MINUTES
of the
FIFTH MEETING
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

November 20-21, 2017
State Capitol, Room 322
Santa Fe

The fifth meeting of the Revenue Stabilization and Tax Policy Committee for the 2017 interim was called to order by Senator Carlos R. Cisneros, chair, on Monday, November 20, 2017, at 10:00 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Sen. Carlos R. Cisneros, Chair
Rep. Jim R. Trujillo, Vice Chair
Rep. Sharon Clahchischilliage
Rep. Roberto "Bobby" J. Gonzales
Rep. Jason C. Harper
Sen. Gay G. Kernan
Rep. Antonio Maestas
Rep. Javier Martínez (11/20)
Sen. Mark Moores
Sen. George K. Munoz (11/21)
Sen. Clemente Sanchez
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. James R.J. Strickler
Rep. Carl Trujillo
Sen. James P. White (11/21)
Sen. Peter Wirth

Absent
Rep. Tim D. Lewis

Designees
Rep. Bealquin Bill Gomez (attending as a guest)
Rep. Bill McCamley (attending as a guest 11/20 and as a designee 11/21)
Rep. Rod Montoya
Sen. Bill Tallman (attending as a guest 11/21)
Sen. Pat Woods (attending as a designee 11/20 and as a guest 11/21)

Rep. David E. Adkins
Rep. Eliseo Lee Alcon
Rep. Cathrynn N. Brown
Sen. William F. Burt
Sen. Jacob R. Candelaria
Rep. Daymon Ely
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Patricia Roybal Caballero
Rep. Angelica Rubio
Rep. Patricio Ruiloba

Rep. Tomás E. Salazar
Rep. Larry R. Scott
Rep. Nathan P. Small
Sen. Elizabeth "Liz" Stefanics
Rep. Candie G. Sweetser

Guest Legislator
Rep. Alonzo Baldonado

(Attendance dates are noted for members who did not attend the entire meeting.)

Staff
Pam Stokes, Staff Attorney, Legislative Council Service (LCS)
Ric Gaudet, Researcher, LCS
Sara Wiedmaier, Intern, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file.

Monday, November 20

Revenue Tracking Update
Jon Clark, chief economist, Legislative Finance Committee (LFC), provided an update to the committee about fiscal year 2018 General Fund revenues. Revenues to the fund in fiscal year 2018 have increased significantly from fiscal year 2017 levels but still have not reached fiscal year 2015 revenues. This increase has occurred across multiple tax programs and industry sectors, including construction, mining, wholesale and transportation. Rents and royalties have increased by $56 million from previous estimates, mostly due to record oil and gas lease bonus payments in the Permian Basin. Gross receipts tax (GRT) revenues have increased, as have income withholding tax receipts.

Mr. Clark said that the current revenue growth is the first good news for New Mexico's revenue picture in many years. If these trends continue, the state could finish fiscal year 2018 with an eight percent recurring appropriation reserve level. Employment levels have also increased, especially in Eddy and Lea counties. New Mexico employment levels have trended much lower than national averages until the past few months.

Questions and comments from committee members included the following.

- What explains the recent corporate income tax (CIT) growth? Mr. Clark said that it is difficult for the LFC to pinpoint CIT revenue fluctuations because it does not get granular data from the Taxation and Revenue Department (TRD). He said that TRD economists are concerned that previous CIT overpayments are declining, which means that CIT revenue may decrease in the future.
- What are the main drivers in the recent employment growth? Mr. Clark said that the education, health services and leisure and hospitality sectors have seen the strongest increases in growth. Since the state expanded Medicaid coverage, there have been more than 12,000 new jobs created in the health care industry. The state also employs many workers in the agriculture sector, but those numbers tend to be excluded from employment statistics because they are often unreliable. He said that the Workforce Solutions Department (WSD) has a very robust employment tracking system, which uses similar codes to the revenue tracking system the TRD uses. He suggested that the WSD periodically share its employer sector information with the TRD so that revenue tracking can be improved.
- Mining sector employment data continue to show declines in that industry. What are the drivers of the decline? Mike Bowen, executive director, New Mexico Mining Association, said that the closing of molybdenum, coal and potash mines have been the primary cause of the decline in mining employment. Copper mining employment is holding steady, and oil and gas employment is increasing.
- Will the state see a one-time revenue increase from the litigation involving underpayment of the premium tax? Mr. Clark said that Presbyterian Healthcare Services settled its case with the state for $12.5 million. Premium tax liabilities totaling $65 million have been assessed to other insurance companies, but it is unclear how much will actually be paid.
- Will the Pueblo of Pojoaque be required to pay previously unpaid revenue-sharing payments to the state for the operation of its gaming facilities? Mr. Clark said that the pueblo originally refused to sign the 2015 gaming compact, and when the 2002 compact expired, the pueblo stopped making payments to the state and put that money into escrow. A recent court decision led to the subsequent signing of the compact by the pueblo and the restarting of revenue-sharing payments. However, the court was silent on whether the pueblo should pay the withheld payments to the state. Mr. Clark said that if the pueblo is not required to pay the approximately $12 million in revenue sharing, other tribes will be incentivized to challenge their gaming compacts, purely on the basis of being relieved of those obligations during a legal challenge.
- Has the Facebook data center project in Valencia County been a factor in GRT revenue increases? Mr. Clark said that construction related to the data center will continue through 2023, which means increased GRT revenue from construction-related activities. However, that project is part of an industrial revenue bond, which means the property will not be subject to property tax and the purchase of equipment for the facilities will not be subject to the GRT or the compensating tax.

State Taxes, Tax Reform, Trends and Traps for the Unwary

Richard Anklam, president and executive director, New Mexico Tax Research Institute, discussed with the committee national taxation trends and the prospect of the reform of federal tax law by Congress. He began by discussing the CIT, which is imposed by 44 states and accounts on average for 2.7 percent of state general revenue. Since 2008, 15 states have reduced CIT rates, including New Mexico. Personal income tax (PIT) revenues account for an average of 36 percent of state general revenue. Eighteen states have reduced PIT rates in the past 10 years, but Kansas, Louisiana and South Dakota have raised rates in the past two years. General sales taxes, which account for an average of 31 percent of state general revenue, have faced erosion of their base over time. Services, which are generally untaxed in most states, have assumed a greater share of total transactions, as have online transactions. The legalization and taxation of marijuana in several states have led to a promising new revenue stream that has thus far exceeded initial expectations. If marijuana were legalized nationwide, states could raise billions of dollars annually. Gasoline taxes have been raised in seven states in the past year. Increased fuel efficiency and more alternative fuel vehicles on the roads have resulted in less revenue to fund road construction and maintenance. Some states have proposed a vehicle miles tax as an alternative to gasoline taxes, while other states have experimented with public-private partnerships to fund highway construction.

Mr. Anklam discussed developments in states' attempts to collect sales taxes from online retailers. E-commerce now accounts for 11 percent of all retail sales, which represents an enormous amount of foregone tax revenue. Since 2015, 20 states have enacted legislation to require sales tax collection from remote sellers. South Dakota enacted legislation that directly challenges the 1992 U.S. Supreme Court decision in *Quill Corp. v. North Dakota*, which required a business to have nexus in a state in order for its sales to be taxable. That law has been challenged, and the case is now before the Supreme Court.

Mr. Anklam discussed the potential impact on New Mexico of congressional tax reform legislation. The details of the legislation have been constantly changing, but the current plan would be revenue positive to New Mexico. Although the tax reform plan would generally cut federal income taxes for most individuals, many New Mexico residents would pay higher state income taxes. This is due in large part to the elimination of personal exemptions and the increase in the standard deduction, which will negatively affect taxpayers with more than two claimed exemptions. Another big change will come from the elimination for the federal deduction for the payment of state and local taxes, which will increase taxpayers' taxable income for both federal and state purposes. If policymakers do not wish to see New Mexicans paying more state income tax, the legislature could enact legislation to decouple parts of the PIT from federal rules. Other possible consequences of the legislation include cuts to Medicare and Medicaid from mandatory sequestration if the deficit from the legislation is increased by more than $1.5 trillion over 10 years.

Questions and comments from committee members included the following.

- What will be the impact on New Mexico businesses if the Section 179 deduction limit, which allows for immediate expensing of depreciable assets, is increased from $500,000 to $5 million? Mr. Anklam said that the change to that deduction could positively affect nearly all businesses in New Mexico.
- The federal government is currently subsidizing high-tax states by allowing for taxpayers to deduct their state and local taxes paid from their federal taxable income. However, that deduction does currently eliminate the double taxation of income.
- The proposed congressional tax package is mostly a giveaway to the super-rich. Mr. Anklam said that the current federal tax code is in need of many fixes. However, the package is being acted on hurriedly, which will probably result in even more poor tax policy.

Revenue Outlook

Jeffrey Mitchell, Ph.D., director, Bureau of Business and Economic Research (BBER), University of New Mexico, presented the BBER's economic forecast for New Mexico. Since the 2016 election, the nation's economy is predicted to have strong growth in the short term but slower growth for the next several years. In New Mexico, the state lost jobs for two consecutive quarters and is predicted to have slight job growth in the second and third quarters of 2017. The mining sector lost 5,600 jobs in 2016, while the health care sector gained more than 4,600 jobs. Personal income continues to grow slowly but is still only at two percent annually. Increased drilling rig activity and stable oil prices are predicted to continue for the next few years, which will be a benefit to the economy. However, federal reimbursements to Medicaid are beginning to decline, which means the state will be losing a significant income source over the next several years.

The state government financial picture is improving, after several years of declining revenues. Recurring revenues are projected to be $36 million higher than in fiscal year 2017, and thanks to unexpected strong revenue growth at the end of fiscal year 2017, reserve levels are expected to be above six percent. Every major revenue source except CIT revenue and investment income increased between fiscal year 2016 and fiscal year 2017. Gross receipts in nearly every industry sector also increased. Another positive development came from the enactment of legislation during the 2017 special legislative session to transfer a portion of excess oil- and gas-related revenue to the Tax Stabilization Reserve, instead of to the General Fund, in order to smooth out that revenue volatility.

New Mexico's economic outlook for the next five years includes stable job growth, slightly outpacing labor force growth. Total jobs are expected to reach pre-recession levels by 2019 and should grow by more than one percent annually. The largest job growth will occur in the health care, hospitality, construction and professional services sectors, and the largest growth will occur in the Albuquerque metropolitan area. Personal income is projected to continue to rise, from two percent growth in 2017 to four percent in 2021.

Questions and comments from committee members included the following.

- All of the states surrounding New Mexico have seen large population increases in the past decade, but New Mexico's population is stagnant. Dr. Mitchell said that the number of people leaving New Mexico has not changed very much but that the number of people moving to the state has dropped.
- The economy in El Paso, Texas, is on fire, but right across the border in New Mexico, growth is not happening at the same level. The state needs to make investments to attract business. Dr. Mitchell said that new businesses are creating new jobs at a rate comparable to surrounding states; the problem, however, is that existing businesses are losing jobs. He also said that states that have booming economies have focused a significant amount of money and energy on improving their educational systems for decades.

Proposal for Enacting the Energy Redevelopment Bonding Act

Gerard Ortiz, vice president, regulatory affairs and economic development, Public Service Company of New Mexico (PNM); Sayuri Yamada, director, government affairs, PNM; and Noah Long, director, Western Energy Project, Natural Resources Defense Council (NRDC), discussed with the committee proposed legislation that would provide a bonding source for PNM and other energy companies to transition from coal-based electricity generation to other sources. The coal-fired San Juan Generating Station is scheduled to be completely closed in 2022, more than 30 years ahead of its depreciable life. PNM is currently able to get traditional financing to cover the costs associated with closing the station, but high financing costs would result in higher customer charges. The bill would provide for a financing mechanism that would allow for a AAA rating for bonds. The legislation would guarantee that energy redevelopment bonds would be paid by a separate, dedicated charge on customer bills. This dedicated revenue stream would make financing costs for bonds issued to pay for energy redevelopment costs associated with the closing of the generating station much cheaper. The issuance of these higher-rated bonds would result in customer savings of more than $230 million.

Mr. Long said that the NRDC is not opposed to the legislation allowing for the issuance of bonds but wants to ensure that money is invested wisely. The NRDC wants PNM to invest much more in renewable energy sources than is proposed. Additionally, Mr. Long suggested that 50 percent of the cost savings from the financing of the bonds be used to reinvest in San Juan County to partially offset the loss of the coal industry to the economy.

Questions and comments from committee members included the following.

- Reliability of electric service is just as important as cost, and renewable energy is not as reliable as coal or natural gas in producing electricity. With the closing of the coal mine and the generating station, San Juan County will lose an additional 1,000 jobs. School districts and the county will also lose a significant portion of their property tax base from the closings. Currently, the goals of having full employment and renewable energy are not compatible.

- Governments in San Juan County will see a huge fiscal impact resulting from the closings of the coal mine and generating station. The generating station still has more than 30 years of usable life, and there is plenty of coal still in the ground. The proposed legislation, along with other proposals, are intended to provide a bit of a soft landing for the economy.
- Will PNM shareholders benefit from enactment of the legislation? Ms. Yamada said that all cost savings from issuance of the bonds would be passed on to customers.
- What will the impact on electricity rates be once the transition from coal-based electricity is completed? Mr. Ortiz said that he is not sure what the actual rates will be. However, PNM determined that it would not be cost-effective to continue operating the generating station beyond 2022, and converting to natural gas sources will be cheaper.

Update on Methane Waste Rules and Revenue Implications for New Mexico

Jon Goldstein, director, regulatory and legislative affairs, Environmental Defense Fund (EDF); Bill Jordan, senior policy advisor and government relations officer, New Mexico Voices for Children; Matthias Sayer, deputy secretary, Energy, Minerals and Natural Resources Department (EMNRD); and Patrick Padilla, deputy director, New Mexico Oil and Gas Association, discussed with the committee implications of a methane waste rule adopted, but subsequently suspended, by the federal Bureau of Land Management (BLM) and the environmental and fiscal impacts of flared and vented methane. Mr. Goldstein said that New Mexico's oil and gas companies emit 570,000 tons of methane each year, which is enough gas to meet the annual heating and cooking needs of every home in the state. This leaked gas is worth approximately $200 million and about $27 million in lost state tax and royalty payments. The nation's largest methane hotspot is located above San Juan County, and, according to a 2017 study, natural emissions of methane account for only a small fraction of total emissions in the area. Many states that have implemented tougher methane capture regulations have experienced increased growth in oil and gas operations. In Colorado, the EDF and the Colorado Oil and Gas Association collaborated in the development of a recently adopted methane waste rule. Mr. Goldstein recommended that the BLM methane waste rule be fully implemented and that the EMNRD adopt stricter rules governing methane flaring and venting.

Mr. Jordan said that families in New Mexico deserve the best standards for air quality. Methane capture rules would also maximize revenues to the state. He said that the foregone revenue from vented and flared gas could pay for the expansion of pre-kindergarten programs by 50 percent. Surrounding states have already adopted sensible methane capture rules, and New Mexico should do the same.

Deputy Secretary Sayer said that the EMNRD has already acted to reduce the volume of vented and flared methane in the state. The governor appointed a task force to study the problem in 2015, and since then, methane emissions have been greatly reduced. Alaska has traditionally been the highest emitter of methane, with many times the amount emitted by New Mexico. In New Mexico, the percentage of vented and flared gas has always been a small proportion of the total amount of non-transported gas, and that percentage has declined even more since 2015. Recent technological advances in the oil and gas industry have allowed for the economical capture of much more gas. The total amount of vented and flared gas in New Mexico has decreased by 52 percent since 2015, and as a percentage of total production, it has decreased from more than two percent to one percent in July 2017. He disputed Mr. Goldstein's claim that most of the San Juan methane hotspot can be traced to vented gas, citing a study that showed that the Fruitland Coal outcrop in nearby Colorado is responsible for most of the methane emissions in the area.

Mr. Padilla said that if the BLM methane capture rule is fully implemented, more than 50 percent of marginal wells in the state will cease operating, resulting in a 10 percent to 20 percent reduction in gas production. In southeastern New Mexico, processing the naturally sour natural gas into a usable commodity costs more than its final value. The oil and gas industry has been proactive in attempting to reduce gas emissions because that gas is worth money. Even with a significant increase in gas production, methane emissions have drastically decreased. However, there are still many impediments to gas capture, including lack of pipelines and pipeline capacity, gas that does not meet minimum pipeline requirements and disruptions in the gas-processing chain. Mr. Padilla said the state does not need additional regulations related to methane emissions.

Questions and comments from committee members included the following.

- If methane capture rules are implemented, existing marginal wells should be exempted. Most marginal wells cannot incur additional costs. Twenty-seven million dollars in lost revenue due to venting and flaring is minuscule compared to the approximately $800 million in revenue the state would earn if the BLM would act on drilling permits within 30 days, as it is required to do.

Recess

The committee recessed at 4:48 p.m.

<u>Tuesday, November 21</u>

The committee was reconvened on Tuesday, November 21, 2017, at 8:59 a.m. by Senator Cisneros.

New Mexico Association of Counties (NMAC) Legislative Priorities

Steve Kopelman, executive director, NMAC; Tasia Young, lobbyist, NMAC; and Kelly Ford, member, DWI Grant Council, and director, Lea County DWI program, discussed with the committee the NMAC's legislative priorities for the upcoming legislative session. Mr. Kopelman discussed the top priorities, including the following.

- Tax Reform. The NMAC supports tax reform efforts that protect county revenue. Counties and municipalities must be at the negotiating table during any tax reform effort. Tax policies should be developed that minimize conflicts between local governments in a county. The NMAC would oppose any legislation that reduces hold harmless distributions to compensate for food and medical services deductions or that would reduce county GRT authority.

- Protecting County Funding of Health Care. Counties need to be involved in any policy discussions that involve health care funding and planning. The NMAC would oppose any efforts to shift additional health care costs to counties.

- Extend Liquor Excise Tax Distribution to the Local DWI Grant Fund. The increased distribution to the Local DWI Grant Fund should be extended indefinitely to support ongoing DWI prevention efforts.

- Local Election Act. The NMAC supports legislation that would enact the Local Election Act, which would align local elections to occur on the same day.

- Forfeiture Act Reform. The NMAC supports legislation that would make changes to the 2015 amendments to the Forfeiture Act. Needed changes include equitable sharing of federally seized assets, provisions for storage of abandoned property and the ability for local authorities to seize and dispose of forfeited property while preserving due process provisions.

Ms. Young discussed the county GRT increment possibilities, most of which remain unused and unusable. Most GRT increments were authorized for specific purposes or for specific counties. It would be better to allow counties more general purpose increments, which can be dedicated to a specific purpose if needed. She said that GRT revenue accounts for more than 50 percent of county revenues in most counties.

Ms. Ford said that the DWI Grant Council supports the permanent increase in distributions of liquor excise tax revenues from 41.5 percent to 46 percent to the Local DWI Grant Fund. That increase is scheduled to return to 41.5 percent in 2018. However, because of recent legislative sweeps from the fund, very little extra money has been used for DWI programs. Funding for DWI programs has actually been cut in recent years. There is a huge unmet need across the state for providing services to DWI offenders and for educational DWI awareness programs.

Questions and comments from committee members included the following.

- Local governments need a broader tax base than just GRT and property tax revenues.
- Liquor excise tax revenues should also be used to support drug court programs, but not at the expense of existing DWI programs.

- Why is McKinley County the only county that is allowed to impose a local liquor excise tax? Ms. Young said that there have been attempts to allow all counties to impose that tax, but previous administrations have opposed the idea.
- Why is the DWI dismissal rate higher than 50 percent in some counties? Perhaps some liquor excise tax revenue should be distributed to the courts and district attorneys in order to prosecute more cases. Ms. Ford said that the council is currently studying that issue. There are many factors involved in why a DWI case may be dismissed.
- Is Bernalillo County spending any money received from the recently imposed GRT increment dedicated to behavioral health services? Ms. Young said that the county spent some time planning programs, which are now being implemented. The GRT increment is expected to raise $18 million annually for behavioral health programs.

New Mexico Municipal League (NMML) Legislative Priorities

Bill Fulginiti, executive director, NMML, discussed with the committee the NMML's top priorities for the upcoming legislative session. The NMML opposes any federal or state mandate that imposes additional unfunded mandates or preempts municipal authority. The NMML is concerned about ongoing attempts to limit municipal revenues and taxing authority. The NMML would prefer to have a wide variety of tax revenue sources instead of relying solely on gross receipts and property taxes. The NMML has proposed in the past to give up a portion of GRT revenues in exchange for a portion of income tax revenue. It would also like to be able to impose compensating tax at the same rate that the GRT is imposed. Any changes made to the GRT base should not reduce municipal revenue. The NMML also favors either allowing municipalities to impose local option gasoline taxes or increasing the municipal share of the state gasoline tax.

The NMML adopted two priority resolutions for the upcoming legislative session. The NMML continues to support general obligation bond funding for libraries statewide and recommends that the legislature allot $18 million for that purpose. The NMML would also like to change dated statutory distribution provisions of the Law Enforcement Protection Fund. The distribution formula should be modified to distribute all of the balances in the fund to municipal, county, tribal and university law enforcement agencies, rather than the small percentage that is currently distributed. Money in the fund should also be distributed to the three regional law enforcement training academies instead of only to the state-run academy.

Mr. Fulginiti said that the TRD's recent agreement with Amazon to collect and remit the state GRT did not include the collection of local option GRT increments. Attempts by the NMML to review the agreement have been refused by the TRD, citing confidentiality provisions. The NMML is currently working with Amazon to agree to collect local option GRT revenues. The current agreement does not distribute any portion of the 1.225 percent municipal share to any municipality. The NMML is considering suing the administration to force it to distribute that portion of GRT revenues to municipalities, based on the location of the customer.

Questions and comments from committee members included the following.

- Although municipalities are able to impose a tax of 7.65 mills on property, very few municipalities have fully imposed their maximum mill levy. In addition, property tax and correctional issues need to be coordinated with county governments.
- The TRD has had trouble correctly distributing tax revenue for a very long time. This is especially true in the distribution of gasoline tax revenue. Mr. Fulginiti agreed and said that municipalities and counties have not received tens of millions of dollars that they are owed.
- Have there been problems with distributions of the Fire Protection Fund? Mr. Fulginiti said that the legislature changed the timing for distribution of that fund in order to reduce fiscal year 2017 budget shortfalls. Counties and municipalities still receive the same amount of money as in previous years, but it is distributed according to that month's receipts. This means that distributions change monthly, which has caused problems for many smaller fire districts.
- If the gasoline tax were to be raised to cover state and local road needs, how much of an increase is needed? Mr. Fulginiti said that if an additional five cents per gallon were distributed to municipalities and counties, road infrastructure needs of local governments could be addressed.

Proposal for Enacting the Quality Assurance Assessment Act

Linda Sechovec, executive director, New Mexico Health Care Association (NMHCA), and Charlie Marquez, lobbyist, NMHCA, presented potential legislation for the committee's consideration that would leverage additional federal Medicaid funding for the state to pay for long-term care of disabled and elderly residents. New Mexico currently has four times the national average for nursing facility citations for inadequate care of residents. The primary reason for the high rate of citations is inadequate nursing facility staffing levels, which are driven primarily by Medicaid and Medicare reimbursements. Inadequate Medicaid reimbursements, coupled with lengthy coverage approval periods, have meant that many nursing facilities are unable to continue operating. A solution to this problem, which has been implemented in several other states, would be to impose a quality assurance fee on nursing homes and intermediate care facilities, based on the number of patients cared for and net revenue received during the previous two calendar quarters. This fee would be collected by the Human Services Department (HSD) and be used to leverage more Medicaid funding from the federal government. Twenty percent of the fee could be used by the HSD for general Medicaid purposes, and the remainder would be used to increase Medicaid reimbursement rates for nursing and intermediate care facilities.

Questions and comments from committee members included the following.

- The Department of Health's designation of "immediate jeopardy" of a nursing home needs to be reformed. The department can close down a facility almost immediately, but it can take a very long time for the designation to be removed.
- Will the quality assurance fee be assessed based on Medicare receipts? Ms. Sechovec said that federal law preempts the taxation of Medicare services. The fee will be assessed based on Medicaid and all other reimbursements.

- How did Medicaid reimbursement rates fall so far below actual costs? Ms. Sechovec said that in 2014, the HSD made drastic changes to nursing facility reimbursement rates, on the erroneous assumption that the previously higher rates encouraged too many providers to enter into the industry. Many patients were disqualified from receiving the higher level of services they require and had previously been receiving.

Proposal to Exclude Prime Contractors That Operate National Laboratories from a GRT Exemption for Nonprofit Entities

Javier Gonzales, mayor, City of Santa Fe, and chair, Regional Coalition of Los Alamos National Laboratory (LANL) Communities; and Andrea Romero, executive director, Regional Coalition of LANL Communities, presented proposed legislation for the committee's consideration that would require an entity operating a national laboratory in the state to pay the GRT for services performed for the federal government. Mayor Gonzales said that LANL and Sandia National Laboratories have together paid more than $250 million in GRT to the state and local governments. Both laboratories are currently operated by for-profit entities, but a new contractor to operate LANL will be chosen next year. If the new entity is organized as a nonprofit entity, it will be exempt from paying the GRT, which could have a devastating impact on many local governments in the region.

Ms. Romero said that the federal Department of Energy (DOE) considers the New Mexico GRT to be an allowable cost and does not factor taxes into the bidding process of selecting a contractor. The legislation would add an exception to the exemption for paying the GRT for contractors operating a national laboratory. If the legislation is not enacted, many local governments could be financially destabilized.

Questions and comments from committee members included the following.

- The proposed legislation is bad tax policy and potentially dangerous. The legislation essentially is an exemption to an exemption. There is a possibility that the DOE will cut programming to LANL in an amount to offset the taxes it is paying. Mayor Gonzales said that if a nonprofit entity begins operating LANL, there will be a huge revenue impact to the local governments in the region. He said that other states with national laboratories have enacted legislation to ensure that local governments' tax bases remain intact. The instability of the GRT revenue also makes it difficult for entities to use the GRT as a bonding source.
- Anthony Mortillaro, executive director, North Central Regional Transit District (NCRTD), said that GRT collections in Los Alamos County provide about 20 percent of the district's GRT revenue. If the operator of LANL were no longer required to pay the GRT, the NCRTD would lose about $1.1 million annually and would be forced to reduce services.

Adjournment

There being no further business, the committee adjourned at 12:15 p.m.