\$ 3,691,300</u>	<u>\$ 3,691,300</u>	<u>\$ 3,694,676</u>	<u>\$ 3,376</u>
Expenditures:				
Salaries and Employee Benefits, Professional Services, and Other	<u>\$ 3,691,300</u>	<u>\$ 3,691,300</u>	<u>\$ 3,633,016</u>	<u>\$ 58,284</u>

The Accompanying Notes Are An Integral Part of These Financial Statements.

NOTE A - SUMMARY OF ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the State of New Mexico, Fund #13300 Legislature have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The financial statements for the period ended June 30, 2008 represent activities of Fund #13300 from July 1, 2007 to June 30, 2008. The more significant accounting policies of the Fund are described below:

1. Basic Financial Statements - Government-Wide Statements

Fund #13300's basic financial statements include both government-wide and fund financial statements. Both the government-wide and fund financial statements categorize primary activities as governmental. Fund #13300 is classified as a governmental activity.

In the government-wide Statement of Net Assets, the governmental column is reported on a full accrual, economic resource basis, which recognizes all long-term assets and receivables as well as long-term debt and obligations. The Fund's net assets are reported as unrestricted net assets.

The government-wide Statement of Activities reports the gross costs of Fund #13300's functions. The functions are supported by general government revenues (intergovernmental revenues). This government-wide focus is on the change in net assets resulting from activities for the period July 1, 2007 to June 30, 2008.

2. Basic Financial Statements - Fund Financial Statements

The financial transactions of Fund #13300 are reported in the individual fund financial statement. The operations of the Fund # 13300 are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, and expenditures. Government resources are allocated to and accounted for in individual funds based on the appropriate state statutes and the purposes for which they are to be spent and the means by which spending activities are controlled. The following fund type is utilized by Fund #13300:

Governmental Funds

The focus of the governmental funds' measurement (in the fund statements) is upon determination of financial position and changes in financial position (sources, uses, and balances of financial resources) rather than upon net income. The following is a description of the governmental fund:

NOTE A - SUMMARY OF ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES
(continued)

General Fund - Fund #13300 are used to administer and account for the Legislature interim activities. Money in the Fund may be expended for salaries of employees and other expenses.

3. Basis of Accounting

Basis of accounting refers to the point at which revenues or expenditures/expenses are recognized in the accounts and reported in the financial statements. It relates to the timing of the measurements made regardless of the measurement focus applied. The governmental funds of Fund #13300 follow FASB statements and interpretations issued on or before November 30, 1989, Accounting Principles Board Opinions, and Accounting Research Bulletins, unless those pronouncements conflict with GASB pronouncements.

Accrual

Governmental activities in the government-wide financial statements are presented on the accrual basis of accounting. Revenues are recognized when earned and expenses are recognized when incurred.

Modified Accrual

The governmental funds financial statements are presented on the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recorded when susceptible to accrual; i.e., both measurable and available. "Available" means collectible within the period or within 60 days after year end. Expenditures are generally recognized under the modified accrual basis of accounting when the related liability is incurred.

4. Investment in the State General Fund Investment Pool

The State of New Mexico, Office of the State Treasurer's scope of authority for the types of investments which may be made with state funds is statutorily defined and governed by the State Treasurer's Investment Policy approved by the State Board of Finance.

5. Nature and Purpose of Reservations and Designations of Fund Balances

The governmental fund financial statements report reserved and unreserved funds. These funds are part of the Legislature's cash balances.

NOTE A - SUMMARY OF ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES
(continued)

When an expense is incurred that can be paid using either restricted or unrestricted resources, the agency's policy is to first apply the expense towards restricted, and then toward unrestricted resources.

6. Budgetary Procedures and Accounting

Fund #13300 are activities appropriated by law and are budgeted based on generally accepted accounting principles using the modified accrual method.

NOTE B - INVESTMENT IN THE STATE GENERAL FUND INVESTMENT POOL

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. Information on the State Treasurer General Fund Investment Pool may be obtained by reading a copy of the State of New Mexico, Office of the State Treasurer audited financial statements for the year ended June 30, 2008.

SHARE Fund # 13300, Legislature	\$ 3,181,426
SHARE Fund # 66800, Legislature Information Systems Fd	29,628
SHARE Fund # 79100, Legislature Receipts	1,655
	<u>\$ 3,212,708</u>

NOTE C - DUE FROM OTHER STATE AGENCIES

The following amounts are due from other state agencies:

Transfer from BU 13101, Fund #20030 to BU 13100 Fund #13300	\$ 753,800
Transfer from BU 13102, Fund #20040 to BU 13100 Fund #13300	382,730
Transfer from BU 34100, Fund #72400 to BU 13100 Fund #13300	4,286
Transfer from BU 63000, Fund #05200 to BU 13100 Fund #13300	30,532
	<u>\$ 1,171,348</u>

NOTE D - DUE TO OTHER STATE AGENCIES

Transfer from BU 13100, Fund #13300 to BU 11100 Fund #12900	<u>\$ 89</u>
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NOTE E - DUE TO STATE GENERAL FUND

Transfer from BU 13100, Fund #79100 to BU 34101 Fund #85300 \$ 1,655

NOTE F - RESTRICTED NET ASSETS

Per the Laws of 2007, Chapter 64, Section 4, Subsection C, \$350,000 of the proceeds from the bonds issued pursuant to Subsection A of the agreement were appropriated to the Legislature for expenditure in fiscal years 2007 - 2009 for the purpose of providing funding for the capitol buildings planning commission, master planning process for state facilities and annual updates to master plans. Any unexpended balance at the end of fiscal year 2009 shall revert to the state building bonding fund; \$252,265 of these bond funds remain unexpended as of June 30, 2008.

NOTE G - APPROPRIATIONS

Appropriations consist of the following:

Laws 2008, HB1, Chapter 1, Section 1(B)9	\$ 876,100
Laws 2008, HB1, Chapter 1, Section 9	678,300
Laws 2008, HB1, Chapter 1, Section 10	250,000
Laws 2007, HB1, Chapter 1, Section 3(B)	1,036,000
Laws 2007, HB1, Chapter 1, Section 3(C)	552,300
Laws 2007, HB1, Chapter 1, Section 3(D)	45,000
Laws 2007, HB1, Chapter 1, Section 6	21,600
Laws 2007, HB1, Chapter 28	32,000
	<u>\$ 3,491,300</u>

The above appropriations do not revert to the State of New Mexico General Fund pursuant to the Laws of 2007 and 2008.

NOTE H - TRANSFERS

The following amount is recorded as a transfer in the statement of activities and statement of revenues, expenditures, and changes in fund balance.

Transfers in:

Transfer from BU 33300, Fund #83200 to BU 13100 Fund #13300	\$ 350,000
Transfer from BU 11700, Fund #13100 to BU 13100 Fund #13300	20,000
Transfer from BU 11200, Fund #13000 to BU 13100 Fund #13300	30,000
Transfer from BU 13100, Fund #66800 to BU 13100 Fund #66800	29,627
Transfer from BU 13101, Fund #20030 to BU 13100 Fund #13300	292,043
Transfer from BU 13102, Fund #20040 to BU 13100 Fund #13300	209,188
	<u>\$ 930,858</u>

Transfers out:

Transfer from BU 13100, Fund #13300 to BU 11900 Fund #13200	<u>\$ 1,000,000</u>
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NOTE I - RISK MANAGEMENT

The Legislature is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters for which the agency carries insurance (Workers Compensation, Unemployment Compensation, Employee Liability, and Transportation Property) with the State of New Mexico Risk Management Division (RMD) of the General Services Department.

NOTE J - JOINT POWERS AGREEMENT

The Legislature entered into a joint powers agreement with New Mexico Human Services Department on January 17, 2008 - the date the agreement was approved by the Department of Finance and Administration. The agreement will remain in effect until June 30, 2008 or at the expenditure and reimbursement of all the contract funds, unless terminated earlier pursuant to Article VII, Termination of JPA.



REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

State of New Mexico,
Fund #13300 Legislature
Hector H. Balderas, New Mexico State Auditor

We have audited the accompanying financial statements of the State of New Mexico, Fund #13300 Legislature, as of and for the year ended June 30, 2008, and have issued our report thereon dated December 11, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered agency's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the agency's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the agency's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the agency's internal control. We consider the deficiencies described in the accompanying schedule of findings and responses to be significant deficiencies in internal control over financial reporting. See 08-1 and 08-2.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the agency's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that none of the significant deficiencies described above is a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that are required to be reported under *Government Auditing Standards January 2007 Revision* paragraphs 5.14 and 5.16, and Section 12-6-5, NMSA 1978, which are described in the accompanying schedule of findings and responses as finding 07-1.

The agency's responses to the findings identified in our audit are described in the accompanying schedule of findings and responses. We did not audit the agency's response, and accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, others within the agency, the State Auditor, the New Mexico Legislature, and applicable federal grantors, and is not intended to be and should not be used by anyone other than these specified parties.

Kardes, Abeyta & Werner, P.C.

Santa Fe, New Mexico

December 11, 2008

Section I - Summary of Auditors' Results

Financial Statements

Type of auditors' report issued: Unqualified

Internal control over financial reporting:

- Material weakness(es) identified? No
- Significant deficiencies identified that are not considered to be material weakness(es)? Yes

Finding 08-01

Finding 08-02

Section II - Financial Statement Findings (Prior Year)

07-1) Payroll Documentation	Repeated and updated
07-2) Late Audit Report	Resolved

Section II - Financial Statement Findings (Current Year)

08-1) General Information Technology (IT) Controls - Backups

Condition:

During our review of General IT controls, we noted that although the agency does a complete backup on a daily basis, it has not tested the backup restoration in over a year.

Criteria:

Generally accepted IT controls require a backup restoration on a predetermined schedule.

Cause:

The Agency does not have a plan requiring a backup restoration on a predetermined schedule.

Effect:

The agency may not be able to restore their systems if they were to have a catastrophic failure.

Recommendations:

The agency should complete a backup restoration as soon as possible.

Agency Response:

Although the Agency has developed a disaster recovery plan, the Agency will develop a specific timetable for testing backup restoration, and is in the process of purchasing new back up software to assist in this area.

08-2) Contractor Overpayment

Condition:

During our test work of 40 vouchers we noted the following:

A contractor was overpaid by \$5,455.37, which resulted from an invoice including the same gross receipts tax twice.

Criteria:

The Agency's internal control requires invoices be analyzed for correctness during the approval process.

Cause:

The contractor submitted an invoice that added the gross receipts tax twice, and even though established approval procedures exist, the error on the invoice was not caught before payment.

Effect:

A contractor was overpaid by \$5,455.37.

Recommendations:

The Agency should continue to follow established approval procedures requiring invoices be analyzed for correctness, and seek a refund of the overpayment.

Agency Response:

The Agency will review all invoices submitted before payment per the approval process. The Agency has requested a refund of overpayment, and a refund is pending.

Section III - Other Matters as Required by New Mexico State Statute 12-6-5, NMSA 1978

07-1) Payroll Documentation

Condition:

During our test work of 25 employee payroll transactions we noted the following:

- Two instances of Code of Conduct forms missing.
- Two instances of Federal Form I-9 filled out incorrectly.
- One instance of Federal Form W-4 not matching the allowances claimed by the employee.
- Four instances of employee deduction forms missing the employees signature.
- One instance of hours on timecard not matching hours on paycheck.

Criteria:

The Code of Conduct form requires that all employees follow a set of behaviors while representing the State of New Mexico.

Federal regulations require Federal Form I-9 be completed for all employees and that federal withholding tax be at an amount as determined by allowances claimed on a W-4.

Employee deductions must be documented by a signed employee authorization form.

Employees should be paid for the hours posted on timecards.

Cause:

Even though established payroll file completeness and accuracy procedures exist, payroll staff inadvertently overlooked the missing or incorrect information. In addition, the time card condition resulted from the Department of Finance and Administration (DFA) changing the numbers provided, rounding the numbers up and cutting the check.

07-1) Payroll Documentation (Continued)

Effect:

Two employees were allowed to work without a signed Code of Conduct form.

Potential penalties or other disciplinary action from the Federal Department of Homeland Security, Immigration and Customs Enforcement Agency.

One employee federal withholding tax was not correctly deducted.

Four employees had payroll deductions which were not supported by signed employee deduction forms.

One employee was paid for an amount of hours different from the supporting timecard.

Recommendation:

The Agency should follow established payroll file completeness and accuracy procedures.

Agency Response:

The Agency will ensure that payroll file completeness and accuracy procedures are followed by providing a second review of payroll files. Also, although DFA's error contributed to the time card condition, the Agency will continue to review checks for any discrepancies.

Disclosure required by 2.2.2.8 J (4) NMAC - Financial Statement Presentation

In accordance with 2.2.2.8 J (4) NMAC, the State of New Mexico, Office of the State Auditor requires that the Legislative Council Service disclose that these financial statements were prepared by its auditors, Kardas, Abeyta & Weiner, PC, with the assistance of the Legislative Council Service staff.

Section IV - Exit Conference

An exit conference was held on December 10, 2008 with the following in attendance:

Senator Timothy Z. Jennings, President Pro-Tempore

Representative Ben Lujan, Speaker of the House

Paula Tackett, Director, Legislative Council Service

Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, Legislative Council Service

Sean Weiner, Kardas, Abeyta & Weiner, P.C.

Scott Peck, Kardas, Abeyta & Weiner, P.C.
