REVENUE STABILIZATION AND TAX POLICY COMMITTEE

2011 INTERIM

Prepared by the Legislative Council Service
Staff
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Ric Gaudet, Staff

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE
2011 Interim

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Section 1

2011 INTERIM
Annual Report and Summary

Revenue Stabilization and Tax Policy Committee
Senator Tim Eichenberg, Chair
Representative Edward C. Sandoval, Vice Chair

SUMMARY OF WORK COMPLETED

2011 Interim

The Revenue Stabilization and Tax Policy Committee (RSTP) held six meetings in 2011. Bill endorsements were completed on the second day of the December meeting. The year began with a new administration. Although Dr. Tom Clifford had been serving as the Taxation and Revenue Department's (TRD) tax policy director, in August he moved to the Department of Finance and Administration as secretary. The new secretary of taxation and revenue, Demesia Padilla, found herself without seasoned economists and lost her chief economist, Clinton Turner, to the Department of Transportation immediately after the RSTP meeting in October. No meeting of the committee was held in September due to the special session. Laird Graeser was hired on contract to complete bill analyses and mentor the new economist, Ruili Yan, and the remaining economist, Chary Swaroop.

This interim, the committee reviewed energy tax and royalty expenditures. It will be necessary to discuss these expenditures again when the state is not so reliant on revenue from the energy sector to maintain a balanced budget. The committee heard four revenue reports during the interim. The first was the annual look at the postsession revenue report, and the next three were the July, October and December forecasts. The revenue forecasts probably took center stage this year as revenue first appeared to be making a strong comeback, but then was corrected in October to present a more conservative outlook. The December forecast increased the October numbers for general fund revenue by $21 million for FY 2012, although in October the numbers had been decreased by $22 million. The state appears to be steadily climbing out of its revenue deficit status and slowly recovering some of the losses it has sustained since 2008. Gross receipts revenue appears to have increased by 10.8% in FY 2011, although some of the increase was due to an increase of 0.125% that took effect in that fiscal year. Personal income tax growth was 11.5% in FY 2011. About one-half of this increase was attributable to the elimination of the deduction for state and local taxes. Corporate income tax revenue showed an amazing jump of 83.7% in FY 2011. Growth in these revenue sources is expected to slow significantly from FY 2012 through FY 2016. Beginning in the spring of FY 2011, oil and gas revenue showed significant increases due to increased prices. Prices are still volatile, but oil and gas prices seem to be recovering from declines earlier in FY 2012, although there remains a glut in supply expected to extend into the near future.

In a review by the Legislative Finance Committee staff analyzing the revenue impact of health care tax expenditures, the committee was reminded that without a clearly stated and measurable purpose, it was not possible to analyze the effectiveness of most tax benefits. In addition, it was noted that there remains a large problem with obtaining the needed information for those analyses. Several bills introduced in the 2011 regular session were vetoed that would have significantly improved the ability of the TRD to obtain data needed to assess the value to the state of income tax credits and other tax benefits.

The committee began a discussion about industrial revenue bonds outstanding. This data is also difficult to access because the information is not required to be submitted by the counties or municipalities to the state, and each local government has its own method of retaining that information.

The committee reviewed 15 bills and endorsed nine. The list of bills endorsed and reviewed can be found in Section 9 of this report.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 2

2011 INTERIM
Work Plan
Schedule

2011 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

Members

Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Sen. Mark Boitano
Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Timothy M. Keller
Sen. Gay G. Kernan
Rep. Ben Lujan
Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Rep. Bob Wooley

Designees

Sen. Rod Adair
Rep. Ray Begaye
Sen. William F. Burt
Rep. Zachary J. Cook
Sen. Kent L. Cravens
Rep. Brian F. Egolf, Jr.
Rep. Miguel P. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Eric G. Griego
Sen. Phil A. Griego
Rep. Sandra D. Jeff
Rep. Antonio Lujan
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Sen. Bernadette M. Sanchez
Sen. John M. Sapien
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela
Sen. Peter Wirth

Approved Work Plan

The Revenue Stabilization and Tax Policy Committee is a statutorily created joint interim legislative committee. Pursuant to Section 2-16-3 NMSA 1978, the committee is directed to "examine the statutes, constitutional provisions, regulations and court decisions governing revenue stabilization and tax policy in New Mexico and recommend legislation or changes if any are found to be necessary . . . ".

A. In the 2011 interim, the committee will:

1. examine state taxes and discuss each tax based on sound tax policy principles and the contribution to state revenue made by each tax;

2. review revenue status of the state, examine current revenue streams and discuss the need for further revenue increases or redirection of services;

3. continue to review the effectiveness and value to the state of tax incentives; review exemptions, deductions and credits to determine the ability to report and track; review methods to improve the tracking of value, including implementation of Section 9-15-56 NMSA 1978; and review the financial impact of tax increment development districts on state revenue;

4. review the effect of the tax amnesty program and identify taxes where amnesty was most heavily used by taxpayers and follow the implementation of the gaming tax credit and the business retention gross receipts tax;

5. review the status of the State Road Fund;

6. examine the revenue generation programs in the Taxation and Revenue Department and other departments in the state that generate revenue to determine if such funds are fully used for the purposes raised;

7. identify methods of obtaining data and information on a more timely basis;

8. review trends in state investment earnings, including trends in the balances of the Severance Tax Permanent Fund and the land grant permanent funds and review the revenue received by the state from gaming within the state;

9. review oversight of and access to data from local gross receipts tax collections and distributions;

10. receive a report on revenue derived from the State Land Office;

11. review the executive branch's tax package for any upcoming session; and

12. examine presence of volume and type of film productions in New Mexico that may be due to changes in the film production tax credit or other incentives available in New Mexico.

B. Ongoing matters that may be addressed by the committee include:

1. the relative costs and benefits of holding local governments harmless when the legislature reduces gross receipts taxes;

2. the use of industrial revenue bonds in the state, including revenue lost and the value of the benefits gained by local communities; and

3. the progress of state taxation of internet transactions and the status of the streamlined sales tax efforts.

2011 Approved Meeting Schedule

Date	Location
June 21 (Tu)	Santa Fe, State Capitol, Room 322
July 21-22 (Th-F)	Santa Fe, Room 322
August 25-26 (Th-F)	Albuquerque, MRCOG Board Room
September	No meeting scheduled (special session)
October 24-26 (M-W)	Santa Fe, Room 322
November 21-22 (M-Tu)	Santa Fe, Room 322
December 12-13 (M-Tu)	Santa Fe, Room 322

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 3

June 2011
Agenda
Minutes

Revised: June 20, 2011

TENTATIVE AGENDA
for the
FIRST MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

June 21, 2011
State Capitol, Room 322

Tuesday, June 21

10:00 a.m.	**Call to Order** —Senator Tim Eichenberg, Chair
10:05 a.m.	**Post-Session Fiscal Review** —David Abbey, Director. Legislative Finance Committee (LFC) —Charles Sallee, Deputy Director, LFC
11:10 a.m.	**Work Plan and Meeting Schedule** —Pam Ray, Staff Attorney, Legislative Council Service (LCS) —Damian Lara, Staff Attorney, LCS
12:00 noon	**Lunch**
1:15 p.m.	**Tax Legislation Review** —Demesia Padilla, Secretary of Taxation and Revenue —Thomas Clifford, Tax Policy Director, Taxation and Revenue Department
2:15 p.m.	**Financing Small Business Expansion Through Nonprofit and Small Business Administration Collaboration** —Ron Brown, Executive Director, Enchantment Land Certified Development Company
3:15 p.m.	**Adjourn**

MINUTES
of the
FIRST MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

June 21, 2011
Room 322, State Capitol
Santa Fe

The first meeting of the Revenue Stabilization and Tax Policy Committee for 2011 was called to order by Senator Tim Eichenberg, chair, on Tuesday, June 21, 2011, at 10:12 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Sen. Mark Boitano
Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Rep. Ben Lujan, Speaker of the House
Rep. Rodolpho "Rudy" S. Martinez
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Rep. Jim R. Trujillo

Absent
Sen. Timothy Z. Jennings, Senate President Pro Tempore
Sen. Timothy M. Keller
Sen. Gay G. Kernan
Sen. Howie C. Morales
Rep. Thomas C. Taylor
Rep. Bob Wooley

Designees
Sen. William F. Burt
Sen. Phil A. Griego
Sen. Nancy Rodriguez
Rep. Luciano "Lucky" Varela (attending as a guest)

Sen. Rod Adair
Rep. Ray Begaye
Rep. Zachary J. Cook
Sen. Kent L. Cravens
Rep. Brian F. Egolf, Jr.
Rep. Miguel P. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Eric G. Griego
Rep. Sandra D. Jeff
Rep. Antonio Lujan
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Debbie A. Rodella
Sen. Bernadette M. Sanchez

Sen. John M. Sapien
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Don L. Tripp
Sen. Peter Wirth

Staff
Pamela Ray, Staff Attorney, Legislative Council Service (LCS)
Damian Lara, Staff Attorney, LCS
Pam Stokes, Staff Attorney, LCS
Ric Gaudet, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and copies of written testimony are in the meeting file.

<u>Tuesday, June 21</u>

Post-Session Fiscal Review
David Abbey, director, Legislative Finance Committee (LFC), and Charles Sallee, deputy director, LFC, presented an update on New Mexico finances and the 2011 legislative session. The state's recurring general fund revenues dropped significantly since fiscal year 2008, but revenues have begun to rebound since fiscal year 2010. The fiscal year 2012 budget is the lowest total budget since fiscal year 2007 because the one-time federal stimulus money has been mostly spent. However, general fund revenue is expected to continue to grow, and fiscal year 2013 looks promising for revenue growth. The U.S. Bureau of Labor Statistics reported that New Mexico employment growth is still slightly negative, but employment is expected to grow one percent per year for the next five years. Taxable gross receipts in the state have grown five percent from fiscal year 2010's very low receipts.

The December 2010 consensus revenue estimate predicted that fiscal year 2012 would see a four percent increase in recurring revenues but that fiscal year 2008 revenue levels would not be reached again until fiscal year 2015. The fiscal year 2012 budget enacted by the legislature assumed $5.4 billion in recurring revenue, which is $600 million lower than the fiscal year 2009 original operating budget and $140 million lower than fiscal year 2011. Key components of the current budget include the following:

- appropriations prioritized core government services, including education, health care and the judiciary;

- the budget is very close to the executive's recommended spending level;

- the legislature did not make any across-the-board cuts, focusing instead on targeted savings in specific agencies;

- state employees will contribute an additional 1.75 percent of their salary, in addition to the previously enacted 1.5 percent increase, toward retirement benefits;

- $2.5 million was saved from state agency administrative reforms and program efficiencies; and

- $25 million extra was appropriated for Medicaid, public schools and service agencies based on the revenue increase expected from the film production tax credit restructuring.

Public school support in the fiscal year 2012 budget accounts for 44 percent of the general fund budget. Overall, public school support increased 2.6 percent. The appropriations include $88 million to replace federal stimulus money and a reduction of $25 million to account for administrative savings and changes in retirement contributions for retirees who return to work. Higher education funding accounts for 13.5 percent of general fund appropriations. The state is among the top states in funding higher education per capita, but performance outcomes are behind national averages.

Medicaid takes up 16 percent of the general fund budget, and that program saw a 44 percent increase over fiscal year 2011 due to the need to replace $280 million in federal funds. Medicaid enrollment has increased 20 percent since fiscal year 2008, with a total enrollment in programs projected to reach 579,000 individuals this fiscal year.

The budget outlook for fiscal year 2013 projects a bit of breathing room for the next budget cycle. Assuming a flat budget, increased Medicaid spending and one-time replacement funding, state revenues are expected to be $153 million above spending levels.

Questions and comments from committee members included the following:

- New Mexico's typically high reserve levels have allowed the state to replace one-time federal funding during the economic downturn. Mr. Abbey said that although the state has a five percent general fund reserve level, most of that money is in the Tobacco Settlement Permanent Fund and is not necessarily available for appropriation contingencies.

- Has the oil production decline in southeastern New Mexico slowed? Mr. Abbey said that oil production has actually increased one percent. Gas volumes are falling annually by five percent, however. If there are no new wells drilled to replace the natural decline in production, volumes could fall annually by as much as 10 percent.

- Why was there such a large increase in corporate income tax (CIT) revenues? Mr. Abbey said that fiscal year 2010 CIT revenues were very low, so any increase would yield a large percent change.

● What impact will new federal cigarette packaging rules have on tobacco settlement revenue? Tom Clifford, policy and research director, Taxation and Revenue Department (TRD), said that the TRD will study the fiscal implications of the new rules soon. Mr. Abbey said that the state could be at risk of losing $40 million in tobacco settlement revenue because of possible litigation by participating tobacco manufacturers.

● The legislature recently passed a bill that would have closed the loophole that some tobacco manufacturers were taking advantage of to avoid paying into escrow a percentage of cigarette revenue. The bill, vetoed by the governor, was not a tax increase but a method of leveling the playing field for all manufacturers.

● How are the Economic Development Department (EDD) and Public Education Department (PED) managing their recent reductions in staff? Mr. Abbey said that the LFC had recommended that the EDD combine a minor division into another division, which resulted in a reduction of two full-time-equivalent (FTE) positions. The department handled the reduction through attrition. The PED lost 33 FTEs, and those employees who were paid from general fund dollars lost their jobs. The department is hoping to rehire many employees using federal money.

● The PED layoffs are very disturbing and did not need to happen. Employees who were laid off were told on a Friday afternoon not to come back to work the following Monday. Representative Varela said that the PED requested the budget cut from the LFC, which was not made aware that the cuts would result in so many layoffs. He said that 20 people have been rehired using other funding sources.

● How will changes to the film production tax credit, effective July 1, affect existing film productions that already have contracts in place? Secretary of Taxation and Revenue Demesia Padilla said that the TRD is trying to accommodate those film productions that started before the law changed and ensure that the expectations those film production companies had when their contracts were signed are fulfilled. She said that TRD staff is working very closely with those companies to assist them in filing their tax credit documents before June 30. Mr. Abbey said that the speeded-up filing of claims for the film production tax credit could have a negative one-time effect on state revenues.

Work Plan and Meeting Schedule

Ms. Ray and Mr. Lara presented the committee's proposed work plan and meeting schedule for the 2011 interim. Committee members added three items to the proposed work plan, and then the work plan and schedule were approved by the committee. The committee will meet six times during the interim and will:

● examine state taxes and discuss each tax based on sound tax policy principles and the contribution to state revenue made by each tax;

● review the revenue status of the state, examine current revenue streams and discuss the need for further revenue increases or redirection of services;

- continue to review the effectiveness and value to the state of tax incentives; review exemptions, deductions and credits to determine the ability to report and track; review methods to improve the tracking of value, including implementation of Section 9-15-56 NMSA 1978; and review the financial impact of tax increment development districts on state revenue;

- review the effect of the tax amnesty program, identify taxes where amnesty was most heavily used by taxpayers and follow the implementation of the gaming tax credit and the business retention gross receipts tax (GRT);

- review the status of the State Road Fund;

- examine the revenue generation programs in the TRD and other departments in the state that generate revenue to determine if such funds are fully used for the purposes raised;

- identify methods of obtaining data and information on a more timely basis;

- review trends in state investment earnings, including trends in the balances of the Severance Tax Permanent Fund and the land grant permanent funds and review the revenue received by the state from gaming within the state;

- review oversight of and access to data from local GRT collections and distributions;

- receive a report on revenue derived from the State Land Office;

- review the executive branch's tax package for any upcoming legislative session; and

- examine the presence of volume and type of film productions in New Mexico that may be due to changes in the film production tax credit or other incentives available in New Mexico.

Additional ongoing matters that may be addressed by the committee include:

- the relative costs and benefits of holding local governments harmless when the legislature reduces GRTs;

- the use of industrial revenue bonds in the state, including revenue lost and the value of the benefits gained by local communities; and

- the progress of state taxation of internet transactions and the status of the streamlined sales tax efforts.

Tax Legislation Review

Mr. Clifford updated the committee on activities at the TRD and recent tax legislation considered by the legislature. He pointed out that New Mexico's tax system needs to evolve to be compatible with the state's changing industries and with the current global economic climate.

The state's tax treatment of businesses has fundamental flaws, including that the major provisions of the GRT are more than 40 years old and that CIT provisions have not been updated in more than 30 years. A recent study by Ernst & Young found that, excluding incentives, New Mexico's tax rate on new investment is the highest in the nation due to the GRT on business inputs, the CIT rate and the three-factor apportionment method for assessing the CIT. Pro-growth tax reform is needed, including reducing the pyramiding of the GRT, updating the CIT, reducing property tax lightning and reforming tax incentives.

Mr. Clifford reported that the TRD has processed eight percent more income tax returns this year than last year. Tax revenue is up 52 percent, mostly due to the state and local tax deduction addback requirements recently enacted. He said that the underlying tax revenue is flat.

Tax-related bills enacted by the legislature in 2011 include:

- film production tax credit reform, including a $50 million annual cap, delayed payments for large credits, tax withholding on performing artists, new disclosure requirements, not allowing interest on refunds and not allowing the credit to be claimed for certain luxury expenditures;

- railroad fuel GRT deduction, which is targeted to new or expanded facilities and overcomes a major competitive disadvantage that New Mexico was previously facing;

- compensating tax cleanup;

- alternative evidence for GRT deductions;

- expansion of alternative energy tax incentives;

- establishing a threshold amount at which penalties for underpayment of tax will be assessed; and

- continuation of the jet fuel GRT deduction.

The TRD is currently considering changes to its rules, including alternative evidence for GRT deductions, film production tax credit changes, the definition for property tax purposes of livestock and hunting licenses, tax credit clarifications, clarification of withholding for oil and gas payments and pass-through entities and loosening up the requirements for e-filing for certain businesses.

The TRD will begin producing tax expenditure reports, but the process will require assistance from many agencies. Mr. Clifford said that the TRD does not have the expertise to evaluate tax incentives from an economic performance perspective. The department is also interested in broad-based tax reform, and stakeholder input will be crucial to the success of the initiative. The combined reporting system (CRS) processing system is out of date and needs to be upgraded soon.

The department is considering several pieces of proposed legislation, including tax credit cleanup and reform, pass-through entity withholding clarification, Tax Administration Act changes, Motor Vehicle Code reorganization and compliance with the federal REAL ID Act of 2005.

Questions and comments from committee members included the following:

- What has been the fiscal impact of recent changes to cigarette tax rates? Mr. Clifford said that the state is receiving more revenue than the predicted additional $35 million annually.

- There have been many changes to the structure of taxes over the past few decades, especially regarding how households are treated. Mr. Clifford agreed, but said that the tax structure on businesses has not changed much.

- Why is property tax lightning reform considered important to the business sector? Mr. Clifford said the business community is concerned that if the issue is not resolved, more property tax burden will shift to the commercial property sector.

- What is the current status of property tax reform in the state? Mr. Clifford said that TRD staff is still discussing solutions to the issue. He said the department will present a package of legislation for the committee's consideration in the near future. The legislation will need to provide equal treatment to taxpayers and protect local revenue.

- How much will it cost to upgrade the CRS processing system? Mr. Clifford said that he estimates it will cost between $5 million and $7 million. An improved system will allow the TRD to collect more tax revenue. The annual contract to maintain the CRS processing system, which costs $1 million, does not include upgrades to the system. A new system will allow the department to process credits, which currently are processed manually.

- TRD staff were requested to give the committee a report on the consequences of California's Proposition 13, which limited property tax valuations.

Financing Small Business Expansion Through Nonprofit and Small Business Administration (SBA) Collaboration

Ronald D. Brown, executive director, Enchantment Land Certified Development Company (ELCDC), briefed the committee on the economic development programs provided by his organization. The ELCDC was formed in 1992 in order to assist established small businesses to expand and hire more employees. It originally received an appropriation to get started, but it is now an entirely self-sufficient operation. The company has 11 staff members, and it has offices in Albuquerque, Santa Fe, Las Cruces and El Paso. Over the past two decades, the ELCDC has assisted more than 700 businesses to expand.

The primary program provided by the company is the SBA 504 loan program, which provides a second mortgage of up to 40 percent of a project's value. Typically, a local bank loans 50 percent, and the business owner puts up 10 percent. Loans are used to purchase commercial real estate into which a business can expand. The SBA-backed second mortgages provide a method for businesses to finance up to 90 percent of a real estate transaction. In the current economic situation, banks have treated commercial real estate loans as nearly worthless, and they are not interested in making those loans. SBA-backed loans, however, are not treated that way and have become a primary means of financing capital for small businesses.

Questions and comments from committee members included the following:

- Could an SBA 504 loan be combined with a small business loan from the New Mexico Finance Authority (NMFA)? Mr. Brown said that the ELCDC has not worked directly with the NMFA because its loans are financed through the SBA. He said that the ELCDC is willing to partner with any entity to finance the first 50 percent of a mortgage.

- What is the typical loan size provided by the ELCDC? Mr. Brown said that the average loan is for $533,000, which corresponds to a property valued at $1.4 million. He said that the company does not usually earn a profit from loans under $100,000, but those loans are an important economic development tool. Larger loans allow the company to offset losses on small loans.

- Does the ELCDC make loans on equipment or loans to start-up businesses? Mr. Brown said that equipment loans are made, but that the SBA 504 program is directed at existing small businesses that want to expand. The SBA has other loan programs for start-up companies.

- Does the ELCDC receive any financial support from the state? Mr. Brown said that other than the initial funding to get the organization started, the ELCDC has been self-sustaining.

- What is the average default rate on SBA 504 loans? Mr. Brown said that there are currently $300 million in outstanding SBA loans, with a loss ratio of 2.35 percent.

- Does the ELCDC provide loans for businesses that need to restructure their existing loans? Mr. Brown said that the SBA does have a refinancing loan program, but it is a short-term loan with very stringent criteria. The SBA 504 loans are primarily designed for businesses to expand and hire new employees. The SBA benchmark is to create one permanent job for every $65,000 loaned.

Mr. Brown concluded the presentation by stating that federal bank regulators do not allow banks to make any new loans if a bank has a 300 percent loan-to-value ratio of commercial property. This new regulation means that it is essentially impossible for companies to refinance commercial loans.

There being no further business, the committee adjourned at 3:15 p.m.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 4

July 2011
Agenda
Minutes

Revised: July 20, 2011

TENTATIVE AGENDA
for the
SECOND MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

July 21-22, 2011
State Capitol, Room 322
Santa Fe

<u>Thursday, July 21</u>

9:30 a.m.	**Call to Order** —Senator Tim Eichenberg, Chair, Revenue Stabilization and Tax Policy Committee (RSTP)
9:35 a.m.	**Severance Tax Overview** —Tom Clifford, Policy and Research Director, Taxation and Revenue Department
10:45 a.m.	**Tax Expenditures in Severance Tax Acts** —Deborah Seligman, Consultant —Richard Anklam, President and Chief Executive Officer, New Mexico Tax Research Institute
12:00 noon	**Lunch**
1:15 p.m.	**State Land Office Revenue Report and Activity Update** —Ray Powell, Commissioner of Public Lands
2:30 p.m.	**Investment Trends of Permanent Funds** —Steven K. Moise, State Investment Officer, State Investment Council (SIC) —Vince Smith, Deputy State Investment Officer, SIC —Charles Wollman, Director of Communications, SIC
3:30 p.m.	**Recess**

<u>Friday, July 22</u>

9:30 a.m.	**Reconvene** —Senator Tim Eichenberg, Chair, RSTP

9:35 a.m.	**Industrial Revenue Bonds — Purpose and Status** —Deirdre Firth, Manager, Economic Development Division, City of Albuquerque —William F. Fulginiti, Executive Director, New Mexico Municipal League
11:00 a.m.	**New Mexico Film Production Update** —Nicolas Maniatis, Director, State Film Office, Economic Development Department
12:15 p.m.	Adjourn

MINUTES
of the
SECOND MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

July 21-22, 2011
Room 322, State Capitol
Santa Fe

The second meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for 2011 was called to order by Senator Tim Eichenberg, chair, on Thursday, July 21, 2011, at 9:42 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller (7/22)
Rep. Ben Lujan, Speaker of the House
Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales (7/22)
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Rep. Bob Wooley (7/21)

Absent
Sen. Mark Boitano
Sen. Timothy Z. Jennings, Senate President Pro Tempore
Sen. Gay G. Kernan

Designees
Sen. Phil A. Griego

Sen. Rod Adair
Rep. Ray Begaye
Sen. William F. Burt
Rep. Zachary J. Cook
Sen. Kent L. Cravens
Rep. Brian F. Egolf, Jr.
Rep. Miguel P. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Eric G. Griego
Rep. Sandra D. Jeff
Rep. Antonio Lujan
Rep. Antonio "Moe" Maestas

Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Sen. Bernadette M. Sanchez
Sen. John M. Sapien
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela
Sen. Peter Wirth

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Ric Gaudet, LCS
Pam Stokes, Staff Attorney, LCS
Andrew Pierce, LCS

Guests
The guest list is in the meeting file.

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

Thursday, July 21

Severance Tax Overview

Tom Clifford, policy and research director, Taxation and Revenue Department (TRD), reviewed New Mexico's taxation system on oil and gas production. Oil and gas production has four principal monthly taxes, all of which use the same tax base for calculating the tax due. The oil and gas severance tax of 3.75 percent is imposed on the taxable value of oil, gas, liquid hydrocarbons and carbon dioxide and is distributed to the Severance Tax Bonding Fund (STBF). The oil and gas emergency school tax is imposed at the rate of 3.15 percent (4 percent on natural gas), and the tax is distributed to the general fund. The oil and gas conservation tax is imposed at the rate of either .19 percent or .24 percent, depending on the average price of West Texas crude, of the taxable value of the product being severed and is distributed to the general fund and the Oil and Gas Reclamation Fund. The oil and gas ad valorem production tax is essentially a monthly property tax imposed on 50 percent of the taxable value of the product being severed. The tax is distributed to property tax beneficiaries, including counties and school districts. In addition to the monthly taxes, oil and gas equipment is assessed annually by the oil and gas production equipment ad valorem tax, which is paid on the same schedule as property taxes; and the natural gas processors tax is levied on processors based on the value of products processed.

Severance taxes on other minerals include the resources excise tax, which is actually three separate taxes collected together on timber and mineral products. The rate of the tax varies from .125 percent to .75 percent of the taxable value of the product. The major tax imposed on the severance of natural resources is the severance tax. This tax is imposed at differing rates, from .2 percent to 3.5 percent of the taxable value of the resource, except for coal, which is taxed by the ton, on the severance of potash, copper, non-metallic minerals, lead, zinc, gold, silver, timber, coal and uranium. Each natural resource has a different set of allowable deductions and method of calculating taxable value. The revenue earned from the severance tax is distributed to the STBF to pay off severance tax bonds, and remaining balances in that fund are typically transferred to the Severance Tax Permanent Fund (STPF). Finally, the copper production ad valorem tax is a property tax imposed on the taxable value of copper severed from the ground. This tax replaced the ad valorem taxation of copper formerly found in the Property Tax Code.

Oil and gas production-related tax revenues are expected to reach almost $1 billion in fiscal year 2012, which is still $400 million lower than the peak reached in fiscal year 2008. Oil and gas tax revenue accounts for 7.6 percent of general fund recurring revenue, in addition to the $400 million distributed to the STBF and $150 million distributed to local governments. If royalty payments and direct and indirect gross receipts taxation are taken into account, the industry contributes 27 percent of all general fund recurring revenue. Severance taxes on other minerals have averaged $34 million in the past few years, with about $10 million of that going to the general fund. Most of that revenue is generated from coal production, which is also taxed about $40 million annually by the gross receipts tax (GRT).

Oil and gas operations provide a substantial amount of revenue to state and local government operations and funds. The GRT is collected from the industry for direct and indirect activities associated with production, and royalties and bonuses are paid for operations on state and federal land. Annually, the oil and gas industry contributes $2.2 billion to state and local governments. Given the huge impact the industry has on government revenues, projected declines in gas production are a serious concern for the long-term revenue outlook of the state. The state needs to look at the long-term viability of the industry, including the state's tax policies. New Mexico does not control a large enough share of the national energy market to be able to export the burden of its severance taxes to out-of-state consumers, which means that the industry may go elsewhere if New Mexico's taxation level is too high.

Questions and comments from committee members included:

- How much revenue does the oil and gas industry contribute to education funding in the state? Mr. Clifford said that adding the industry's 27 percent contribution to general fund revenues and its 12 percent contribution from the land grant permanent funds (LGPFs) accounts for nearly 40 percent of education funding.

- Mr. Clifford was asked to report to the committee regarding the issue that the state may not be getting its share of tax revenue from gold extraction activities associated with copper mining. Mr. Clifford said that the TRD is aware of the issue, and he will report on the department's progress soon.

- How many oil and gas rigs are currently in operation? Mr. Clifford said he could not remember the exact number of rigs, but the Permian Basin is very active right now and the San Juan Basin is not very active. He said that new technology has changed the gas production landscape in the country recently. Ten years ago, North Dakota was not producing any gas, but now it has surpassed New Mexico in production.

- Is the decline in natural gas production associated with less gas available, or is the decline due to state regulation and taxation levels? Mr. Clifford said that natural gas production increased significantly in New Mexico in the 1990s, mostly due to a federal tax credit. Any gas well will decrease production over time, and the only way of maintaining production levels is to drill new wells.

- Does the oil and gas industry need new incentives to encourage more development? Mr. Clifford said that oil production does not need any incentives currently, since oil prices are high enough for market forces to naturally encourage development. The natural gas sector may benefit from some targeted incentives. However, any new incentive should be targeted at encouraging new activity, rather than benefiting existing production.

- New Mexico should have lower tax rates on oil and gas production in order to get much higher production levels, and thus more tax revenue.

- The state's so-called "pit" rule has increased costs to operate wells, and that has caused some oil and gas leaseholders to leave the state. Mr. Clifford said that the state could use tax policy to offset some of the costs of environmental regulations.

Tax Expenditures in Severance Tax Acts

Richard Anklam, president, New Mexico Tax Research Institute, and Deborah Seligman, consultant for the oil and gas industry, discussed with the committee tax expenditures related to the oil and gas industry. A tax expenditure is broadly defined as a feature of the tax code that benefits a particular group or activity relative to others. Tax expenditures generally are designed to encourage or discourage particular activities, promote economic development, relieve poverty or promote certain industries. A tax expenditure can take the form of an exemption, a deduction, a credit, a rate differential, a deferral or a rebate that results in lower taxation. However, not all exemptions, deductions and credits are tax expenditures, since many are necessary to prevent duplicative taxation, pyramiding and conflicts with federal law and constitutional provisions. Tax expenditures are measured by the state revenue loss or gain that results from the differential tax treatment of the expenditure.

The oil and gas industry contributes to several tax programs, including the corporate income tax, the personal income tax, the GRT, the petroleum products loading fee, the oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax, the oil and gas ad valorem production tax, the natural gas processors tax and the oil and gas production equipment ad valorem tax. There are only two specific incentives in New Mexico's tax code to encourage oil and gas production, but those provisions are effectively sunsetted, since the incentives are triggered when the price of crude oil falls below a level that has not been seen since the early 1990s. Many other exemptions, deductions and credits found in the tax code should not be considered tax expenditures or tax incentives. Exemptions from the GRT for certain oil and gas activities are not tax expenditures because those same activities are taxed specifically through other tax programs. Severance and emergency school tax deductions for transportation and associated activities were designed not to be an incentive for the industry, but rather to establish a baseline price for the product as if it were severed and sold at the wellhead. Deductions from those taxes for royalty payments have been identified by some as tax expenditures, but they could also be seen as a base adjustment to reflect the actual revenue received by the company. The rate differential of .85 percent for oil, compared with the rate for gas, in the emergency school tax could be considered a tax expenditure, but it is difficult to determine whether it actually is. Many natural resources are taxed at different rates, and trying to determine whether one rate differential is a tax expenditure can be nearly impossible 30 years after its enactment.

Ms. Seligman noted that the distribution to the Oil and Gas Reclamation Fund from the oil and gas conservation tax may need to be modified. The distribution to the fund was increased in 2010 in order to pay for remediation of a brine well in Carlsbad. That money has not been spent, and the fund is accumulating large sums of money. Legislative Council Service staff was instructed by the committee to look into whether the distribution language needs to be amended and whether money in the fund can be used for other purposes.

Questions and comments from committee members included:

- How are mineral royalty payments calculated for production on state and federal lands? Ms. Seligman said that production companies bid on potential leases. The lease usually allows a 10-year window in which the company can begin extraction operations. Representative Bratton explained that lease bonus and royalty payments are much higher in known productive areas. He said that the federal and state governments could assume all the risk of developing a well and keep all the income, but the usual practice is to let the private sector perform that work. Once a well is productive, the lease on it runs until the well is formally abandoned.

- What is the reason for the naming of the oil and gas emergency school tax? Ms. Seligman said that has been the name of the tax since it was enacted in the 1930s. The money from that tax is distributed to the general fund, and more than one-half of that fund is used on education spending.

- The presenters were asked to explain which kinds of expenses can be deducted from oil and gas taxes. Mr. Anklam said that the severance taxes are imposed on the value of the product, and the only deductions from taxable value are expenses related to transportation and certain royalty payments. There are deductions allowed from gross receipts for certain activities and from income taxes, but those are the normal deductions that all businesses are allowed.

- The state needs to identify incentives to encourage new oil and gas production. A bill was recently introduced in the legislature that would give a 50 percent tax credit against the cost of installing closed-loop systems instead of using the standard pit system.

- What is the average useful life of an oil well? Ms. Seligman said that some wells play out in two years, while others last more than 50 years. Representative Bratton said that producers are hesitant to permanently abandon wells because new technology may allow further extraction in the future.

State Land Office Revenue Report and Activity Update

Commissioner of Public Lands Ray Powell gave a report on the activities of the State Land Office (SLO) to the committee. Also presenting to the committee were Elaine Olah, assistant commissioner for administrative services, Bob Jenks, deputy commissioner, Harry Relkin, general counsel, and Kurt McFall, royalty management director. Commissioner Powell began the presentation by stating that all SLO transactions dealing with trust lands will be done with full public visibility and disclosure. The SLO has holdings in nearly every township in the state, which gives the agency a unique opportunity to have a positive influence in local communities on multiple levels. He mentioned two recent joint SLO economic development projects: the Mesa del Sol development and the new Sandia Tech Park, both in Albuquerque.

Ms. Olah continued the presentation and stated that the SLO is the trustee for 13 million subsurface acres and 8.9 million surface acres of land in the state, benefiting 22 governmental beneficiaries. The SLO has 151 full-time-equivalent (FTE) positions and has 12 field offices throughout the state. The SLO generates revenue for beneficiaries from three main sources. Revenue from nonrenewable resources such as mineral royalty payments and land sale proceeds is deposited into the LGPFs for investment by the State Investment Council (SIC) and distribution to the beneficiaries. Revenue generated from renewable resources, such as rents, grazing leases and rights of way, and miscellaneous revenue are deposited into the Land Maintenance Fund (LMF). The operating expenses for the SLO come from the LMF, and the remaining portion, usually about 97 percent of the fund, is distributed monthly to the trust beneficiaries.

In fiscal year 2011, the SLO deposited \$87.7 million into the LMF, and \$411 million into the LGPFs. The SLO performed significantly better in fiscal year 2011 than was originally budgeted. The operating expenses for the office of \$13.1 million equal 2.6 percent of total revenues generated, and the SLO earned \$200 million more than was anticipated at the beginning of the fiscal year. Estimates for fiscal year 2012 predict that the LMF will receive \$84 million and the LGPFs will receive \$502 million.

Nearly 95 percent of all revenue generated by the SLO comes from the oil and gas industry. There are 170,000 producing oil and gas wells in the state, and 44,000 of those are located on state trust land. Two thousand oil and gas wells were drilled on trust land in fiscal year 2011. Monthly royalty income reached an all-time high of nearly \$70 million in 2008, then fell to less than \$20 million in 2009, but has been steadily increasing ever since. Monthly royalty payments have been between \$40 million and \$50 million for the past year.

Although oil and gas revenues account for the lion's share of revenue earned by the SLO, on a per-acre basis, other mineral resources are more productive. Coal generates \$1,200 per acre; salt generates \$600; sand and gravel generate \$193; and oil and gas generate \$161.

However, with 2.9 million acres under lease to oil and gas interests, revenue from that sector surpasses by far the total revenue generated by all other sources combined.

Commissioner Powell said that the SLO audits many of its leases annually, which generates not only more money for the state land beneficiaries, but also more tax revenue for the state. The SLO will request authorization for additional auditors in the upcoming budget cycle, he said.

Questions and comments from committee members included:

- How does the SLO generate revenue from interest and penalties? Ms. Olah said that late royalty payments and lease renewals are charged interest, which is deposited into the LMF.

- How is the cost for grazing leases calculated? Commissioner Powell said that the price for grazing leases has declined nine percent in the past two years. New Mexico State University (NMSU) develops a formula for lease prices partially based on the cost of forage and the value of livestock. He said that the long-term drought that much of the state is experiencing is affecting the ability of leaseholders to graze animals. The SLO needs to maintain its relationship with knowledgeable leaseholder stewards. Good lessees are able to take care of the land in a sustainable manner. Mr. Jenks said that the formula for grazing leases is derived by NMSU from three U.S. Department of Agriculture indices: the forage prices index, the prices paid index and the cattle prices index. In addition, the carrying capacity of the land is a factor in the price.

- How have the recent forest fires in the Jemez Mountains affected state trust land? Commissioner Powell said that the impact from the fires could be dramatic in some areas. Some lessees may need to liquidate their herds. The area surrounding the Dixon Apple Orchard near Cochiti may experience erosion and siltation when the monsoon season brings heavy rains.

- The federal definition of commercial timber needs to be changed to allow forest-thinning projects to proceed. Commissioner Powell said that hand-thinning projects tend to be very expensive. The SLO wants to tie local economic development initiatives with any forest-thinning projects on state trust land.

- Is the SLO involved in any electric transmission line leases? Commissioner Powell said that the state could eventually earn as much money from renewable energy generation as the money earned from the oil and gas sector. However, the SLO is not interested in leasing state land to speculators; it wants actual renewable energy activity on its lands. The renewable energy sector in New Mexico will take decades to develop, and the SLO will be an active participant in that development. The wind-power generation facility underway near Corona may involve right-of-way leases on state lands, depending on the final location of the transmission lines.

- Can the state change the list of trust land beneficiaries to add new beneficiaries? Commissioner Powell said that would require an amendment of the Enabling Act for New

Mexico, which would also need approval of the people by popular vote and approval by Congress.

- Is the SLO reimbursing leaseholders who had been leasing state trust land on the location of Spaceport America? An SLO representative said that under state law, if a lease is not renewed but given to another lessee, the new lessee needs to reimburse the previous lessee for improvements made by the previous lessee.

- The LGPFs were not intended to be a savings account for state trust beneficiaries; rather, the funds were intended to benefit them. More money needs to be distributed from the funds to ensure that education is fully funded.

- How much royalty money has been underpaid by oil and gas lessees? Commissioner Powell said that figure cannot be estimated until more audits are performed.

Investment Trends of Permanent Funds

Steve Moise, state investment officer, Vince Smith, deputy state investment officer, and Charles Wollman, director of communications, SIC, gave an update on the activities of the SIC to the committee. Several reforms have been instituted at the SIC in the past year. The SIC and staff adopted fundamental investment philosophies to guide the investment of government funds. A preliminary asset allocation study was performed early in 2011, and the SIC will be implementing the new strategy in September. The investment consulting firm Ennis Knupp recommended 82 reforms in 2010, and the council has completed 28 of those, with 27 others currently being implemented. The other recommendations are still being evaluated. Several new SIC policies have been adopted, as well as a staff code of conduct. About one-third of the SIC's staff has changed in the past year, and nine external fund manager contracts have been terminated for underperformance. New external investment managers are currently being sought to replace some of the internal investing activities previously performed in-house. The SIC has several lawsuits pending to recover lost funds during the economic collapse of 2008-2009. The SIC has already recovered significant amounts, including one settlement for more than $150 million. The SIC is also fully cooperating with ongoing criminal investigations regarding past SIC dealings.

The SIC manages the state's permanent funds and manages some local government investments. The STPF and LGPFs make up most of the investment portfolio of the council. Total invested funds have grown 22 percent in fiscal year 2011, from $12.9 billion to $15.5 billion. The asset allocation of the state's primary permanent funds will change, beginning in September 2011, to align with the newly adopted investment philosophy of the council.

The legislature restructured the organization of the SIC in 2010, reducing the power of the governor to control the council. Currently, there are two positions open on the council, one appointed by the governor and one appointed by the New Mexico Legislative Council (LC). Mr. Moise asked members of the committee who serve on the LC to appoint a member with very good qualifications. The SIC earlier provided the legislature with a desired skill set for a new appointee, in addition to the stringent statutory requirements.

The SIC reduced its FTE staff from 32 to 25 in order to allow more qualified entities to manage some of the state's funds. The SIC will be able to earn more by outsourcing, said Mr. Moise. An exception is the staff that manages public equity investments, which has performed very well.

At the end of fiscal year 2011, the LGPFs had a balance of $10.8 billion. The SLO has transferred $2.3 billion to the funds in the past five years. The distribution rate from the funds to the state trust beneficiaries is currently 5.8 percent of the average balance of the funds, but that percentage will drop to 5.5 percent in fiscal year 2013 and 5.0 percent in fiscal year 2017. In the past five years, $2.6 billion has been distributed from the fund to the beneficiaries.

The STPF had a balance of $3.9 billion at the end of fiscal year 2011. After severance tax proceeds are used to pay debt service on severance tax bonds, any remaining money in the STBF is deposited into the STPF. Distributions from the fund are set at 4.7 percent of the average value of the fund and flow to the general fund. Deposits into the STPF have been minimal the past few years, because short-term supplemental severance tax bonds have been authorized to sweep any unused balance toward other purposes.

The Tobacco Settlement Permanent Fund is currently valued at $150.1 million. No new contributions to the fund have been made since fiscal year 2008, due to legislation diverting that income stream to other general appropriation uses. Money in the fund has not been distributed recently, since the amount to be distributed is tied to the amount deposited into the fund for each fiscal year.

The Water Trust Fund has a balance of $50.2 million. It was established in 2006 with an initial appropriation of $40 million, and $4 million is distributed from it annually to the Water Project Fund for water projects in the state.

Mr. Moise concluded the presentation by discussing a proposed constitutional amendment to allow up to 25 percent of the LGPFs to be invested in international equity investments, up from the current 15 percent limit. It would also change the standard of care in investing the fund to the "prudent investor" standard. This legislation passed the senate in the 2011 regular session, but time ran out before it could be addressed by the house of representatives.

Questions and comments from committee members included:

- Why is the SIC interested in investing more of its assets in U.S. equities, rather than fixed income investments? Mr. Moise said that is the current asset allocation strategy of the council, but new allocation strategies will be announced in August 2011. He said that the new allocation strategy will probably move away from relying on publicly traded equity and focus more on real-return assets such as real estate, floating-rate debt, energy, infrastructure and hedge funds.

- A legislator said that he thought the LC had recently filled a vacancy on the SIC. Speaker Lujan said that the person under consideration could not be appointed to the SIC because his political party affiliation did not match the requirement that LC appointees have a balanced party affiliation. He said that the governor's appointees are not required to have party affiliation balance, and that discrepancy may need to be addressed by the legislature.

- The 5.8 percent distribution levels from the LGPFs have not hurt the corpus of the fund. That distribution level should be made permanent.

- SIC staff was requested to report to the committee the percentage of its assets invested in fossil-fuel-based energy companies. As a rough estimate, Mr. Moise calculated that since six percent of publicly traded indices are energy companies and the SIC has 55 percent of its assets in stocks, the SIC could have approximately three percent of its assets invested in energy companies.

- Will there be more defendants in civil cases that the SIC is pursuing recovery of lost assets from recent financial scandals? Mr. Moise said that the SIC is still preparing cases against several financial management companies. He said that the SIC won a $150 million judgment against Countrywide. This case was not directly related to the "pay-to-play" cases also being pursued. The SIC is only involved in the civil aspect of the cases. The U.S. district attorney and New Mexico attorney general are still pursuing criminal cases.

- SIC staff was asked to provide to the committee specific dates for the election of the vice chair of the SIC in the past two years.

- SIC staff was asked to forward to the committee a detailed presentation given by the state's bond counsel on severance tax bonds, including supplemental severance tax bonds, commonly referred to as "sponge bonds".

- The SIC rule forbidding the use of third-party placement agents should be put into statute. Mr. Moise said that there are some legitimate uses of placement agents. Any statutory restrictions on their use should be carefully crafted.

Corn Board Manufacturing Presentation

Speaker Lujan asked that a brief presentation be made by Lane Segerstrom, chief executive officer, Corn Board Manufacturing, Inc. Mr. Segerstrom said that his company, headquartered in Texas, transforms corn stover, usually a farm waste product, into a high-quality wood replacement product. Corn board can be used in many industrial and woodworking applications. The company is interested in locating a manufacturing plant in New Mexico soon.

Speaker Lujan asked staff to schedule a full presentation from Mr. Segerstrom on the economic development potential of the new technology.

The minutes from the June 21, 2011 meeting of the committee were adopted without changes.

The committee recessed at 4:25 p.m.

Friday, July 22

The committee reconvened at 9:35 a.m.

Industrial Revenue Bonds — Purpose and Status

Deirdre Firth, manager, Economic Development Division, City of Albuquerque, and William Fulginiti, executive director, New Mexico Municipal League (NMML), made a presentation to the committee on the use of industrial revenue bonds (IRBs). An IRB is a method of financing capital assets using a governmental entity as a bond issuer. A company leases a facility from the entity, which sells bonds to a private lender. The company then uses the money to build or expand the facility. Loan repayments are made by the company through the entity back to the lender, and at the end of the term, title to the property is transferred to the company. The primary benefit of an IRB is that the governmental entity is the legal owner of the facility during the bond term, and thus the company is not assessed property taxes for the facility. A company often gets GRT and compensating tax abatement on the initial purchases of equipment with bond proceeds. IRBs are an important economic development tool for municipalities and counties to attract new businesses. The municipality or county does not use any of its own revenues to pay IRBs; the entity is merely the issuer of the bonds, which are repaid completely by the company.

Eligible IRB projects include land, buildings, furniture, fixtures and equipment; but working capital is not eligible. Suitable purposes include facilities for manufacturing, warehousing and distribution services, nonprofit entities, health care services, research facilities, industrial parks and office headquarters.

IRBs can also be issued for tax-exempt nonprofit entities to allow a municipality or county to act as a conduit issuer, as required by federal law, to help them obtain financing. These IRBs are exempt from income taxation. All other private-sector IRBs are taxable, however.

In Albuquerque, a company wishing to finance a project with an IRB issuance goes through a lengthy application and review process. After initial meetings with city staff and the identification of the bond counsel and financing source, a company will file an application with the city describing the project, the number of jobs to be created, land use and zoning considerations, financing details, economic impacts, corporate information and general community benefits of the project. City staff then evaluate the application, and the University of New Mexico Bureau of Business and Economic Research performs a fiscal impact analysis. At least three public hearings are held, and the city council makes the final decision on whether to proceed with the bonds. A project must have a positive fiscal impact for it to be recommended for approval. The company pays application and analysis fees, as well as the costs for bond counsel to prepare the documents. Total cost for an IRB issuance can be as much as $75,000, depending on the complexity of the financing. The entire process can take three to six months to complete.

Albuquerque provides for tax abatement reductions if the stated economic development goals in an application are not met, and the city provides "clawback" penalties if a facility closes prior to a specified time. The city recently reclaimed $13.1 million from Philips Semiconductors after it prematurely ended its operations. Companies can also be required to make payments in lieu of taxes (PILOTs) in order to reduce the negative property tax impact on certain entities, such as school districts. Although companies receive some tax abatements, IRBs do not affect other taxes that companies owe, including payroll, gross receipts and income taxes.

Any company can use an IRB for an eligible purpose. However, because of the financing and legal costs, IRBs are typically used for capital projects larger than $2 million. The City of Albuquerque is the largest issuer of IRBs in the state, but it typically issues only one per year. IRBs can be an effective economic development tool, but they are not used to excess, said Ms. Firth.

Questions and comments from committee members included:

- Do school districts, which are affected by IRB property tax abatements, get to vote whether to allow an IRB issuance? Mr. Fulginiti said that school districts are involved in the discussion of IRB issuance, but they do not have a vote. Ms. Firth said that a company receiving a large IRB will often make a PILOT to the school district. The legislator said that can cause problems, because property taxes cannot be used for operation expenses of a school district, but there are no restrictions on how a PILOT can be used. One school district that was using a PILOT to fund its operations suddenly lost that money when the company decided to defease its bonds. Some school districts have actually issued revenue bonds, with a PILOT backing the bonds.

- How do other states compare with New Mexico in IRB incentives? David Buchholtz, bond counsel for Albuquerque, said that given New Mexico's overly broad GRT taxation structure, IRBs make the state fairly competitive for the business sector.

- Small communities are often taken advantage of by companies wishing to get an IRB issuance. Local governments issue IRBs that do not increase the net tax revenue of the local governments in the area. Mr. Fulginiti said that the NMML provides governmental financial training seminars for municipalities, including training in IRB issues.

- Why would local governments want to give up some of their tax base to attract a company? Mr. Buchholtz said that IRBs can be issued with a requirement that a company create a certain number of permanent new jobs. Ms. Firth said that a local government can design an IRB issuance to give only a partial property tax abatement. A thorough fiscal analysis needs to be performed prior to an IRB issuance.

- How are the bonds in an IRB issuance collateralized? Mr. Buchholtz said that a private lender typically issues a mortgage or security interest in the property. The local government's credit is not at risk. The lender purchases the bonds, and the company repays the loan, using the local government as the passive trustee. There is no limit on the issuance of IRBs that a local government can issue, since an IRB is not a government debt. The amount of bonds depends on the creditworthiness of the company. The local government owns the property until the loan is paid off; then the title transfers to the company and is subject to property taxation.

- Why did Albuquerque Tortilla decide not to pursue the issuance of an IRB? Mr. Buchholtz said that the process can be expensive. In addition, IRBs require financial disclosures by the company. Some companies may decide that the additional public scrutiny and cost are not worth the effort, especially if they are able to secure other financing for the project.

- The New Mexico Renewable Energy Transmission Authority (RETA) seems to have similar functions to a county issuing IRBs. Does the RETA really serve a needed purpose not already being served? Mr. Buchholtz said that the RETA is still a new entity, and its statutory authority may eventually need some tinkering. The RETA has some tax incentive authority that is better than IRBs.

- Can an IRB be issued within a tax increment development district (TIDD)? Mr. Buchholtz said that is allowed, but the financing issues are very complicated and there are some trade-offs. A TIDD is a local government entity that receives a portion of property taxes from new companies locating in an area, but IRBs are designed to abate property taxes for companies to locate in an area.

- Allowing a municipality an unlimited ability to issue IRBs is a bad idea, since the issuance has an impact on other local governments, including the county and school districts in the area. Ms. Firth said that IRBs are not issued very often in Albuquerque and only after a thorough fiscal analysis.

- Since the local government holds title to a property during the course of an IRB, what happens during a default? Mr. Buchholtz said that technically, the local government would become a defendant, but it is not responsible to pay the default. The local government is really acting as an independent trustee and merely needs to give up its position in order for the normal foreclosure proceedings against the company to ensue.

- Staff was instructed to acquire for the committee a list of IRBs issued by counties.

New Mexico Film Production Update

Nicolas Maniatis, director, New Mexico Film Division, Economic Development Department, updated the committee on recent changes in the film production tax credit. The legislature enacted changes to the law in 2011, setting a $50 million cap per fiscal year in the amount of tax credit allowed. Any credit not granted in a fiscal year is first in line for the credit in the next fiscal year. Film production companies must now wait until the end of their taxable year to file for the credit, and tax credits must be claimed within one year of a production's final expenditure.

Mr. Maniatis estimated that the total amount of tax credit claims for fiscal year 2012 will be $30.9 million, due to the timing structure to apply for the credit. Fiscal year 2013 should see an increase in credit claims, based on current projects in production. He expected that the $50 million cap will not cause problems for three to four years. There are currently four major productions in the principal photography phase, with four additional projects potentially coming to the state soon. Six major productions recently finished production.

Questions and comments from committee members included:

- Did changes in the film production tax credit affect the number of productions in the state? Mr. Maniatis said that during the legislative session, when the status of the tax credit was uncertain, some companies decided to produce elsewhere. However, now that the law is enacted, film production companies have a stable tax environment to plan for, and new productions have been planned.

- How can the discrepancy for fiscal year 2011 in the amount of tax credit granted be explained? Mr. Clifford said that film production companies rushed to complete their returns before the end of fiscal year 2011 and the start of the new requirements. The TRD had originally estimated the tax credit costing the state $65 million, but it actually will cost $102 million.

- Are there any local filmmakers taking advantage of the tax credit? Mr. Maniatis said that typically 60 productions file for the tax credit annually, of which 45 are small, often local, productions.

- Mr. Clifford said that the TRD is currently determining whether a tax credit can be paid to a pass-through entity that is the film production company, or whether the credit can only be paid to the owner of that company. Since the credit is only granted as part of a company's income tax return, and pass-through entities generally do not file returns, the timing provisions of when a credit gets granted may become problematic.

- Is the new legislation requiring pass-through entity withholding working as intended? Mr. Clifford said that the new law addresses just one of many methods of payment to performing artists. The department is currently working on regulations to address all the different payment methods, but additional legislation may be needed.

There being no further business, the committee adjourned at 12:00 noon.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 5

August 2011
Agenda
Minutes

Revised: August 24, 2011

TENTATIVE AGENDA
for the
THIRD MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

August 25-26, 2011
Mid Region Council of Governments
Board Room
809 Copper Avenue NW
Albuquerque

<u>Thursday, August 25</u>

9:30 a.m.	**Call to Order** —Senator Tim Eichenberg, Chair
9:35 a.m.	**Revenue Estimate** —Demesia Padilla, Secretary of Taxation and Revenue —Tom Clifford, Tax Policy Director, Taxation and Revenue Department (TRD) —Elisa Walker-Moran, Chief Economist, Legislative Finance Committee
10:50 a.m.	**State Road Fund Update** —Christian Sanchez, Chief Economist, Department of Transportation
11:45 a.m.	**Lunch**
1:30 p.m.	**Tax Increment Development District Revenue Effects and Updates** —Tom Clifford, Tax Policy Director, TRD —Gilbert Montaño, Deputy Chief Administrative Officer, City of Albuquerque —William Slettom, Downtown Development Coordinator, Las Cruces —Emily Madrid, Accounting Manager, County Treasurer's Office, Bernalillo County
3:00 p.m.	**Reconciling Film Production Tax Credit Bills** —Tom Clifford, Tax Policy Director, TRD
3:45 p.m.	**Tax Amnesty Report** —Tom Clifford, Tax Policy Director, TRD

4:15 p.m.	**Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA) Yield Control Changes** —Jerry Lovato, AMAFCA
4:45 p.m.	**Recess**

<u>Friday, August 26</u>

9:30 a.m.	**Reconvene** —Senator Tim Eichenberg, Chair
9:35 a.m.	**Federal Health Care Reform Revenue Overview** —Bill Jordan, New Mexico Voices for Children —Kelly O'Donnell, New Mexico Voices for Children
10:50 a.m.	**Master Settlement Agreement Arbitration and Legislation Update** —Nan Erdman, Assistant Attorney General
12:00 noon	**Adjourn**

MINUTES
of the
THIRD MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

August 25-26, 2011
Mid-Region Council of Governments
Albuquerque

The third meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for 2011 was called to order by Senator Tim Eichenberg, chair, on Thursday, August 25, 2011, at 9:43 a.m. in the board room of the Mid-Region Council of Governments (MRCOG) located at 809 Copper Avenue NW in Albuquerque.

Present
Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Sen. Mark Boitano (8/25)
Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller
Rep. Ben Lujan, Speaker of the House
Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Rep. Bob Wooley (8/25)

Absent
Sen. Timothy Z. Jennings, Senate President Pro Tempore
Sen. Gay G. Kernan
Sen. John Arthur Smith

Designees
Sen. Rod Adair (8/25)
Sen. William F. Burt
Sen. Steven P. Neville
Sen. Nancy Rodriguez

Rep. Ray Begaye
Rep. Zachary J. Cook
Sen. Kent L. Cravens
Rep. Brian F. Egolf, Jr.
Rep. Miguel P. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Eric G. Griego
Sen. Phil A. Griego
Rep. Sandra D. Jeff
Rep. Antonio Lujan
Rep. Antonio "Moe" Maestas

Sen. George K. Munoz
Rep. Debbie A. Rodella
Sen. Bernadette M. Sanchez
Sen. John M. Sapien
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela
Sen. Peter Wirth

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Ric Gaudet, LCS
Damian Lara, Staff Attorney, LCS
Pam Stokes, Staff Attorney, LCS

Guests
The guest list is in the meeting file.

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

<u>Thursday, August 25</u>

Revenue Estimate
Demesia Padilla, secretary of taxation and revenue, Tom Clifford, tax policy director, Taxation and Revenue Department (TRD), and Elisa Walker-Moran, chief economist, Legislative Finance Committee (LFC), briefed the committee on the July 2011 consensus revenue estimate. The July estimate increased fiscal year 2011 revenue projections by $110 million, fiscal year 2012 revenue by $120 million and fiscal year 2013 revenue by $165 million. General fund revenue growth is expected to be five percent in each of fiscal years 2012 and 2013. The primary 2011 legislative change affecting revenues was the reduction of film production tax credits. The change in how much credit can be claimed per year is expected to increase revenues by $20 million annually. A sharp increase in film production tax credit claims at the end of fiscal year 2011 reduced that year's revenue by $40 million. Mr. Clifford said that the increase in revenue in fiscal years 2011 and 2012 is due to increased gross receipts tax (GRT) and oil and gas revenues. Fiscal year 2013 increases are expected to come from corporate income tax (CIT) revenue and from the oil and gas sector.

Mr. Clifford mentioned several developments since the July consensus revenue estimate that might indicate a slower-than-expected economic rebound, including that stock markets have fallen 15 percent recently and that crude oil and natural gas prices have fallen. However, employment growth has increased and corporate earnings for the latest quarter were higher than expected.

Ms. Walker-Moran reviewed the July 2011 consensus revenue estimate for the committee. She said that one risk to the consensus is that the state could lose up to $20 million annually if it is determined to not be in compliance with the tobacco manufacturers' Master Settlement Agreement (MSA). She said that the consensus economists are fairly confident that fiscal year 2012 revenues will exceed the budgeted amount for the year. For fiscal year 2011, May and June accrual amounts indicate that GRT revenue may exceed the July estimate by $21 million, and the total revenue for that fiscal year may be as much as $40 million higher than previously estimated.

Questions and comments from committee members included the following:

- Did the consensus revenue estimate consider the negative multiplier effects of limiting the amount of film production tax credit? Mr. Clifford said that the multiplier effects of tax credits are not explicitly tracked, but state economists do track labor and industrial sector trends following important tax law changes.

- Will the extra public employee retirement contribution provided for in the 2011 legislative session be eliminated if the revenue estimate for fiscal year 2012 is good enough? Mr. Clifford said that may happen, which will add more expenses to the fiscal year 2012 budget.

- Why is New Mexico at risk for losing tobacco settlement revenue? Ms. Walker-Moran said that the state is facing its second legal challenge from the participating tobacco manufacturers, which are claiming that the state no longer has a valid statute to enforce the MSA.

- How will the administration's strategy of reforming the tax system achieve the goal of reaching a 10 percent appropriation reserve without providing for revenue enhancements? Secretary Padilla said that the administration is currently looking at tightening up some tax credits. Another option being investigated is to structure the tax credit system differently, such as providing competitive granting of tax credits based on job creation performance. More state revenue could also be allocated for business development efforts, which eventually provide more tax revenue to the state.

- The primary reason why businesses choose not to locate in New Mexico is because of the state's poor educational system, not because of the amount of business incentives provided.

- If the governor had not vetoed the 2011 bill to fix the escrow provisions relating to cigarette sales, would the state still have been at risk of losing MSA revenue? Mr. Clifford said that TRD attorneys did not think that the governor's veto of that bill put the state at risk.

- The Tobacco Settlement Permanent Fund was included as a reserve fund for the general fund operating reserve several years ago, but that fund is really not a reserve. It can only be appropriated by the legislature. The actual general fund operating reserve is at about three percent of expenditures, not the nine percent figure used.

- LFC staff members were instructed to provide the committee with the actual costs of the retirement swaps enacted in recent years.

- The July revenue estimate does not show the $103 million Medicaid reimbursement the state might be required to make to the federal government. Mr. Clifford said that, for several years, the state's Medicaid reimbursement system has not tracked with the federal government's system.

- The large increase in CIT revenue confirms the trend that the rich are just getting richer and the poor and middle classes are getting poorer.

- A state employee recently reported that the Department of Finance and Administration (DFA) is now taking seven weeks to reimburse state employees for per diem and travel expenses. Secretary Padilla agreed that reimbursements are behind schedule. She said that she waited nine weeks for a travel reimbursement. Some employees qualify for per diem advance payments, she said.

State Road Fund Update

The committee heard a presentation from Department of Transportation (DOT) representatives regarding the status of the State Road Fund (SRF). Presenters included Alvin C. Dominguez, secretary of transportation, Tom Church, deputy secretary for business support, and Christian Sanchez, chief economist, DOT. Mr. Church said that revenues accruing to the SRF are expected to increase by $18 million in fiscal year 2013, the first increase in several years. The DOT is planning on budgeting all increases to the SRF toward highway operations. Gasoline tax revenues in fiscal year 2012 are expected to decline by $2.5 million, but weight distance and special fuel tax receipts have increased significantly.

Secretary Dominguez reported that federal transportation funding is currently authorized only through September 2011. There has been no transportation funding bill passed by Congress in two years, except for several continuing resolutions. He said that some congressional plans would reduce federal transportation funding by 37 percent, which would dramatically affect New Mexico's ability to maintain highway infrastructure. Since the state has annual bond payments of $122 million tied to federal funding, a 37 percent reduction in Federal Highway Administration funding would reduce the construction budget from $200 million to $112 million.

Questions and comments from committee members included the following:

- The SRF needs a dedicated revenue stream to address the poor road conditions in the state, but the current administration is opposed to any sort of tax increase. How much money does the state's road infrastructure need to become adequately maintained?

Secretary Dominguez said that another looming problem is that the federal gasoline tax is due to expire September 30. The expiration of that tax would have huge consequences for New Mexico's transportation infrastructure. He mentioned that the SRF used to collect a portion of the revenue from the motor vehicle excise tax, but now it does not receive any portion of those receipts. Mr. Church said that the state needs approximately $11 billion to fix its road infrastructure problems.

- Has the congressional impasse of funding for the Federal Aviation Administration related to the subsidization of regional airports affected the DOT's operations at its airports? Mr. Church said that the Aviation Division of the DOT had put all of its pending contracts on hold until the funding issue had been resolved.

- Has the potential funding impasse for federal highways affected any DOT projects? Secretary Dominguez said that the DOT currently has several projects under way worth about $261 million. The department is still letting contracts for new projects until the federal government says otherwise.

Comments from Local Entities

Eric Baca of Intel briefly addressed the committee. He said that Intel is involved in pre-positioning future investments in New Mexico. There are no current plans to expand in the state, but Intel wants to be ready to act should the opportunity arise. Intel has major investments in many states, including New Mexico. He said that the three main incentives for future expansion are the regulatory environment, the quality of the work force and tax incentives provided by the state and by local governments.

Dewey Cave, executive director, MRCOG, welcomed the committee members to Albuquerque. He invited any legislative committee or group of legislators to use the MRCOG's offices for future meetings. He briefly described the activities of the MRCOG, including economic development, local government planning, water resource planning, work force development and local agricultural development, in addition to running the Rio Metro transportation system.

Tax Increment Development District Revenue Effects and Updates

The committee heard a panel discussion on tax increment development districts (TIDDs) in the state. Presenters included Mr. Clifford; Gilbert Montano, deputy chief administrative officer, City of Albuquerque; William Sletton, downtown development coordinator, Las Cruces; Emily Madrid, accounting manager, county treasurer's office, Bernalillo County; and Jacques Blair, economist, City of Albuquerque. Mr. Clifford began by discussing the criteria that need to be met in order for a TIDD to be created, including that it must serve the interests of the owners and residents of the district and also those of the municipality or county; that it support the governing body's efforts in job creation, work force housing, public school development and redevelopment of underdeveloped areas; and that it contribute to the long-term planning goals of the governing body. TIDDs are eligible for several types of tax increments, including several municipal and county GRTs, property tax and the state GRT. The TRD's role in TIDD administration is to establish location codes for TIDDs; to collect the GRT from businesses operating within a TIDD; and to distribute GRT revenue dedicated to a TIDD.

The TRD is currently tracking distributions for several TIDDs around the state. The Mesa del Sol TIDD began receiving GRT increments in 2008. Mesa del Sol receives 75 percent of the state GRT from the area included in the TIDD and 67 percent of some Albuquerque GRTs. Total distributions to the TIDD in fiscal year 2011 were $885,000. The downtown Las Cruces TIDD began in 2009 and receives 75 percent of state and local GRT increments from within the TIDD boundaries. This TIDD was set up to redevelop downtown Las Cruces, and it already had an existing GRT base. This made it somewhat more complicated for the TRD to calculate the distribution, since the TIDD is only designated to receive a portion of the new GRT revenue after the TIDD began. In the first year of operation, distributions to the TIDD were calculated based on an assumed growth rate. Since then, the actual base year period has been used to calculate the base amount.

There are three TIDDs located in the Winrock/Quorum area of Albuquerque. The Winrock 1 and 2 TIDDs have not had very much activity thus far, but they are scheduled to begin activity in the near future. The Quorum TIDD has had a change of plans, and the property is now slated to be sold for the construction of a Target store. Although $470,000 has already been distributed to the TIDD, the change in purpose for the property raises serious questions about its viability. Finally, the Village at Rio Rancho TIDD, which began in 2010, has received $107,000 in tax increment distributions.

Mr. Montano discussed the TIDDs in Albuquerque and said that Mesa del Sol has received $5.3 million in tax increment revenues and created 2,000 new jobs in the area. The Winrock TIDDs are still viable, but development has been delayed by the economic downturn the past few years. The biggest problem for the city has been the Quorum TIDD, which is now destined to become a Target retail store rather than the original plan of a 785,000-square-foot mixed retail and hotel development. The city is questioning whether the Quorum TIDD should be dissolved.

Mr. Sletton discussed the progress of the downtown Las Cruces TIDD, which is the first project in the state for the revitalization of a downtown district. The Las Cruces downtown area has been a TIDD project since 2010 and has received $2.7 million in tax increment revenue. The total cost for the public infrastructure portion of the project is estimated at $13 million. Mr. Sletton said that local businesses have been very supportive of the project and appreciate that taxes generated by businesses in the area are paying for the infrastructure improvements. He said that some businesses within the TIDD did not know that they were supposed to report their gross receipts under a new TRD location code, which has led to some lost revenue for the TIDD. He suggested that the TIDD statutes be streamlined so that smaller communities could create TIDDs without such a large administrative overhead requirement.

Ms. Madrid reported to the committee on issues that Bernalillo County is having in trying to establish a property tax base year valuation. For example, the Mesa del Sol TIDD originally was valued as one very large parcel, but now it is many smaller parcels. Calculating the valuation differential from the original parcel compared to current year valuations is a difficult task.

Questions and comments from committee members included the following:

- Did existing businesses within the Las Cruces TIDD get a lower tax rate when the TIDD was formed? Mr. Sletton said that the tax rates stayed the same; the only difference is that a portion of the increased tax revenue after the formation of the TIDD is distributed back to the TIDD for infrastructure improvements.

- The state is losing $1 million per year from the Las Cruces TIDD. Mr. Sletton said that the state has not lost any actual revenue; only the increment from the larger tax base is dedicated for the TIDD. Mr. Clifford said that the theory is that TIDDs create new development that otherwise would not exist. The State Board of Finance can reduce the state share of the GRT increment after determining that some of the increase was due to existing businesses relocating to a TIDD.

- Can the City of Albuquerque dissolve the Quorum TIDD since the current development plan does not match the original plan? Mr. Montano said that it can, and the administration is considering that option. The new developer of the property expressed no interest in continuing the TIDD.

- Why has nothing happened at the Winrock TIDDs? Mr. Montano said that the developer of the Winrock area is still committed to the original TIDD plan. The current economic climate has meant that the developer was not able to move as quickly as desired. He said that groundbreaking for a new IMAX theater will happen within six months.

- The legislature should consider ending the authorization for TIDDs that do not meet progress benchmarks within a certain time.

- The legislature rejected a TIDD proposal for the SunCal development on land that has sat unused for centuries, but then it approved a TIDD for a developed area in Albuquerque that did not even need the designation.

- The Winrock/Quorum TIDDs, although consisting of three separate TIDDs, were presented to the legislature as one entity with one plan for development. Since authorization of the TIDDs, major changes have been made to the plans. Mr. Montano said that the City of Albuquerque is also frustrated with those TIDDs. There has been a heavy administrative burden on the city to manage those projects.

- Are there any transfer of property ownership restrictions in TIDDs? Jill Sweeney, legal counsel for the Winrock/Quorum TIDDs, said that the development agreements with the City of Albuquerque do not allow TIDD benefits to transfer without authorization from the TIDD board.

Reconciling Film Production Tax Credit Bills

Mr. Clifford reported to the committee on the TRD's analysis of the reconciliation of two bills amending provisions of the film production tax credit, both of which were signed by the governor. Laws 2011, Chapter 165 and Laws 2011, Chapter 177 made significant changes to Chapter 7, Article 2F NMSA 1978, including limiting the aggregate amount of the tax credit allowed in a fiscal year to $50 million; distributing large tax credits to taxpayers over two to three years; adding "related digital content" to the list of eligible expenditures; naming the film credit sections the "Film Production Tax Credit Act"; adding a purpose section to the act; providing that interest on tax credits paid over multiple years not be paid to taxpayers; requiring that a credit be claimed by the taxpayer only once, at the end of the taxpayer's tax year; providing for outside audits of large credit claims; limiting the list of eligible expenditures for the credit; and providing for definitions of "physical presence" and "New Mexico resident". Mr. Clifford said that all of these changes do not conflict substantively with each other, and they can easily be read together. However, there are four potentially conflicting provisions in the laws, including reporting requirement differences, physical presence eligibility for vendors and how income taxes are withheld. Mr. Clifford said that the TRD determined that those potentially conflicting provisions can be read together.

The statutes may need to be amended to clarify the withholding requirements of performing artists. The new law set up withholding requirements for one type of payment arrangement, but the TRD has learned that there are many other payment structures in the film industry, many of which would not be affected by current withholding requirements.

Questions and comments from committee members included the following:

- What was the total of film production tax credits claimed for fiscal year 2011? Mr. Clifford said that the total claimed was near $100 million.

- Did the state lose any film productions during the period of time when the status of the film production tax credit was in question? Rick Clemente, chief executive officer of I-25 Studios, said that during the winter and spring of 2011, New Mexico was excluded from several productions. His studio lost production contracts for $170 million worth of productions that decided not to film in the state. He thanked the legislature for crafting a compromise bill that provided the needed stability for the film industry to stay in New Mexico. Mr. Clifford said that the governor supported the compromise bill, and he said that she is fully behind the film industry in the state.

- Mr. Clifford was asked to estimate how much the state receives for every dollar spent on the film production tax credit. Mr. Clifford said that after looking at various studies performed for the state and in general, his best guess is that New Mexico receives 50 cents for every dollar it spends on the tax credit.

- Without the film production tax credit, the state's film industry would be minimal.

Adoption of Minutes

The minutes from the July 21-22 meeting of the committee were adopted without changes.

Tax Amnesty Report

David M. Fergeson, deputy director, Audit and Compliance Division, TRD, reported to the committee on the status of the tax amnesty program. The amnesty period took place from June through September 2010 and allowed taxpayers to report previously unreported tax liabilities and have penalties and interest waived. The amnesty was open to 30 tax programs administered by the TRD. The department aggressively advertised the program and received many more applications for amnesty than it had anticipated. More than 9,000 amnesty applications were received, of which nearly 6,000 were completed with an assessment being made. The department assessed $46 million to taxpayers and has collected $16 million so far. It anticipates collecting between $40 million and $45 million from the program. Three-fourths of the amnesty applications were from the combined reporting system (CRS) taxes, of which the GRT is the major component. The CIT and personal income tax (PIT) accounted for another 20 percent of the assessments.

After offsetting for taxes that would have been collected through the department's regular auditing efforts, and for penalties and interest for those collections, the department estimates that it will collect $19 million more net revenue compared to predicted collections without an amnesty program.

Mr. Fergeson was asked by committee members to provide the committee with estimated revenues generated from the tax amnesty program related to the compensating tax.

Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA) Yield Control Changes

Danny Hernandez, chair, AMAFCA, and Jerry Lovato, executive engineer, AMAFCA, made a presentation to the committee about a recent problem the AMAFCA has encountered regarding yield control and the mill levy rates it sets. The AMAFCA currently has 22 employees who manage $18 million in annual construction projects, 50 miles of concrete channels and 36 dams to keep the Albuquerque area protected from floods and erosion. The AMAFCA has an annual operating budget of about $3.5 million generated from property tax assessments, and in an effort to not increase property taxes, its board has made its budget flat for the past three fiscal years.

In 1986, the legislature passed property tax legislation that affected how much property tax revenue an entity can collect from year to year. The legislation, commonly referred to as "yield control", was designed to not allow local governments to expand their operational budgets more than five percent each year. Section 7-37-7.1 NMSA 1978 provides a methodology for calculating the mill levy for residential and nonresidential properties to comply with the yield control provisions. Over time, the differential in AMAFCA mill levy rates has grown and currently is set at a 35 percent differential.

In fiscal year 2011, the DFA required the AMAFCA to correct the large disparity between residential and nonresidential mill rates. The AMAFCA board decided to reduce mill levy rates to comply with the DFA requirements, which resulted in a significant budget cut. The DFA has required the AMAFCA in fiscal year 2012 to again correct the disparity, suggesting that residential mill rates be increased. The AMAFCA board does not want to increase taxes during the current economic downturn, but it also cannot make any more budget cuts. Complying with the DFA mandate has left the AMAFCA board with very few options.

Greg Schaffer, chief legal counsel, DFA, said that the DFA is merely trying to enforce the property tax law. Section 7-37-7 NMSA 1978 states, "The tax rates set for residential property ... shall be the same as the tax rates set for nonresidential property ... unless different rates are required because of limitations imposed by Section 7-37-7.1 NMSA 1978". Section 7-37-7.1 NMSA 1978 sets a method for setting those differential rates when calculating the yield control mill levy rates. The AMAFCA board asserts that it has the authority to choose differential mill levy rates without using the yield control formula. This assertion is not in conformance with the law, said Mr. Schaffer. The AMAFCA (and other property-tax-imposing entities) can control the imposed property tax rate, but it cannot control the differential in rates between residential and nonresidential property. There are at least three legislative options to solve the AMAFCA's problem: adjust the yield control formula to only have one calculation for both types of property; exempt the AMAFCA from the yield control limitations; or repeal the yield control statute. Mr. Schaffer emphasized that none of these options has yet to be endorsed by Governor Martinez.

Questions and comments from committee members included the following:

- The yield control formula is supposed to stabilize operational budgets, but it also has unintended consequences on mill rate differentials. Mr. Clifford agreed and said that yield control also has an impact on another property tax problem, known as "property tax lightning". When the Bernalillo County assessor reduced residential valuations following a district court ruling against the county, the AMAFCA was forced to increase its mill levy just to maintain its budget. He said that allowing taxing entities to set differential mill rates is constitutionally problematic.

- Has the AMAFCA been violating the mill rate calculation law for many years? Mr. Schaffer said that mill rate divergence is a natural byproduct of the yield control formula. When the AMAFCA attempted to set its own rate differential without following the formula is when the DFA stepped in. Mr. Hernandez said that the AMAFCA is a small governmental agency, and it has been relying on the DFA's guidance for years.

The committee recessed at 5:15 p.m.

<u>Friday, August 26</u>

The committee reconvened at 9:44 a.m. in the MRCOG board room.

Federal Health Care Reform Revenue Overview

Bill Jordan and Kelly O'Donnell, New Mexico Voices for Children, discussed with the committee economic and fiscal impacts of recent federal health care reform legislation. Mr. Jordan began by stating that the Patient Protection and Affordable Care Act of 2010 will have an enormous positive economic impact in New Mexico. The state will be receiving billions of dollars in new federal funds in the form of increased Medicaid funding and federal tax credits for individuals. The total new revenue coming into New Mexico is estimated to be between $10.6 billion and $13.4 billion from fiscal years 2014 to 2020. Using those estimates, Mr. Jordan calculated estimated economic effects to the state from spending resulting from that revenue influx. He calculated between $16.5 billion to $21.5 billion in economic activity during that time frame and between 38,500 and 47,800 new jobs created. There will be a budgetary impact on the state, mostly from increased Medicaid spending requirements. However, the state share of the funding burden starts out very small in fiscal year 2014, and the tax revenue realized by the state from the increased economic activity will more than make up for the increased state budget needs.

Ms. O'Donnell discussed the tax revenue benefits from the new legislation in more detail with the committee. Although the state will be required to spend an additional amount of money for Medicaid, estimated between $500 million and $800 million during fiscal years 2014 to 2020, that investment will be more than offset by increased tax revenue collections during that period. She estimated that the state would collect an additional $900 million to $1.2 billion in tax revenue from the increased spending.

Questions and comments from committee members included the following:

- The state's reliance on federal funding for economic growth can be compared to a man standing in a bucket and trying to pick himself up with the bucket's handle. All federal spending originates from taxes paid by citizens. The state is already too dependent on federal spending.

- The state stands to gain fiscally from the legislation, but even more important is that the health of all New Mexicans will be improved. Ms. O'Donnell said that a large percentage of New Mexico's residents do not have health insurance. Many other issues that plague the state are related to the lack of affordable health care. When more people start getting preventive health care, there will be less inflationary pressure on health insurance premiums because people will be healthier.

- How does the federal legislation affect small businesses? Ms. O'Donnell said that a small business premium tax credit is available and that 25,000 small businesses in the state could qualify for the credit.

- Increased competition lowers prices, not increased federal spending.

- The federal deficit reduction estimates are not legitimate. The federal deficit will probably increase by $500 billion from the new law, rather than be reduced. Medicaid is a huge portion of the state budget, and that will increase dramatically when the law takes effect. Ms. O'Donnell said that the increased tax revenues from increased spending and federal tax credits will more than offset the increased state spending.

- What will happen to county sole-community-provider funds that currently are matched by the federal government on a three-to-one ratio? Ms. O'Donnell said that the funding structure for indigent care probably will not need to be changed very much because there will still be a sizeable uninsured population in the state.

- Committee members discussed the University of New Mexico Hospital funding stream and how it is compensated for care provided to residents who do not live in Bernalillo County.

MSA Arbitration and Legislation Update

Nan Erdman, assistant attorney general, provided the committee with an update on the MSA and litigation currently taking place. In 1998, several major tobacco manufacturers entered into the MSA with states to compensate the states for health care issues related to smoking. They agreed to pay the states a per-pack price every year. New Mexico typically receives $35 million to $40 million. The participating manufacturers (PMs) pay about 50 cents per pack, and they pay between $7 billion and $8 billion annually. The states in turn agreed to keep a level playing field in the market by imposing similar costs on nonparticipating manufacturers (NPMs). The MSA requires all states to impose an escrow payment on all NPMs. Money is placed into an escrow account until a state sues the NPMs for compensation. The MSA also requires that the states diligently enforce the escrow statutes. The PMs are currently engaged in a nationwide arbitration dispute. The suit claims that New Mexico did not collect escrow payments on tribal land in 2003 and that the state does not currently have a qualifying escrow statute. The state is at risk of losing the entire $34 million paid in 2003, which would be applied to future MSA payments. If the state is found to have been in violation of the MSA in 2003, Ms. Erdman said that the state would probably be penalized for the payments in 2004 through 2009. The PMs allege that New Mexico only collected 10 percent of the escrow that was required to be collected.

NPMs have proliferated around the world since the MSA has taken effect, and in New Mexico, those brands are sold mostly on tribal land. In 2009, the legislature enacted a statute that required escrow payments from all NPMs, including for cigarettes sold on tribal land. However, in 2010, the state and the tribes agreed on a cigarette tax hike that kept the existing statutory 75-cent differential in price between cigarettes sold on tribal lands and those sold in the rest of the state. No substantive changes were made to the MSA, but the definition of "units sold" in the MSA was not changed to reflect the newly defined term of "tax credit stamp" in the Cigarette Tax Act. NPMs have claimed that they are no longer required to pay escrow because "units sold" does not include cigarettes sold with tax credit stamps, and they have sued the state on that basis. PMs have also sued the state, claiming that the state no longer has a qualifying statute to enforce the MSA.

The Office of the Attorney General maintains that the change in the cigarette tax provisions does not affect the MSA and that NPMs are required to pay escrow. The 2011 legislature passed a bill that clarified that cigarettes with tax credit stamps are counted as units sold. However, the governor vetoed that legislation because it appeared to raise taxes on a segment of tobacco manufacturers. Ms. Erdman said that NPMs have hired lobbyists who claim that the escrow provisions in the 2010 changes to the Cigarette Tax Act were negotiated between the state and tribes. All NPMs have refused to pay escrow for cigarettes sold on tribal land since the 2010 statute took effect.

Questions and comments from committee members included the following:

- Has New Mexico lost its lawsuit with the PMs? Ms. Erdman said that the arbitration panel has made one ruling against the state, but that ruling is not final. She said that the worst-case scenario facing the state is that New Mexico would be required to pay back $400 million to the PMs, which would be taken out of future MSA payments.

- Has New Mexico entered into agreements with tribes to collect escrow? Ms. Erdman said that escrow payments are paid directly by the manufacturer to the state. Cigarette taxes, however, are collected by tribes under the 2010 statute. The Office of the Attorney General claims that it can collect escrow under the current statutes. However, it is in favor of enacting legislation to clarify the escrow situation and wants the effect to be retroactive to 2010.

- Why were the changes made in 2009 to require escrow not controversial, but today they are seen as a new tax? Ms. Erdman said that escrow payments are not a tax. She said that the governor has not met with representatives of the attorney general to discuss whether she would support a bill in the 2012 session. The Office of the Attorney General has attempted to meet with the governor several times, but to no avail. She said that the attorney general is open to having cigarette escrow on the agenda for the upcoming special session.

- Would the PM lawsuits against the state have been resolved if the 2011 legislation had been signed by the governor? Ms. Erdman said that the litigation about the 2010 law may be resolved, but the state is still facing litigation for 2003 to 2009.

- Who is currently suing the state over tobacco issues? Ms. Erdman said that three NPMs have sued the state: a manufacturer from Canada, a distributor from New Mexico and a distributor from New York. The PMs have also sued the state, and that issue is being handled by the arbitration panel mandated by the MSA. She said that the attorney general is preparing to sue eight NPMs to collect past due escrow payments.

There being no further business, the committee adjourned at 12:36 p.m.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 6

October 2011
Agenda
Minutes

Revised: October 24, 2011

TENTATIVE AGENDA
for the
FOURTH MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

October 24-25, 2011
State Capitol, Room 322
Santa Fe

<u>Monday, October 24</u>

9:30 a.m. **Call to Order**
—Senator Tim Eichenberg, Chair

9:35 a.m. **Revenue Estimate**
—Demesia Padilla, Secretary of Taxation and Revenue
—Clinton Turner, Chief Economist, Taxation and Revenue Department (TRD)
—Elisa Walker-Moran, Chief Economist, Legislative Finance Committee

10:50 a.m. **The Revenue Impacts of Hold Harmless Provisions**
—Clinton Turner, Chief Economist, TRD
—William Fulginiti, Executive Director, New Mexico Municipal League
—Paul Gutierrez, Executive Director, New Mexico Association of Counties (NMAC)

11:50 a.m. **Business Tax Competitiveness Study**
—Richard Anklam, President and CEO, New Mexico Tax Research Institute

12:30 p.m. **Lunch**

1:45 p.m. **Liquor Excise Tax Distribution for Drug Courts**
—Arthur W. Pepin, Director, Administrative Office of the Courts (AOC)
—Peter Bochert, Statewide Drug Court Coordinator, AOC
—Paul Gutierrez, Executive Director, NMAC

2:45 p.m. **Horse Racing Update**
—Vincent Mares, Acting Executive Director, State Racing Commission (SRC)
—Beverly Bourget, Commissioner, SRC
—Ray Willis, Commissioner, SRC

4:30 p.m. **Recess**

Tuesday, October 25

9:30 a.m.	**Reconvene** —Senator Tim Eichenberg, Chair
9:35 a.m.	**Economic Development Department Update on Tax Credits and Other Tax Benefit Use** —Barbara Brazil, Deputy Secretary, Economic Development Department
11:15 a.m.	**County Business Retention Gross Receipts Tax Credit — Implementation, Progress and Cost** —Demesia Padilla, Secretary of Taxation and Revenue —JoAnn Chavez, Chief, Financial Distributions Bureau, TRD
12:00 noon	**Lunch**
1:15 p.m.	**Gaming Update** —David L. Norell, Chair and Tribal Gaming Representative, Gaming Control Board (G.C.B.) —Frank Baca, General Counsel and Acting Executive Director, G.C.B.
3:30 p.m.	**Adjourn**

MINUTES
of the
FOURTH MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

October 24-25, 2011
Room 322, State Capitol
Santa Fe

The fourth meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for 2011 was called to order by Senator Tim Eichenberg, chair, on Monday, October 24, 2011, at 9:45 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Sen. Mark Boitano
Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller (10/25)
Sen. Gay G. Kernan
Rep. Ben Lujan, Speaker of the House
Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales (10/25)
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Rep. Bob Wooley

Absent
Sen. Timothy Z. Jennings, Senate President Pro Tempore

Designees
Sen. Nancy Rodriguez

Sen. Rod Adair
Rep. Ray Begaye
Sen. William F. Burt
Rep. Zachary J. Cook
Rep. Brian F. Egolf, Jr.
Rep. Miguel P. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Eric G. Griego
Sen. Phil A. Griego
Rep. Sandra D. Jeff

Rep. Antonio Lujan
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Sen. Steven P. Neville
Rep. Debbie A. Rodella
Sen. Bernadette M. Sanchez
Sen. John M. Sapien
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela
Sen. Peter Wirth

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Ric Gaudet, LCS
Damian Lara, Staff Attorney, LCS
Pam Stokes, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, October 24

Revenue Estimate

Demesia Padilla, secretary of taxation and revenue, Clinton Turner, chief economist, Taxation and Revenue Department (TRD), and Elisa Walker-Moran, chief economist, Legislative Finance Committee (LFC), briefed the committee on the October 2011 consensus revenue estimate prepared by the career economists at the TRD, Department of Finance and Administration (DFA), Department of Transportation and LFC. Mr. Turner said that fiscal year 2011 revenue was $113 million higher than predicted in the July estimate, and fiscal year 2012 revenues are expected to be $22 million lower than previously estimated. Assuming a $110 million appropriation to cover a Medicaid deficiency, fiscal year 2012 revenues are expected to close at $456 million. Fiscal year 2013 revenues were also lowered from the July forecast by $123 million. This leaves $245 million in "new money" for fiscal year 2013, which is defined as fiscal year 2013 expected revenues less fiscal year 2012 recurring appropriations.

One-third of fiscal year 2011 revenue growth can be attributed to statutory changes passed during the 2010 legislative session. The mining sector contributed significantly to the increase in gross receipts tax (GRT) revenue, and severance taxes and mineral leases added $103 million to the state's revenues.

The economic outlook for New Mexico for fiscal years 2012 and 2013 is very slow growth in the state's gross domestic product and employment rate. In the energy sector, oil prices are expected to remain near $82.00 per barrel, with continued increases in oil production in the Permian Basin. Natural gas prices are expected to decline slightly in fiscal year 2012 and then increase over the next few fiscal years. Gas volumes, however, have been declining for several years and will continue to decline in the near future.

Ms. Walker-Moran said that one potential increase to state expenditures for fiscal year 2012 is that the increased employee contribution levels recently enacted may be canceled if the state reserve level is maintained at five percent of appropriations or higher. That trigger, which will effectively return public employee salaries to their 2010 levels, will cost the state $50 million. That cost will decrease the amount of new money available for fiscal year 2013.

Questions and comments from committee members included the following:

- The current natural gas price is $.75 per thousand cubic feet lower than the consensus forecast level. The natural gas price predictions have consistently estimated gas prices higher than actual levels. The predicted warmer than normal winter in the United States will further depress gas prices. Mr. Turner said that volatility in the oil and gas sector is always the biggest risk factor in the revenue forecast.

- LFC staff was requested to provide a comparison of reserve levels of other western states.

- Mining sector activities and revenues should be tracked by the consensus revenue economists separately from the oil and gas sector so that a better picture of the economic impact of the mining industry can be determined.

- Has the potential loss of $20 million to $40 million in Master Settlement Agreement revenue from tobacco manufacturers been factored into the revenue forecast? Ms. Walker-Moran said that potential revenue loss has not been calculated in the current forecast, since the national arbitration panel has not yet determined whether New Mexico will lose any money.

- Has the governor changed her mind about vetoing a bill to clarify the escrow payment requirements of nonparticipating tobacco manufacturers? Secretary Padilla said that the legal counsel at the TRD does not believe that the state will lose any Master Settlement Agreement revenue.

- The state needs to provide for accelerated permit approval for new uranium mining activity in order to create much-needed jobs.

- Why are the cash balance sheets of the LFC and the DFA so different? Leila Burrows, economist, LFC, said that the economists are currently working to resolve those discrepancies, most of which is attributed to differences in the accounting for the Tax Stabilization Reserve.

- How many oil and gas rigs are currently operating in the state? Mr. Turner said that there are 70 oil rigs and 50 gas rigs in operation.

- Will the governor propose legislation to fix the property tax valuation problem? Secretary Padilla said that property tax legislation will be part of the governor's overall tax reform package to be considered during the 2012 legislative session.

Revenue Impacts of Hold Harmless Provisions

William Fulginiti, executive director, New Mexico Municipal League, Paul Gutierrez, executive director, New Mexico Association of Counties, and Mr. Turner discussed with the committee effects of GRT revenue distributions to local governments designed to offset changes in the taxation of food and medical services. Mr. Turner began by discussing the revenue impacts to the state of the provisions over the past few fiscal years. The food and medical deductions from the state GRT are expected to cost the state $167 million in fiscal year 2012, and the distributions to counties and municipalities to offset the revenue loss from those deductions will cost the state $142 million. This amount does not factor in the .5 percent credit that municipalities used to get for the GRT, so the total cost to the state from the provisions is less than the sum of those two numbers. In 2004, the municipal credit was repealed in an attempt to make the food and medical deductions revenue neutral overall to the state. In fact, the changes have cost the state much more than anticipated. In fiscal year 2011, for example, the net loss to the state from the food and medical deductions was $125.5 million.

Legislation enacted in 2007 froze the hold harmless distribution rates for large municipalities and counties, so that increases in local option GRT rates would not increase the state's liability for food and medical deductions. However, the statute merely froze the distribution rates at their 2007 levels and did not take into account future rate reductions enacted by local governments. In 2009, Albuquerque reduced its municipal GRT rates below the 2007 levels, and as a result, has received $7.29 million in excess distributions.

Mr. Fulginiti said that 75 percent of municipal revenue typically comes from the GRT. When the food and medical deductions were proposed in 2004, local governments and counties needed the hold harmless provisions in order to keep their operating budgets from collapsing. Additionally, much of the GRT revenue had already been bonded against, and the state was required to replace the revenue that had been pledged for bond repayment.

Mr. Gutierrez said that counties have been relying more on GRT revenues for their budgets. Most of the counties have already reached their property tax mill levy maximum. He said that the state should continue to honor the hold harmless distribution pledge made in 2004.

Questions and comments from committee members included the following:

- Local governments until recently enjoyed extra revenues from the state's construction boom, and most governments put the extra revenue into recurring operations. The hold harmless distributions should be phased out over a 15-year period to allow local governments time to adjust to the revenue changes.

- The legislature voted in 2010 to repeal the GRT food deduction, but that bill was vetoed by former Governor Richardson. TRD staff was directed to provide the foregone revenue impact from that bill.

- Counties should be given the option to impose higher property taxes since GRT revenues have been declining.

The minutes from the August 25-26 meeting of the committee were adopted.

Liquor Excise Tax Distribution for Drug Courts

Arthur Pepin, director, Administrative Office of the Courts (AOC), Peter Bochert, statewide drug court coordinator, AOC, and Mr. Gutierrez presented a proposal to the committee for a dedicated revenue stream to fund the operations of drug courts. The proposed bill would distribute 3.5 percent of liquor excise tax revenues to the AOC to partially fund the drug courts. The courts have seen $3.6 million in cuts since fiscal year 2009, which has resulted in the closing of some drug courts. The distribution from the liquor excise tax would partially offset those cuts in fiscal year 2013, raising about $1.6 million.

There are currently 43 drug courts in New Mexico serving 960 active participants. More than 7,000 participants have graduated from the courts since 1994, with a very low recidivism rate of 6.5 percent. The drug courts save the state and local governments money since the average cost per day of a drug court participant is $19.18, compared to the average cost to incarcerate a prisoner of $113.03.

Mr. Gutierrez said that in 2007, legislation to dedicate a portion of the liquor excise tax did not pass the legislature. Instead, the AOC received a special appropriation to pay for the courts.

Questions and comments from committee members included the following:

- Counties should provide matching funds to help pay for the drug courts. Mr. Bochert said that drug courts are funded completely by the state. An average of $19 million has been distributed to the counties for DWI prevention programs. The drug court proposal would leave that distribution level intact. Mr. Pepin said that he is not aware of any municipality or county that has budgeted money for drug courts.

- Some of the recurring money allocated for DWI prevention programs should be used for operation of drug courts. Mr. Bochert said that the DWI program funding is a program for local governments to provide local programs to combat DWI. The drug court program is administered by the AOC and should be funded separately.

- Lea County recently lost its drug court. How can that court be reopened? Mr. Pepin said that the chief judge in that district determined that the court did not have enough money to fund the drug court. The district could apply to the AOC, in a competitive grant process, to open the court again. However, the AOC has limited amounts of money to fund the courts.

- The liquor excise tax was originally intended to fund problems arising from alcohol consumption. Now it is being used to supplement the general fund and to combat drug problems.

- How many New Mexico drug courts are losing federal funding? Mr. Bochert said that most drug courts had federal funding. Now only six are funded by the federal government and that funding will expire in 2013.

- Drug courts have been a big success. If money is not spent on the drug court program, even more money will be spent incarcerating offenders.

- Although drug courts play a vital role in the state, they should not be funded through a dedicated revenue stream. Those programs tend not to receive the scrutiny that other programs funded through the normal appropriation process receive.

- Why is liquor excise tax revenue flat? Mr. Turner said that alcoholic beverages are taxed by volume and not by price.

Horse Racing Update

Vincent Mares, acting executive director, State Racing Commission (SRC), Beverly Bourget, commissioner, SRC, and Ray Willis, commissioner, SRC, gave an update to the committee on the horse racing industry in the state. Mr. Mares said that the SRC oversees all horse racing activities in the state, and it is responsible for equine drug testing, licensing of racetracks and individuals involved in the industry and investigations of potential violations. There are currently five racetracks in the state, with one potential track and casino in litigation. There are 11,000 licensed individuals in the horse racing industry in New Mexico.

Mr. Willis said that he has been serving on the SRC for six years. He said that drug contaminants in feed, especially cocaine, are common. The SRC is establishing baseline levels of drug content so that inadvertent contamination is not a cause of action against a horse owner. He said that horse racing is experiencing a nationwide decline, but that the industry in the state is still doing reasonably well. He said that without the presence of the gaming industry, the only viable racetrack would be Ruidoso Downs.

Ms. Bourget said that the SRC ensures that horse racing is safe. She said she understands that there are some doping problems in the industry, and she wants the commission's procedures to become more transparent. The SRC will need an appropriation from the state in order to allow for its records to be better automated. One concern she has is that the smaller operators, trainers and other workers have not been well-represented. The racetrack owners and big operators still get preferential treatment.

Questions and comments from committee members included the following:

- SRC staff was asked to provide the committee with information regarding whether the SRC has the authority to hire and fire the executive director and what kind of oversight the commission has over the SRC staff. SRC staff was also asked to provide information on the ownership of the state's racetracks.

- The gaming industry was touted as a way of saving the horse racing industry, but now racino operators only seem to care about the gaming side of their businesses.

- The SRC should not share office space with the Gaming Control Board (GCB). Ms. Bourget agreed and said that those entities are too closely situated for their independent functions to operate well.

- The selection of Raton for the state's sixth racino seemed to be preordained. Now, it appears that Tucumcari has been preselected for that racino. Mr. Willis said that the licensee for the Raton racino did not meet performance obligations. The SRC and GCB had no choice but to revoke the licenses.

- The State Fair Commission believes that it has a license to hold 17 horse racing days at the state fairgrounds. Mr. Mares said that the State Fair Commission is not licensed, but that the Downs at Albuquerque has a racing license.

- Independent horse owners sometimes have trouble getting stalls at racetracks.

- Many mistakes and shortcuts were made during the construction of the racetrack in Hobbs. The SRC needs to provide better oversight of the design and construction of racetracks.

- Scott Scanland, representing Sunland Park, said that when Stan Fulton purchased the racino, he invested $20 million in upgrades to the facility. He said that gaming did save the horse racing industry. He said that Sunland Park pays the state about $2 million per month in gaming and racing taxes.

- Ruben Baca, representing the Sun Ray racino in Farmington, said that the owner spent $4 million in recent upgrades. Sun Ray is a small track, with room for only nine horses per race. The Navajo Nation is opening a casino in nearby Fruitland, which will probably reduce Sun Ray's revenues by 30 percent.

Business Tax Competitiveness Study

Richard Anklam, president, New Mexico Tax Research Institute, gave an update to the committee about an ongoing study of New Mexico's relative competitiveness in the business sector. The Council on State Taxation (COST) recently commissioned a study with the accounting firm Ernst & Young to determine the state rankings of a hypothetical investment in each state. The study looked at the effective tax rate and return on investment after 30 years. In that study, New Mexico ranked last. The main reasons for the poor ranking were that the state taxes corporations higher than average, it uses an equally weighted income apportionment formula and nearly all business services are subject to the GRT. Mr. Anklam said that the COST study, like other previous tax-burden studies, did not account for state incentives. Taking into account incentives that the state provides would improve New Mexico's ranking.

A coalition of New Mexico private- and public-sector entities decided to fund a more thorough study, comparing New Mexico to several surrounding states, taking into account other factors besides tax burden. The coalition engaged Ernst & Young to expand on the previous study, but limit the scope of the study to eight surrounding states. The study will account for incentives in the tax calculations and add more industries in the scope of the study. The study will then estimate the impacts of several policy options on the state's competitiveness, including changing the GRT or corporate income tax (CIT), providing GRT deductions for manufacturing inputs and services, allowing for single- and double-weighted sales factor elections for calculating corporate income and providing a GRT deduction on manufacturing equipment. The study will attempt to answer several questions about the state's competitiveness, including how New Mexico's tax on new investment compares with other states; which components of the state's taxes are the least competitive; and how policy changes would affect New Mexico's competitiveness.

The committee recessed at 4:55 p.m.

Tuesday, October 25

Economic Development Department Update on Tax Credits and Other Tax Benefit Use

Jonathan L. Barela, secretary-designate of economic development, and Barbara Brazil, deputy secretary, Economic Development Department (EDD), discussed the importance of tax incentives for economic development. Incentives are necessary because they signal a business-friendly climate. There is fierce competition among the states to attract businesses, and business incentives are an important tool for economic developers to use in attracting new businesses. Secretary Barela said that Texas has no CIT, and Arizona recently lowered its CIT rate by 40 percent. In order for New Mexico to compete, it must strengthen its incentives. The state provides only $34 million in business incentives per year, excluding the film production tax credit. He suggested that the state further empower the EDD's Office of Business Advocacy to help businesses with resolving licensing and regulatory issues.

The state provides several tax incentives to attract and keep businesses, including the rural jobs tax credit, the high-wage jobs tax credit, the investment credit, the technology jobs tax credit, the research and development small business tax credit, the angel investment credit and the film production tax credit. One of the most powerful business incentives, however, is the job training incentive program (JTIP), which provides wage subsidies for job training programs at companies. Since 1972, the JTIP has helped create approximately 52,000 jobs at 1,000 companies. The funding for the JTIP has decreased in the past few years, which has hurt New Mexico's competitiveness. As an example, Arizona's job training program has an $11 million budget and a $25 million "closing fund", which allows for last-minute incentives to be made to close a business deal. New Mexico this year has only $4.2 million for the JTIP and does not have a closing fund.

Questions and comments from committee members included the following:

- Why did New Mexico lose the recent bid for Intel to expand its operations? Secretary Barela said that Arizona, which won the bid, recently enacted a very aggressive set of job creation incentives.

- How is the state planning for economic development from a global market perspective? Secretary Barela said that more manufacturing is coming to the New Mexico-Mexico border. The Ciudad Juarez area is getting billions of dollars in investment, and New Mexico can benefit by establishing distribution and logistics centers. Another sector that the state should develop is energy. New Mexico is poised to be a national energy production and supply center if it develops its renewable and nuclear resources. The state needs to streamline its regulatory structure to allow uranium mining to proceed.

- Why does New Mexico have trouble attracting good manufacturing jobs? Secretary Barela said that the state's tax structure punishes the manufacturing industry. The pyramiding of the GRT on nearly all aspects of the manufacturing process and the traditional equal weighting factors of sales, property and labor in the CIT makes the cost of production too high for many manufacturing companies.

- The JTIP has been funded on an annual basis for several years. Is the governor in favor of providing a dedicated revenue source for the program? Secretary Barela said that the administration is looking at several options for JTIP funding.

- Quality of life and education are more important factors for businesses contemplating relocating to New Mexico than its tax structure. Secretary Barela said that all three factors are important. The quality of the state's work force has not surfaced as the major concern for businesses.

- How is the EDD working to help establish electrical transmission lines for the renewable energy industry in the state? Ms. Brazil said that the EDD has been in contact with the parties involved, including the New Mexico Renewable Energy Transmission Authority and many interested companies. The department is providing regulatory issue assistance and is trying to identify capital available for the projects. She said that most of the contemplated projects are still three to five years from the construction phase, and most projects are looking for investors.

- The administration needs to make the issue of reforming the regulatory process for businesses a top priority.

- The idea that the state should try to attract manufacturing jobs is akin to wanting to invest in typewriters.

- The EDD needs to be more active in trying to recruit The Lone Ranger film production to the state. Tobi Ives, production and incentives manager, New Mexico Film Division, EDD, said that her office is actively working to get that production in the state. She said that the status of the project cannot be divulged because negotiations are still under way.

- What progress has been made at the Antelope Wells port of entry in Hidalgo County? Secretary Barela said that the United States portion of the port has just received major upgrades. There are still two miles of unpaved road on the Mexico side of the border, and the EDD has been working with the Mexican state of Chihuahua to secure funding for that project.

- Is the EDD fully staffed? Ms. Brazil said that the department is authorized for 47 full-time-equivalent (FTE) employees, and three of those positions are currently open.

- Is the EDD involved with the administration's development of a tax reform package? Secretary Barela said the EDD is working with the TRD on the issue. The administration favors a broad-based, low-rate approach to restructuring the state's tax system.

- Is the EDD planning on asking for money for small business incubators? Secretary Barela said that incubators were previously funded around $100,000 annually, but all of that money has been cut.

County Business Retention GRT — Implementation, Progress and Cost

JoAnn Chavez, chief, Financial Distributions Bureau, TRD, gave an update to the committee on the county business retention GRT and the county gaming tax credit. The credit and GRT imposition were designed to provide some relief to the relatively small racino in Ruidoso Downs by providing a credit against the gaming tax due. The county gaming tax credit can be claimed against 50 percent of the gaming tax due, not to exceed $750,000 per year. The credit can only be claimed in a county in which the voters have approved a corresponding county business retention GRT, which is mostly distributed to the state general fund to offset the foregone revenue to the state. This arrangement has allowed the taxpayers in Lincoln County, who benefit from the economic activities of the racino, to partially offset the tax liabilities of the racino.

In fiscal year 2011, the GRT imposition generated approximately $380,000, and the racino claimed $387,000 from the credit. The racino then paid back to the state the amount of credit that exceeded the amount of the GRT distributed to the general fund. If the amount of the GRT revenue ever exceeds $750,000 in a fiscal year, the excess will be distributed to the county for post-secondary educational or economic development purposes.

Questions and comments from committee members included the following:

- This special tax arrangement originated when the owner of Ruidoso Downs threatened to relocate the racino to Las Cruces if some sort of tax break were not enacted. Ruidoso Downs was no longer economically viable in Lincoln County due to its small size and small population base.

Gaming Update

David Norvell, chair, GCB, and Frank Baca, general counsel and acting executive director, GCB, discussed current issues of the gaming industry with the committee. Mr. Baca said that staffing levels at the GCB have been lower than desired. There is currently a 34 percent vacancy rate at the agency, but it was recently approved to hire four more FTEs. The GCB will be requesting a slight budget increase to be able to hire more staff. The GCB oversaw the collection of gaming revenues of $132 million in fiscal year 2011, with an operating budget of $5.6 million.

Tom Fair, director, Audit and Compliance Division, GCB, said that the opening of the Navajo Edge casino in Fruitland will result in a 30 percent to 40 percent decline in revenues at the nearby Sun Ray racino. That will mean a revenue loss to the general fund, in addition to declines to horsemens' purses at racetracks.

Donovan Lieurance, director, Information Systems Division, GCB, discussed the central monitoring system (CMS) that connects to all non-tribal gaming machines. The CMS has real-time access to all machines and produces daily reports and monthly tax bills for each gaming operator. The CMS also ensures that gaming machines are operated in accordance with state law and GCB rules. The current CMS was developed in 2004, and the contract for it will expire in 2013. The GCB will need additional funding to develop a new system and contract.

Questions and comments from committee members included the following:

- Does the state fair have a racing license? Mr. Norvell said that it has a racing license, but not a gaming license.

- Did the Navajo Nation enter into gaming compacts with the state under the 2007 provisions of the state-tribal agreements? Mr. Norvell said that the state's compact with the Navajo Nation was pursuant to the 2001 provisions, and the compact will expire in 2015.

- Mr. Norvell was asked to discuss revenue-sharing issues from free play at tribal casinos. He said that there is a dispute between the GCB and some tribes about the calculation of net win. The GCB is concerned that some tribes are deducting from net win prizes that are won on machines that are played for free. The GCB contends that if there is no wager made to play a game, winnings from that machine cannot be deducted from net win. The GCB contends that some tribes owe more revenue to the state than they are claiming.

- Has the gaming industry become saturated in New Mexico? Mr. Fair said that there is much more saturation in northern New Mexico than the rest of the state. Since tribes pay a smaller percentage of their net win to the state than state-licensed casinos, he estimated that every dollar spent at a tribal casino instead of a state-licensed casino costs the state $.18 in foregone revenue.

- GCB staff were asked to discuss potential developments at the Downs of Albuquerque. Mr. Fair said that a new casino at the Downs would reduce revenues at nearby tribal casinos, but it would also probably negatively affect the numerous nonprofit organization gaming operators in Albuquerque.

- Can a gaming operator license be transferred and can a casino be relocated? Mr. Baca said that, technically, licenses cannot be transferred, but purchase agreements would typically have a contingency that the new owner be granted a license before the contract is finalized. A gaming operator license is not site-specific. The GCB does regulate the specific physical aspects of a gaming facility. The Horse Racing Act does have geographic requirements for racetracks that can ultimately affect where a casino is located, however.

- How much more money will the GCB need to develop a new CMS? Mr. Lieurance estimated that a new system will cost between $5 million and $7 million.

- Is the GCB aware of potential changes in gaming laws in Texas? Mr. Norvell said that the GCB monitors changes in surrounding states, so it will have an accurate gaming tax revenue estimate for New Mexico.

- Does the CMS monitor tribal gaming machines? Mr. Lieurance said that there is no electronic direct connection to tribal machines. The only access the GCB has is via a paper trail.

- Are tribes required to submit reports of how they calculated net win in relation to free play? Mr. Norvell said that tribes are not required to submit those reports, and most refuse to do so. Mr. Baca said that the GCB probably has the legal authority under the gaming compacts to gather all the necessary information to verify that revenue-sharing is accounted for properly.

- The Supreme Court of California recently ruled that states cannot require that revenue-sharing be a part of a tribal gaming compact. This ruling could have a significant impact in New Mexico in the future.

There being no further business, the committee adjourned at 3:33 p.m.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 7

November 2011
Agenda
Minutes

Revised: November 21, 2011

TENTATIVE AGENDA
for the
FIFTH MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

November 21-22, 2011
State Capitol, Room 307
Santa Fe

Monday, November 21

9:30 a.m.	**Call to Order** —Senator Tim Eichenberg, Chair
9:35 a.m.	**Transportation Reinvestment Zone Act** —Jim O'Neill, Consultant —Paul Silverman, Vice Chair, Greater Albuquerque Chamber of Commerce —David Buchholtz, Attorney, Brownstein, Hyatt, Farber, Schreck, LLP
10:50 a.m.	**Gross Receipts Tax Deduction for Dialysis Services** —Roman Maes, Lobbyist —Scott Mickelson, State Tax Services, LLC —Albert Babbitt, State Tax Services, LLC
11:20 a.m.	**County Education Gross Receipts Tax Extension** —Senator Carlos R. Cisneros —Representative Roberto "Bobby" J. Gonzales —John Archuleta, Senior Vice President, George K. Baum and Company
12:00 noon	**Lunch**
1:15 p.m.	**Delinquent Property Tax Collections** —Representative Roberto "Bobby" J. Gonzales —Frank Dailey, Real Estate Agent, Lota Realty —Julia Armstrong, Attorney, Armstrong & Armstrong, P. C.
2:15 p.m.	**High-Wage Jobs Tax Credit Wage Requirements** —Staff
2:45 p.m.	**Regional Perspective Economic Development Incentives** —Fred Mondragon, Mondragon Consulting
3:45 p.m.	**Capital Investment Gross Receipts Tax Abatement** —Senator Timothy M. Keller

4:20 p.m.	**State Graduate Employment Tax Credit** —Senator Timothy M. Keller
5:00 p.m.	**Recess**

Tuesday, November 22

9:30 a.m.	**Reconvene** —Senator Tim Eichenberg, Chair
9:35 a.m.	**Amending the Community Development Incentive Act to Allow Financing of Solar Electrical Generation** —Drew Setter, Lobbyist —Rick Gilliam, Vice President, Western Governmental Affairs, Sun Edison
10:30 a.m.	**Health Care Tax Expenditures** —Jack Evans, Program Evaluator, Legislative Finance Committee (LFC) —Maria Griego, Program Evaluator, LFC
11:15 a.m.	**Health Care Expenditure Sunset Provisions and other Draft Ideas** —Staff
12:00 noon	Adjourn

MINUTES
of the
FIFTH MEETING
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Room 307, State Capitol
Santa Fe

The fifth meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for 2011 was called to order at 9:41 a.m. by Senator Tim Eichenberg, chair, on Monday, November 21, 2011, in Room 307 of the State Capitol in Santa Fe.

Present
Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Sen. Mark Boitano
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings, Senate President Pro Tempore
Sen. Timothy M. Keller (11/21)
Rep. Ben Lujan, Speaker of the House
Rep. Rodolpho "Rudy" S. Martinez (11/22)
Sen. Howie C. Morales (11/21)
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Rep. Bob Wooley

Absent
Rep. Donald E. Bratton
Sen. Gay G. Kernan

Designees
Rep. Roberto "Bobby" J. Gonzales (11/21)
Sen. Phil A. Griego
Sen. Nancy Rodriguez

Sen. Rod Adair
Rep. Ray Begaye
Sen. William F. Burt
Rep. Zachary J. Cook
Rep. Brian F. Egolf, Jr.
Rep. Thomas A. Garcia
Sen. Eric G. Griego
Rep. Sandra D. Jeff
Rep. Antonio Lujan
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Sen. Steven P. Neville

Rep. Debbie A. Rodella
Sen. Bernadette M. Sanchez
Sen. John M. Sapien
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela
Sen. Peter Wirth

Guest Legislators
Rep. Miguel P. Garcia (11/22)
Rep. Bill B. O'Neill

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Ric Gaudet, LCS
Damian Lara, Staff Attorney, LCS
Pam Stokes, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

<u>Monday, November 21</u>

Transportation Reinvestment Zone Act

Jim O'Neill, tax consultant, David Buchholtz, attorney, and Paul Silverman, vice chair, Greater Albuquerque Chamber of Commerce, presented proposed legislation that would allow municipalities and counties to form transportation reinvestment zones (TRZs) using a financing mechanism similar to tax increment development districts (TIDDs). Mr. Silverman said that he was recently the developer of a real estate project in El Paso, Texas, which is the home of the United States Army's Fort Bliss. The Army decided to make the base much larger and has committed to spending several billion dollars in the area. The city was asked to improve its transportation infrastructure to accommodate the development, and it formed a transportation redevelopment district to finance $1.1 billion in improvements. The infrastructure improvements are being paid by bonds financed by future sales tax increments above the current tax base. Some areas in New Mexico could benefit from such a financing package, which would not affect the current revenue stream going to state and local governments. For example, Albuquerque could form a TRZ around the Paseo del Norte and Interstate 25 interchange to provide financing for a better interchange. The improvements in the infrastructure would stimulate new commercial development in the area, which would in turn generate more tax revenue. A portion of the tax increment would be used to pay off the bonds issued to build the improvements.

Mr. Buchholtz said that the proposed bill is modeled after current New Mexico statute allowing the creation of TIDDs, with some important differences. TRZs would not have a private sector component to drive development; rather, TRZs would be a financing tool for local governments. The governing body of the district would be the same body that governs the local government, instead of being a separate entity. The tax increments would only apply to gross receipts taxes (GRT) and not to property taxes. Finally, the legislature would have to approve any bond issuance greater than $10 million.

Mr. O'Neill said that tax increment financing only works if new economic activity is created by the infrastructure improvements. If not, the bonds issued to pay for the improvements would be worthless. A TRZ could be a component of a local government's overall master plan for an area.

Questions and comments from committee members included the following:

- Is the mayor of Albuquerque in favor of the legislation? Mr. Silverman said that there have been several meetings with the mayor on this issue, and the mayor is interested in the possibilities of TRZ financing.

- The panel was asked to describe how TRZ financing could work for the financing of the Paseo del Norte and Interstate 25 interchange. Mr. Buchholtz said that the boundaries of the district would need to be designed to maximize the tax increment generated. Existing areas could be slated for redevelopment to a better economic use, including shopping centers and hotel facilities that would locate in the area based on the better transportation system. Taxes in the district would not increase; instead, a portion of the new tax revenue generated in the district would be used to pay for the improvements. Realistically, a TRZ could finance a portion of the Paseo del Norte project, but probably would not pay for the entire cost.

- Would a local government lose money from the creation of a TRZ? Mr. Buchholtz said that if existing businesses relocated to the TRZ, the local government could lose some revenue. However, the creation of a TRZ will also make the overall tax base in the local government larger, which means more total tax revenue generated.

- How would a TRZ interact with an extraterritorial planning zone? Mr. Silverman said that a TRZ is really just a financing tool; all existing planning and approval processes would still need to be performed.

- Since TIDDs and TRZs are methods of bonding against future GRT revenue, what would be the impact on those bonds if the state were to address the pyramiding nature of the GRT or to eliminate the "hold harmless" distributions to municipalities and counties from food and medical deductions? Mr. O'Neill said that if the legislature desires to reform the pyramiding of the GRT, there will be resistance from local governments. Mr. Buchholtz said that bond covenants merely require that the bonds be paid, and if the revenue stream to pay the bonds is changed, the legislature can also change how the bonds are paid.

- The Greater Albuquerque Chamber of Commerce should support the local option of imposing the GRT on gasoline, which would provide a much better revenue stream for financing transportation projects than bonding against future potential increases in tax revenue. The gasoline tax of $.17 per gallon has not changed in nearly 20 years and is only worth one-third of its previous value due to the effects of inflation. Mr. Silverman said that he will approach the chamber with that proposal.

- Is the Martinez administration interested in enacting a TRZ law? Mr. O'Neill said that the Greater Albuquerque Chamber of Commerce is working on setting up a meeting with the governor to discuss the issue.

GRT Deduction for Dialysis Services

Scott Mickelson and Albert Babbitt, State Tax Services, LLC, and Roman Maes, lobbyist for State Tax Services, presented to the committee proposed legislation allowing for a deduction from gross receipts for the payment for services rendered by dialysis facilities. Currently, nonprofit dialysis providers are exempt from the GRT. The majority of dialysis services are provided to Medicare recipients, and the federal reimbursement rate for those services does not cover the actual costs of the services. The imposition of the GRT on for-profit providers makes the economic equation more difficult.

Dialysis services are provided to patients who have reached Stage 5 of chronic kidney disease. Patients need to have their blood filtered at a dialysis clinic every two days for the rest of their lives or until they receive a kidney transplant. Many patients are forced to drive many miles to have dialysis services. There are 32 non-hospital dialysis facilities in the state. Twelve of them are nonprofit facilities, which enjoy a seven percent competitive advantage over the remaining for-profit facilities.

Questions and comments from committee members included the following:

- This legislation was unanimously passed in the senate in the 2011 regular legislative session, but time ran out in the house of representatives before it could be acted on. Dialysis services are similar to other services that are not subject to the GRT, and it was most likely an oversight that dialysis services were not listed in the deduction section. The total fiscal impact to state and local governments is estimated at $600,000.

- What percent of dialysis patients are in the Medicare program? Mr. Mickelson said that 75 percent of the state's dialysis patients are covered by Medicare, five percent by Medicaid and 20 percent by commercial insurance providers.

- The legislature should consider eliminating health care taxing disparities and have one flat tax for all medical services. Any excess revenue generated from that tax would be dedicated toward the state's share of the Medicaid program.

- There are big problems with the quality of dialysis care in areas of the state. The for-profit hospital in Roswell decided not to provide dialysis services any longer, which has put a major hardship on patients needing those services.

- If the GRT deduction is granted, will the for-profit dialysis industry commit to opening more clinics in rural areas? For example, dialysis patients in Tucumcari are forced to drive to Las Vegas to receive care. Mr. Babbitt said that the industry wants to expand services in the state, and the tax deduction will help with that effort.

- Why don't all hospitals provide dialysis services? Mr. Babbitt said that Medicare reimbursements do not cover the cost of the services.

County Education GRT Extension

Senator Cisneros, Representative Gonzales and John Archuleta, senior vice president, George K. Baum & Company, presented to the committee proposed legislation to extend the county local option GRT for educational purposes an additional 10 years. Senator Cisneros said that the legislature passed a law in 2001 allowing counties to impose a county education GRT at the rate of one-half percent of gross receipts. The tax has been in force in Taos County for several years, but its authority is due to expire in 2012. The revenue from the tax is dedicated for public school and post-secondary educational institution capital projects. Charter schools also receive a portion of the revenue, based on their enrollment.

Mr. Archuleta said that the tax generates approximately $3 million annually. Over $25 million in bonds have been issued in the past 10 years. The recipients of the funding are the Taos Municipal, Questa Independent and Penasco Independent school districts and the Taos Branch of the University of New Mexico (UNM).

Questions and comments from committee members included the following:

- Can the revenue raised from the tax be used as a local matching source for the purposes of funding by the Public School Capital Outlay Council? Representative Gonzales said that the tax revenue can be used as a school district's local share.

- Which entity oversees the distribution of and accounting for the revenue? Mr. Archuleta said that the school districts and university have entered into a joint powers agreement. Taos County is the entity that sells the bonds and manages the money, however.

Delinquent Property Tax Collections

Representative Gonzales, Frank Dailey, real estate agent, Lota Realty Taos, and Julia Armstrong, attorney, Armstrong & Armstrong, PC, presented to the committee proposed legislation allowing counties to collect and foreclose on properties that are delinquent in their property taxes. Mr. Dailey related a story about the process he went through to contact any heirs of a landowner in Mora County who had died several years earlier. The property taxes on the property were delinquent, but the state had taken no action to foreclose on the property. The property was finally auctioned at the Mora County courthouse, but only after a lengthy and laborious process. There are more than 80,000 properties in New Mexico with delinquent property taxes, which translates to a huge amount of money owed to counties and other property tax entities.

Ms. Armstrong said that, currently, the Property Tax Division (PTD) of the Taxation and Revenue Department (TRD) is responsible for collecting delinquent property taxes and eventually foreclosing on properties. There is insufficient due process established in current statutes, and New Mexico court decisions have left much ambiguity in what due diligence the state needs to perform to ensure that property owners are aware of pending property sales. The proposed bill would establish judicial due process for properties to be sold, which will ensure that property owners' rights are respected, while at the same time providing a more efficient mechanism for properties to be sold. If a county decides to assume responsibility for collecting delinquent property taxes, it can contract with an attorney to perform those duties. The attorney is allowed to collect up to an additional 30 percent of the value of the taxes due.

Questions and comments from committee members included the following:

- Many of the 80,000 properties with delinquent tax bills are low-value subdivisions scattered across the state. It may not be cost-effective for counties to attempt to collect property taxes or foreclose on these properties.

- What is the current process of dealing with delinquent property taxes? Ms. Armstrong said that after property taxes are delinquent for two years, county treasurers send delinquent property tax notices to the taxpayer informing the taxpayer that taxes must be paid within one year or the property will be listed on the delinquent property tax list submitted to the PTD for collection, foreclosure and sale. The PTD has the ability to foreclose on a property immediately, but rarely does so, due to staffing and due process concerns. However, after 10 years of a property being on the delinquent list, the state loses the ability to collect taxes due on the property that are more than 10 years delinquent.

- The provision in the bill draft that allows for an extra 30 percent fee to be added to a property tax bill once a county assumes responsibility for collecting taxes is troubling. Ms. Armstrong said that the intention of the bill is to allow counties to collect delinquent property taxes while providing better protections for property owners.

- Does current law allow for the right of redemption once a property has been sold? Ms. Armstrong said that the only recourse of a person whose property has been sold for delinquent taxes is to contest the legitimacy of the sale. The person has no right to agree to pay the taxes and penalties due after a sale has been performed.

- The PTD currently has many properties with delinquent taxes, but does not issue delinquency notices very often. How would the proposed legislation change the process? Ms. Armstrong said that counties with high property values will see the value of collecting delinquent property taxes. The added judicial component in the process will provide a clear method for pursuing foreclosures if the taxes are not paid.

- Adding a 30 percent fee to delinquent property taxes will hurt property owners.

High-Wage Jobs Tax Credit Wage Requirements

Ms. Ray presented a proposed bill to clarify and make changes to the high-wage jobs tax credit. The bill is a combination of Senate Bill 27 of the recent special session and a new proposal to increase the threshold wage levels to qualify for the credit. The legislation would clarify that the definition of "wages", used to determine whether an employer qualifies for the credit, includes the cost of benefits paid for an employee. It also provides a time limit for employers to claim the credit and provides limitations on the granting of the credit for jobs created by company acquisitions and for private sector jobs replacing public sector jobs. The bill additionally sets wage levels of $65,000 annually in urban areas and $40,000 annually in rural areas in order to qualify for the credit.

Questions and comments from committee members included the following:

- The high-wage jobs tax credit should be defined rather narrowly to avoid the undesirable situation of providing a tax credit for jobs that are actually low-wage.

- The legislature should consider establishing a two-year residency requirement for employees in order for employers to qualify for the credit.

- Do employers in Anthony, New Mexico, receive a credit for employees who live in nearby El Paso, Texas? Ms. Ray said that current law allows for the credit to be given only for employees who are New Mexico residents.

Regional Perspective Economic Development Incentives

Fred Mondragon, Mondragon Consulting, and former secretary of economic development, gave a presentation to the committee comparing business recruitment incentives in the surrounding states. Mr. Mondragon compared business incentives in Arizona, Colorado, Oklahoma, Texas and Utah and gave detailed descriptions of the incentives in each state. While New Mexico has a long list of incentives, Mr. Mondragon said that the state should also consider establishing a "closing" fund that would enable the state to provide additional incentives to companies in the final decision-making process. Texas, Arizona and Oklahoma have closing funds. The state may also benefit if it were able to provide matching funds to counties in their business recruitment activities.

Questions and comments from committee members included the following:

- Why is Texas performing so much better than New Mexico economically? Mr. Mondragon said that there are several reasons why Texas' economy has grown in the past few years, including the aggressive incentive programs that include cash incentives for companies to locate to the state and the fact that Texas does not have an income tax. Texas also has many more natural resources than New Mexico.

- Do any of the surrounding states have incentives designed to encourage veteran-owned businesses? Mr. Mondragon said that he is not aware of any veteran incentives in other states.

- What is the best recruitment tool the state is using, and what else can the state do to bring in new business? Mr. Mondragon said that the job training incentive program is the most important tool New Mexico has to recruit and retain businesses. Besides establishing a modest closing fund, the state should not tinker too much with existing incentives. He expressed reservations about potential modifications to the high-wage jobs tax credit.

- The state's institutions of higher education have been resistant for decades to establishing short-term certification programs to train workers in needed skills. Another problem is that educational institutions have been cutting successful programs at branch campuses because of budgetary cuts. The nursing program at the Taos Branch of UNM, which provided immediately employable nurses after graduation, was recently canceled.

- New Mexico needs a statewide coordinated effort to plan for job training and it needs to improve its educational system.

Capital Investment GRT Abatement

Senator Keller presented to the committee a proposed bill that would expand the investment credit to apply to certain capital investments in a New Mexico business. The credit would be restructured so that a business making qualifying capital investments could be exempted from paying GRT for up to five years. After the full amount of the credit has been granted, the business would pay back the amount of the credit granted to the state. This mechanism would better match a business' investment period with the later revenue-generating period.

State Graduate Employment Tax Credit Act

Senator Keller presented a proposed bill to the committee that would grant an income tax or corporate income tax credit of $300 to a business for every full-time employee hired who recently graduated from one of the state's four-year institutions of higher education.

Questions and comments from committee members included the following:

- A $300 tax credit to hire a full-time employee is not much of an incentive. Senator Keller said that he will investigate the costs associated with making the credit amount larger.

Alison Block from the Lobbying Committee of UNM Graduate and Professional Student Association said that the association supports the proposal.

<u>Tuesday, November 22</u>

Amending the Community Development Incentive Act to Allow Financing of Solar Electric Generation

Rick Gilliam, vice president, Western Governmental Affairs, SunEdison, and Drew Setter, lobbyist for SunEdison, presented to the committee a bill proposal that would allow solar electric generation companies using sale-leaseback financing arrangements to take advantage of the incentives provided in the Community Development Incentive Act. That act allows a local government to exempt from property tax commercial personal property of a new business facility. SunEdison was granted exemptions by Lea and Dona Ana counties in 2010 for its two large solar electric generating stations. However, SunEdison and most solar electric companies use a financing mechanism in which a company sells the equipment in the system to an investor and then leases back the system from the investor over several years. The structure of this arrangement has meant that the investors in the equipment are not able to take advantage of the property tax exemption. The proposed legislation allows sale-leaseback arrangements with a solar-electric provider to satisfy the requirements for having a property tax exemption granted.

Questions and comments from committee members included the following:

- Does SunEdison also receive property tax abatements from industrial revenue bonds (IRBs) and GRT exemptions? Mr. Gilliam said that the company receives an exemption from the GRT for the cost of the equipment in the facilities. He said that he does not think the company was granted an IRB for its projects. He said that he will confirm that information for the committee.

- SunEdison representatives were asked to provide information on the taxes the company pays in New Mexico and what kinds of business incentives it has received.

- The language in the proposed bill only allows for sale-leaseback financing for solar electric providers to qualify for the property tax exemption. Perhaps the language should be expanded to allow other industries that use similar financing scenarios.

Health Care Tax Expenditures

Jack Evans, program evaluator, Legislative Finance Committee (LFC), and Maria Griego, program evaluator, LFC, gave a report to the committee on the impact of financing health care through tax code policy. Mr. Evans presented the preliminary findings of the study, including:

- New Mexico's health care tax expenditures account for about $290 million in foregone revenue, but their true impact is difficult to measure. Health care tax expenditures lack a clearly defined purpose, adequate reporting requirements from taxpayers and measurable outcomes. The TRD does not systematically collect data on existing tax expenditures, and foregone revenue associated with tax expenditures is reported inconsistently. The state has little information regarding the interaction of health care tax expenditures with other subsidies, and since they are open-ended, it is difficult to gauge their financial impact with certainty.

- While the rural health care practitioner tax credit has a clear goal and is being used by practitioners, its true impact is elusive. The tax credit has a clearly stated goal, but evidence that the goal is being achieved is anecdotal. In practice, the tax credit is understood as a retention program, rather than as a recruitment tool. The financial impact to the state has been larger than originally estimated, currently averaging $6.5 million annually. There is no accurate mechanism to count the number of rural health care practitioners in the state. Other methods to recruit and retain health care professionals may be more effective than the tax credit.

- The GRT credit for hospitals allows a for-profit hospital to claim a credit against five percent of its gross receipts tax liability starting in fiscal year 2012, an estimated $12.5 million loss to the state.

- The preemption from paying all other taxes except the premium tax for insurance companies results in a large amount of foregone revenue, with unclear policy goals for that expenditure. The lost GRT revenue from that expenditure had a fiscal year 2010 cost to the state of $83.6 million. Many services provided by insurers are also excluded from the premium tax. Those services would otherwise be subject to the GRT but for the preemption.

- The New Mexico Medical Insurance Pool deduction from the premium tax accounted for $49.6 million in foregone revenue in fiscal year 2010. This deduction will no longer be necessary after federal health care laws take effect in 2014. Currently, life and health insurance providers pay an assessment fee into the pool, which can be deducted in part from the premium tax due.

- The GRT deduction for medical service providers and the associated "hold harmless" distribution to local governments accounted for $82 million in foregone revenue to the state. The deduction does not have a clearly defined purpose, and it cannot be effectively evaluated.

The LFC made several recommendations to improve the effectiveness of health care tax expenditures, including developing a more detailed reporting system so the TRD can collect the data it needs to evaluate tax expenditures; implementing caps and sunset provisions for some expenditures; changing the rural health care practitioner tax credit into a program that instead provides grants and subsidies to recruit practitioners; and phasing out the hold harmless provisions of the medical service deductions from the GRT.

Questions and comments from committee members included the following:

- How does the definition of "rural" get established? The state should provide tax incentives only to areas that are medically underserved. Jerry Harrison, acting director, New Mexico Health Policy Commission, said that the federal government recognizes 13 different definitions for "rural area". The areas are determined geographically by zip code. The fact that an area may be medically underserved is not a criterion for determining if an area is rural.

- Santa Fe County has reduced funding from its sole community provider funds to Christus St. Vincent Regional Medical Center, which has resulted in a hardship for the hospital. Mr. Evans said that the LFC is currently studying the effectiveness of county-supported health care.

- Pharmacies are not being paid by managed contract providers that have contracts with the state for services for several months. Ms. Griego said that the LFC has accountability concerns about some of the state's health care contracts.

- The state should consider establishing a statewide tax to pay for indigent care, rather than the current structure of each county imposing taxes for that care.

Health Care Expenditure Sunset Provisions and Other Draft Ideas

Ms. Ray presented several proposed bill drafts for the committee's possible endorsement in December.

Review and Delayed Repeal of Health Care Tax Expenditures. The proposed bill provides for the review and sunsetting of health care tax expenditures. Certain tax expenditures would be repealed in 2020, unless the legislature extends the provisions. The bill provides for the review of the deduction from gross receipts of medical services, the rural health care practitioner tax credit, the deduction from gross receipts for hospitals, the credit against the GRT for certain hospitals and the preemption from all other taxes except the premium tax for health insurers.

Phasing Out of the Food and Medical Hold Harmless Distributions. The proposed bill eliminates the distributions made to municipalities and counties to compensate them for revenue lost by the enactment of deductions from gross receipts for food and medical services. The distributions would be eliminated over a 15-year period.

Cigarette Tax Stamps Clarification. The proposed bill, which has already been endorsed by the interim Tobacco Settlement Revenue Oversight Committee, clarifies that cigarettes sold with tax-credit stamps are "units sold" for the purposes of the Master Settlement Agreement with major tobacco manufacturers. The legislation would put in statute the contention that non-participating manufacturers are liable to pay into an escrow account for each cigarette sold on tribal land.

Tax Exemption for Plug-in Electric Drive Vehicles. The proposed bill would provide a three-year exemption from the motor vehicle excise tax for qualified plug-in electric vehicles.

The committee directed staff to send a letter to Governor Martinez inviting her staff to present details of the administration's tax reform package at the committee's December meeting. If possible, fiscal impact reports for the legislation should be provided to the committee.

There being no further business, the committee adjourned at 12:07 p.m.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 8

December 2011
Agenda
Minutes

Revised: December 9, 2011

TENTATIVE AGENDA
for the
SIXTH MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

December 12-13, 2011
State Capitol, Room 322
Santa Fe

Monday, December 12

9:30 a.m.	**Call to Order** —Senator Tim Eichenberg, Chair
9:35 a.m.	**State Investment Council Follow-Up** —Steve Moise, State Investment Officer —Charles Wollmann, Director of Communications, State Investment Council
10:35 a.m.	**Higher Education Endowment Fund** —Senator Timothy M. Keller
11:15 a.m.	**Capital Outlay Overview** —Linda M. Kehoe, Principal Analyst, Legislative Finance Committee (LFC)
12:00 noon	**Lunch**
1:15 p.m.	**Stripper Well Incentive Analysis** —Ray Powell, Commissioner of Public Lands
2:30 p.m.	**Revenue Forecast** —Tom Clifford, Secretary of Finance and Administration —Demesia Padilla, Secretary of Taxation and Revenue —Elisa Walker-Moran, Chief Economist, LFC
3:30 p.m.	**Executive Branch Tax and Revenue Proposals** —Tom Clifford, Secretary of Finance and Administration —Demesia Padilla, Secretary of Taxation and Revenue
4:30 p.m.	**Approval of Minutes — October and November**
4:40 p.m.	**Recess**

<u>Tuesday, December 13</u>

9:30 a.m.	**Reconvene** —Senator Tim Eichenberg, Chair
9:35 a.m.	**Extension of Deduction Allowed for New Mexico State University (NMSU) Nonathletic Special Events** —Vicente Vargas, Office of Government Relations, NMSU
10:15 a.m.	**Transportation Reinvestment Zones** —James O'Neill, Consultant
11:15 a.m.	**Committee Endorsements** —Staff
12:00 noon	**Adjourn**

MINUTES
of the
SIXTH MEETING IN 2011
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE
December 12-13, 2011
Room 322, State Capitol
Santa Fe

The sixth meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for 2011 was called to order by Senator Tim Eichenberg, chair, on Monday, December 12, 2011, at 9:35 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Sen. Tim Eichenberg, Chair
Rep. Edward C. Sandoval, Vice Chair
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings, Senate President Pro Tempore (12/12)
Sen. Timothy M. Keller (12/12)
Sen. Gay G. Kernan
Rep. Ben Lujan, Speaker of the House (12/12)
Rep. Rodolpho "Rudy" S. Martinez
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Rep. Bob Wooley

Absent
Sen. Mark Boitano
Rep. Donald E. Bratton
Sen. Howie C. Morales
Sen. John Arthur Smith

Designees
Sen. Phil A. Griego
Sen. George K. Munoz (attending as a guest 12/12)
Sen. Nancy Rodriguez
Sen. William E. Sharer
Rep. Luciano "Lucky" Varela (attending as a guest 12/12 and designee 12/13)

Sen. Rod Adair
Rep. Ray Begaye
Sen. William F. Burt
Rep. Zachary J. Cook
Rep. Brian F. Egolf, Jr.
Rep. Miguel P. Garcia
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Eric G. Griego
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Rep. Antonio Lujan
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Sen. Steven P. Neville
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Sen. Bernadette M. Sanchez
Sen. John M. Sapien
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Rep. Don L. Tripp
Sen. Peter Wirth

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Ric Gaudet, LCS
Damian Lara, Staff Attorney, LCS
Pam Stokes, Staff Attorney, LCS

Guests
The guest list is in the meeting file.

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

Minutes Approval
Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Monday, December 12

State Investment Council Follow-Up
Steven K. Moise, state investment officer, and Charles Wollmann, director of communications, State Investment Council (SIC), gave a presentation to the committee responding to questions posed to SIC staff at the July 2011 meeting of the committee. The first issue Mr. Moise discussed was the progress made since July on the recommendations made by the accounting firm Ennis-Knupp to the SIC. Fifty-five of the 82 recommendations have been implemented. Some changes cannot be implemented without legislative action, such as SIC budget autonomy and ability to set staff size. Other recommendations are not practical or no longer necessary due to recent statutory changes. The SIC has asked Ennis-Knupp to revisit all of the recommendations and make new recommendations based on the implemented changes in the past two years.

Mr. Moise said that when he was appointed state investment officer in 2010, approximately 40 percent of the SIC's funds were managed by SIC staff. That figure has been reduced to just over 14 percent currently. However, SIC staff still manages over $2 billion in its public equity portfolio. The SIC has adopted new investment strategies with the goal of changing its asset allocations. New goals will reduce the amount invested in broad U.S. equities and increase investments in energy, commodity, real estate and hedge funds. The new allocation strategy will take 12 to 24 months to complete.

The SIC now has a complete membership, after the appointment to the council by the New Mexico Legislative Council of Harold W. Lavender and by the governor of Greg Anesi. Doug Brown has been elected vice chair of the SIC by council members. The SIC's Governance Committee will address the issue of the length of term of the vice chair soon.

The committee had asked SIC staff to estimate the percentage of assets invested in fossil fuel energy companies. That question has been difficult to determine with precision, due to the diverse and multi-tiered nature of the SIC's investments. In the public equities sector, however, Mr. Moise estimated that approximately 11 percent of that portfolio, or $840 million, was invested in the energy industry.

Mr. Moise reported that the SIC has filed civil suits against 17 individuals arising from the recent "pay-to-play" scandal. The next step is to file lawsuits against some of the entities involved. He said that the SIC has very little information about the progress of the criminal investigation. If a grand jury issues criminal indictments, the SIC's civil case will be aided.

Mr. Wollmann discussed two pieces of legislation the SIC is seeking to be enacted. A proposed constitutional amendment will be introduced seeking to increase the standard of care with which the SIC is tasked with managing the Land Grant Permanent Fund (LGPF) and removing the cap set for investment in international securities. A companion bill will enact a statute that sets that cap at 25 percent. Putting the investment limitation in statute will allow the legislature to make modifications to the limit if prudent. He said that it is not typical for states to have limitations on the percentage of international equity investments allowed.

Questions and comments from committee members included the following:

- The problems that arose from previous management of the SIC were due to the lack of oversight. Mr. Moise said that the SIC now has staff overseeing investment managers on a daily basis. The fees that investment managers receive are market-rate, and not excessive. All investment contracts are open for public inspection.

- The SIC may invest more money in countries that have long-term gross domestic product growth projections, but some of those countries may be politically unstable. Mr. Moise said that the SIC is very sensitive to geopolitical considerations when making investment decisions.

- Do contract investment managers make independent investment decisions? Mr. Moise said that contract managers consult with SIC staff before investment changes are made. No spontaneous investments are made.

- The most important governance recommendation made by Ennis-Knupp, that the governor should not be the chair of the SIC, still has not been implemented. A bill to remove the governor from membership of the SIC was vetoed.

● How are the SIC's investments in New Mexico private equity performing? Mr. Wollmann said that earlier investments have underperformed compared to the SIC's average rate of return, but that later investments are beginning to perform.

● What is the current value of the LGPF? Mr. Moise said that its value on that day was $10.2 billion.

Sustainable Energy Higher Education Endowment Fund

Senator Keller presented proposed legislation to the committee that would establish a trust fund to fund university professorships and research into sustainable energy technology. The fund would receive a monthly distribution from gross receipts tax (GRT) collections for three years. Beginning in 2015, five percent of the fund would be distributed equally to the University of New Mexico, New Mexico State University (NMSU) and New Mexico Institute of Mining and Technology (NMIMT).

Questions and comments from committee members included the following:

● The scope of the bill should include research into developing natural-gas-based electricity generation systems.

Capital Outlay Overview

Linda M. Kehoe, principal analyst, Legislative Finance Committee (LFC), and Sonia Snyder, fiscal analyst, LFC, presented an update to the committee on capital outlay projects in the state. Since 2008, approximately $1 billion for 3,563 capital projects has been authorized by the legislature, of which $426 million remains outstanding. Of that amount, only $18 million is associated with 82 projects that have seen no progress this year.

The LFC estimates severance tax bonding (STB) capacity, after setting aside the amounts in statute allocated for water, colonias and tribal infrastructure projects, of $130 million. Supplemental STB capacity for public school construction is projected to be $149 million. General obligation bond (GOB) capacity is estimated to be $298 million if bonds are issued at the full capacity, or $180 million if bonds are issued in an amount to maintain the same property tax mill levy. There is not expected to be any money from the general fund for capital projects in the upcoming legislative session.

State agency and local government requests for capital projects this year totaled more than $2.3 billion, far in excess of the $310 million to $428 million estimated to be available. LFC staff made recommendations to spend $310 million for state agency capital projects. The LFC did not endorse the recommendations, but approved them as a framework for legislative consideration. The staff recommendations reflect the state's most critical projects impacting public health and safety, the preservation of state facilities and ongoing projects requiring additional funds to complete.

Ms. Kehoe said that the executive administration has expressed support for funding ongoing local government projects in order for them to be completed. LFC and LCS staff have assisted the Department of Finance and Administration (DFA) in determining which local projects could be considered for that funding. Approximately $12 million will be needed to fund these incomplete projects.

Questions and comments from committee members included the following:

- Will the administration develop its own capital outlay proposal? Ms. Kehoe said that the DFA held capital project hearings on state agency proposals in November and is currently identifying its priorities. Local governments also submitted their capital project requests to the DFA in July.

- What is the status of the Health and Human Services (HHS) project, to be located at the Las Soleras development in Santa Fe? Ms. Kehoe said that the project approval by the Martinez administration has been delayed until May 2012. That project was approved by the legislature in 2009 and would be financed through a lease-purchase agreement through the New Mexico Finance Authority.

- Will there be any funding available for local capital projects in the upcoming session? Ms. Kehoe said that the LFC staff recommendation appropriated all of the STB and GOB revenue for critical state projects, including $25 million for highway improvements and repairs.

- The Department of Transportation has estimated that it has a backlog of more than $1 billion in needed repairs to state highways. The state needs to come up with a fiscal solution to that problem, including the possible imposition of higher transportation-related taxes.

- There have been no local capital projects funded since 2008. The legislature should allocate at least $30 million for local capital project funding in the upcoming session.

- The legislature should consider using local government "hold harmless" GRT distributions to fund local capital projects.

Stripper Well Incentive Analysis

Ray Powell, commissioner of public lands, gave a presentation to the committee about royalty incentives for low-producing oil wells on state land. Stripper wells are oil wells whose production has slowed to three to six barrels per day, depending on the well depth. A well becomes less economically viable once it reaches that level of production. Instead of having the operator plug the well permanently, which ends any revenues to the state from the well, the State Land Office (SLO) has instituted a program in which the royalty rates for the well are reduced from 12 percent to five percent. Any effort that prolongs the life of a stripper well has a potential significant impact on future state revenues, including LGPF royalty receipts, severance taxes and gross receipts taxes.

There are currently 495 approved stripper wells, which produce about 8,800 barrels of oil per month. This has resulted in $510,000 in royalty revenue received by the SLO in fiscal year 2011. Although reducing the royalty rate for stripper wells theoretically reduces state income from the wells, no income would be received if the wells are plugged and abandoned. The administrative costs for the program average $21,000 per year, which is only four percent of the total revenue received.

Questions and comments from committee members included the following:

- SLO staff were asked to describe enhanced oil recovery programs. Scott Dawson, petroleum engineer specialist, SLO, said that enhanced recovery operations are typically performed by flooding an underground basin in order to free the remaining oil from the rock. Laird Graeser, economist, Taxation and Revenue Department (TRD), said that the stripper well incentives provided by the SLO are different than the statutory tax incentives for stripper wells and well-workover projects. Those incentives are triggered only when the price of oil falls below $28.00 per barrel, which level has not been seen in more than a decade.

- Is the SLO still receiving large revenues from oil and gas lease sales? Kurt McFall, assistant commissioner for the Mineral Resources Division, SLO, said that lease revenues from the past six months have reached record levels. There is much renewed interest in state land, due to new technologies, including horizontal drilling capabilities.

- Can the SLO offer incentives for companies to rework older oil fields? Mr. Dawson said that would be possible. Commissioner Powell said that NMIMT studies predict that oil wells have only extracted 15 percent of the actual oil in the ground. The remaining oil can be extracted, but cost considerations have thus far prevented the extraction.

Revenue Forecast

Tom Clifford, secretary of finance and administration, and Elisa Walker-Moran, chief economist, LFC, presented the latest consensus revenue estimate to the committee. The consensus revenue estimating group is made up of career economists from the executive and legislative branches. The December estimate is based on a review of the October 2011 revenue estimate. Total recurring revenue growth in fiscal year 2011 was 12.6 percent, one-third of which was due to legislated tax increases. Fiscal year 2012 growth is projected to be only 2.4 percent, and 2.8 percent the following year. Fiscal year 2012 ending balances are projected to be $599 million, or 11 percent of recurring appropriations. For fiscal year 2013, new revenue, calculated as the difference between fiscal year 2013 revenue and fiscal year 2012 expenditures, is projected to be $254 million.

Key economic indicators expected to affect the state's revenues include the following:

- U.S. economic growth will slow due to decreasing federal government spending;

- the state's total payroll employment only recently began to grow, and the state has 40,000 fewer jobs than a few years ago;

- new claims for unemployment insurance have fallen, but the total number of unemployed persons remains high;

- crude oil production continues to increase in New Mexico, reaching 68.8 million barrels in fiscal year 2011; and

- natural gas production fell four percent in fiscal year 2011.

GRT revenue rebounded by 10.8 percent in fiscal year 2011, but much of that increase was due to a one-eighth increase in the GRT rate. Personal income tax revenue grew by 11.5 percent, of which 50 percent was due to the elimination of the deduction from net income of state and local taxes paid. Corporate income tax (CIT) revenue also grew strongly, a reflection of profits in the oil and gas production and manufacturing sectors.

Predicted growth in revenues could change if the U.S. economy entered another recession, which some economists have predicted at a 35 percent probability. In addition, if the federal payroll tax reductions and unemployment insurance benefits are not extended, the consensus group estimates a one percent total revenue decline from current predictions.

Questions and comments from committee members included the following:

- There is a $30 million discrepancy between the DFA and LFC GOB capacity estimates. Secretary Clifford said that the consensus economists will resolve that discrepancy soon.

- The TRD wasted money by sending out duplicate notices to oil and gas revenue recipients, requiring them to affirm their residency status. Secretary Clifford said that the TRD has been working with the oil and gas industry to make the reporting requirements recently enacted less burdensome. Deborah Seligman, lobbyist for the energy sector, said that the TRD will start using the federal tax Form 1099 and tax identification numbers to verify that oil and gas proceeds are correctly withheld in New Mexico.

- Natural gas prices have been low for a few years, and it does not appear likely that prices will increase soon. Secretary Clifford agreed, but said that if more natural-gas electricity plants are built, demand for natural gas will increase substantially.

- How much revenue for the state is generated by the coal industry annually? Secretary Clifford estimated that $20 million is raised from the GRT, $5 million from the resources excise tax and $25 million from severance taxes.

- Replacing coal-fired electric generating plants with natural-gas-based plants would result in many lost jobs in New Mexico because it would be much cheaper for the industry to pipe the gas to Phoenix and build electric plants in that city.

- DFA staff was asked to provide estimates of available recurring revenue for fiscal year 2013 for reserve levels between five percent and nine percent.

Executive Branch Tax and Revenue Proposals

Secretary Clifford presented a philosophical framework for reforming New Mexico's taxation structure. He did not present any specific legislative recommendations that the administration is proposing but discussed potential avenues for reform. He began by stating that the United States has one of the highest CIT rates in the world when state and federal rates are combined. Most countries do not impose state-level CIT. When comparing New Mexico's CIT rates and structure to other western states, New Mexico ranks low. The combination of relatively high rates and a limited ability to modify tax apportionment factors makes New Mexico less competitive regionally. However, the ability of multistate corporations to file separately in New Mexico partially offsets this disadvantage.

A recent study comparing the effective tax rates on a hypothetical new investment venture ranked New Mexico last among the states. The New Mexico Tax Research Institute commissioned a more detailed study to include tax incentives in the effective tax rate, but only compared eight other surrounding states' tax structures. In that study, New Mexico ranked much better, with only two states having lower effective tax rates. However, the competitive advantage only applies to the few businesses that qualify for the incentives. Most New Mexico businesses do not enjoy the benefits of tax incentives, and remain at a competitive disadvantage.

The pyramiding nature of the GRT is also a big concern for businesses. The imposition of the GRT many times before a service or product is delivered to the consumer can mean that the effective GRT rate can be as high as 14 percent, compared to the nominal state and local average rate of seven percent.

State government spending has grown at an average compounded rate of 4.4 percent annually. Even with recent reductions, spending is up by more than 50 percent since 2000. This growth rate exceeds the combined growth rate of the state's population and inflation. Secretary Clifford said that controlling spending is the key to building a sustainable and competitive tax system.

Tax expenditures account for a large portion of the state's budget, totaling $940 million in fiscal year 2012. Of that amount, only $105 million is spent on economic development incentives. Secretary Clifford suggested that many tax expenditures do not have proper accountability or targeting.

Secretary Clifford proposed several tax reform goals, which may take many years to achieve. The overall goal of the administration is to shift the state's tax base from investment and income to consumption, in order to increase economic growth. Tax expenditures need to be reformed to improve accountability and predictability. Policy should be crafted to establish a fair tax structure for small and large businesses. Finally, the state should simplify reporting and filing requirements for businesses.

Potential reforms in the GRT structure include providing a broad GRT deduction for manufacturing equipment. Typically, only large companies qualify for the investment credit and industrial revenue bonds. Another proposal would eliminate the GRT for small businesses below a certain gross revenue level. This would eliminate a huge reporting burden for small businesses and reduce administrative costs at the TRD. Secretary Clifford said that currently 50 percent of businesses pay one percent of the total GRT collections. Another possible change would be to allow more construction services to be deducted from gross receipts.

CIT reform possibilities include reducing the CIT rate from its current maximum level of 7.9 percent, allowing companies to elect to use a single-weighted or double-weighted sales apportionment factor and allowing greater flexibility in filing options. Changing the apportionment factor from the current equal weighting of sales, payroll and property would encourage more manufacturing businesses and encourage companies to set up headquarters in the state.

Secretary Clifford suggested converting economic tax incentives into grant programs similar to the structure of the very successful job-training incentive program. This would provide better fiscal controls of the incentives and improve accountability. The incentives would be specifically targeted to encourage certain types of economic activity and would be competitively awarded. This would allow a more certain business environment.

Many administrative reforms should be implemented, including establishing independent hearing officers and an independent ombudsman for the TRD, establishing uniform rulemaking, audit and protest procedures, extending filing and protest periods and reforming non-taxable transaction certificate rules.

Finally, the administration may propose several property tax reforms, including rolling back residential values to reflect the three percent growth limitation for all properties, eliminating property tax lightning when properties are sold, valuing new construction like existing properties, enacting a "truth in taxation" statute, fixing the discrepancies in tax levies on commercial and residential properties resulting from the yield control provisions of the Property Tax Code and requiring disclosure when commercial properties are sold.

Questions and comments from committee members included the following:

- Which tax reforms should be implemented first? Secretary Clifford said that many tax reforms are impossible today, given the economic and revenue situation the state is in. He suggested reforming the yield control problem and reforming tax incentives into a grant program. In addition, the suggested administrative reforms should be easy to implement and not very costly. Major reforms to the CIT or GRT would be too costly to implement now. However, exempting businesses with revenues less than $50,000 from the GRT would only cost the state $20 million annually, and local governments $15 million.

- Small businesses don't necessarily need tax relief; they need administrative compliance relief. Many small businesses are forced to retain an attorney and accountant just to figure out their tax burden.

- The pyramiding of the GRT is especially significant on the energy sector. Could the state target relief in that arena? Secretary Clifford said that providing GRT deductions for drilling contractors would have a huge fiscal impact.

- Will the governor support legislation requiring combined reporting for multistate companies in exchange for a lower CIT rate? Secretary Clifford said that mandatory combined reporting poses many complexities for multistate companies.

● The high-wage jobs tax credit should be repealed and replaced with a better incentive program, including a local support requirement.

● What is happening in the realm of internet sales taxation? Secretary Clifford said that there is still no agreement on a federal law to establish a streamlined sales tax structure. New Mexico could fairly easily join the interstate streamlined sales tax agreement, however.

● New Mexico already has more than $300 million in deductions and exemptions to reduce the pyramiding of the GRT. The legislature should consider lowering the GRT rate and eliminating many exemptions and deductions.

● A huge number of businesses do not bother to collect or pay the GRT. The TRD should focus more on compliance efforts.

The minutes of the October 24-25 and November 21-22 meetings of the committee were approved without changes.

The committee recessed at 4:15 p.m.

Tuesday, December 13

The committee was reconvened on Tuesday, December 13, 2011, at 9:32 a.m. by Senator Eichenberg.

Extension of Deduction Allowed for NMSU Nonathletic Special Events

Vicente Vargas, office of government relations, NMSU, presented a proposed bill to extend for five years the deduction from gross receipts for admissions to nonathletic special events held at the Pan American Center at NMSU. The deduction in place is set to expire in 2012. Extending the deduction will allow NMSU to compete with other venues in El Paso for entertainment events.

The committee endorsed the legislation unanimously.

Transportation Reinvestment Zones

Jim O'Neill, David Buchholtz and Paul Silverman, representing the Greater Albuquerque Chamber of Commerce, returned to the committee to answer several questions posed to them at the November meeting of the committee about the proposed Transportation Reinvestment Zone Act. One question posed was whether the legislation would conflict in any way with existing extraterritorial planning zones in the border areas of municipalities and counties. Mr. O'Neill said that if a county created a transportation reinvestment zone (TRZ) within a municipality's extraterritorial planning zone, the county would still be required to work with the municipality on all planning and zoning issues. A TRZ is merely a financing mechanism, and all existing planning procedures would still have to be complied with.

Another question was whether a municipality or county could create a zone without the approval of the other governing body. Mr. O'Neill said that a TRZ can be created by either a municipality or county. However, each affected government has the option of whether to commit its GRT increment toward the financing of the zone.

A question was posed whether there is any conflict by having the governing body of the local government be the same as the governing body of a TRZ. Mr. O'Neill said that he could not identify any potential conflict of that structure of governance.

Mr. Silverman said that the Greater Albuquerque Chamber of Commerce supports the proposed legislation because it provides another tool for local governments to cooperate in the financing of transportation infrastructure. There are several potential projects in the state that could benefit from the new tool.

The committee endorsed the proposed legislation unanimously.

Committee Endorsements

Ms. Ray and Mr. Lara presented 15 proposed bills for the committee's possible endorsement.

1. Delinquent Property Tax Collection by Counties. The proposed bill would allow counties to collect delinquent property taxes, currently the sole responsibility of the Property Tax Division of the TRD. The county would be allowed to contract with a qualified private attorney to handle the collections, who would be able to collect an additional 30 percent fee from the owner of the property or from the sale proceeds of the property.

The committee tabled the proposed legislation unanimously.

2. Liquor Excise Tax Distribution for Drug Courts. The proposed bill would provide a 3.5 percent distribution from the proceeds of the liquor excise tax to the Administrative Office of the Courts to fund drug courts statewide. The distribution would be in addition to the distributions currently made to fund local DWI programs.

The committee endorsed the proposed legislation, with Representative Trujillo opposed to the motion.

3. Tobacco Escrow Clarification. The proposed bill would clarify that tobacco manufacturers that did not enter into the MSA between tobacco manufacturers and state attorneys general are required to pay into escrow for cigarettes that have been marked with tax-credit stamps and sold on tribal lands. The proposed bill is nearly identical to Senate Bill 97 from the 2011 regular legislative session that was vetoed by the governor.

The committee endorsed the proposed legislation unanimously.

4. Transportation Reinvestment Zone Act. The proposed bill would allow local governments to establish TRZs to finance transportation infrastructure and related improvements. The financing would come from the zone receiving a portion of the future GRT increment from

increased economic activity in the region, which increment could be bonded against to pay for the infrastructure.

The committee had previously endorsed the proposed legislation.

5. County Education GRT. The proposed bill would extend another 10 years the ability of Taos County to impose the county education GRT. Revenue from the tax would be used to pay off bonds issued for educational facility capital projects.

The committee endorsed the proposed legislation unanimously.

6. Dialysis Facility GRT Deduction. The proposed bill would allow certain dialysis facilities to deduct from gross receipts payments for services provided to Medicare beneficiaries. The deduction would be phased in over a two-year period.

The committee endorsed the proposed legislation unanimously.

7. Expansion of the Investment Credit. The proposed bill would allow a credit to be taken against GRT and other tax liabilities for investment in capital assets by a business. The credit would have to be paid back to the state within five years of the total credit being refunded to the taxpayer or the debt on the capital asset being paid.

The committee tabled the proposed legislation, with Senator Harden opposing the motion.

8. Community Development Incentive Act Applicability for Solar-Electric Facilities. The proposed bill would allow commercial personal property tax exemptions pursuant to the Community Development Incentive Act for the special type of financing arrangement common in the solar-electric industry. It would allow for exemptions to be granted by local governments for sale-leaseback arrangements for the equipment comprising solar-electric generation facilities.

The committee endorsed the proposed legislation unanimously.

9. Sustainable Energy Higher Education Endowment Fund. (See bill description earlier in these minutes.)

The committee tabled the proposed legislation.

10. High-Wage Jobs Tax Credit Amendments. The proposed bill would clarify that the definition of "wages" includes wages and benefits for the purposes of determining eligibility for the credit, provide a time limit for businesses to apply for the credit and set limitations on granting the credit after certain types of business mergers or acquisitions. In addition, the proposed bill would increase the wage eligibility to qualify for the credit.

The committee endorsed the proposed legislation unanimously.

11. Sunset Dates for Health Care Tax Expenditures. The proposed bill would provide expiration dates for several health-care-related tax expenditures, enabling the legislature to consider their effectiveness on a regular basis.

The committee tabled the proposed legislation, with Representative Sandoval and Representative Trujillo opposed to the motion.

12. State Graduate Employment Tax Credit. The proposed bill would allow a personal income tax or CIT credit to be claimed by a business that hires on a full-time basis a recent graduate of a state four-year post-secondary educational institution.

The committee took no action on the proposed legislation.

13. Gradual Elimination of the Food and Medical Hold Harmless Distributions. The proposed bill would eliminate over 15 years the food and medical distributions to municipalities and counties. Those distributions were provided in 2004 to ensure local governments were not harmed fiscally when the GRT was removed from the purchase of food and medical services.

The committee tabled the proposed legislation unanimously.

14. Plug-in Electric Drive Vehicle Tax Credit. The proposed bill would exempt from the motor vehicle excise tax for three years the purchase of a new plug-in electric drive vehicle, in an attempt to give a boost to this emerging technology.

The committee endorsed the proposed legislation, with Senator Kernan and Representative Crook opposed to the motion.

15. NMSU Deduction from Gross Receipts for Nonathletic Special Events. (See bill description earlier in these minutes.)

The committee had previously endorsed the proposed legislation.

There being no further business, the committee adjourned at 11:33 a.m.

REVENUE STABILIZATION AND
TAX POLICY COMMITTEE

Section 9
2011

Legislation Reviewed and Committee Endorsements

To review the bills presented for endorsement, please go to the Legislature's web site, (www.nmlegis.gov) and view the committee handouts from the December 12-13, 2011 meeting.

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATIVE ENDORSEMENTS FOR 2012 LEGISLATIVE SESSION
DECEMBER 12-13, 2011

Draft #	**Title**	**Agency**	202#	Endorsement Sponsor	Summary
1	**Delinquent Property Tax Collection by County or Private Attorney**	**Rep. Gonzales**	.187419.2	Not Endorsed	Counties can negotiate with TRD to collect delinquent property taxes and charge up to 30% fee to cover collection costs.
2	**Liquor Excise Tax Distribution for Drug Courts**	**AOC**	.187667.2	Endorsed Sen. Griego/Rep. Bill O'Neill (CCJ)	Distributes 3.5% of the net receipts of the Liquor Excise Tax for Drug Courts.
3	**Tobacco Escrow Clarification**	**AG**	.187675.1SA	Endorsed Sen. Eichenberg/Rep. Jim Hall	Adds retroactive applicability dates to allow bill to be effective from July 1, 2010, otherwise tracks SB 397 of 2011.
4	**Transportation Reinvestment Zone Act**	**Silverman, O'Neill and Buchholtz**	.187689.3	Endorsed Sen. Eichenberg	Provides for transportation reinvestment zones similar to TIDDs, but without private control.

5	**County Educational Gross Receipts Tax**	**Sen. Cisneros - Rep. Gonzales**	.187702.1	Endorsed Sen. Cisneros	Allows Taos County to reimpose County Education Gross Receipts Tax
6	**Dialysis Facility Gross Receipts Tax Deduction**	**Sen. Cisneros**	.187728.1	Endorsed Sen. Harden/Sen. Cisneros	Include dialysis facilities in Section 7-9-77.1 practitioner tax deductions for managed care programs
7	**Investment Tax Credit**	**Sen. Keller**	.187756.2	Not Endorsed	Expands the Investment Tax Credit to cover investments in fixed asset purchase to expand the capacity of a business, against modified combined tax liability

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATIVE ENDORSEMENTS FOR 2012 LEGISLATIVE SESSION
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8	**Community Development Incentive Act**	**Sun Edison**	.187757.3	Endorsed Sen. Harden	Provides for financing known as "lease-back" financing to allow property tax exemption for leases of assets for operation of solar photovoltaic systems.
9	**Higher Education Endowment Fund for Sustainable Energy Professorships**	**Sen. Keller**	.187762.3	Not Endorsed	Provides distributions from gross receipts tax revenue stream for three years to create endowment fund.

10	**High-Wage Jobs Tax Credit Amendments**	**RSTP**	.187785.1	Endorsed Sen. Eichenberg/Sen. Smith	Increases wages required to be paid to new employees to $65,000 in municipalities with populations greater than 60,000 and $40,000 for smaller municipalities and unincorporated areas of counties.
11	**Sunset Dates for Health Care Tax Expenditures**	**RSTP**	.187786.2	Not Endorsed	Sunsets gross receipts tax expenditures and some premium tax expenditures on June 30, 2020 and CIT or PIT expenditures and NMMIP expenditures on January 1, 2021.
12	**State Graduate Employment Credit**	**Sen. Keller**	187803.2	Not Endorsed	Provides a $5,000 CIT or PIT credit per NM college graduate hired.

13	**Step-down of Food and Medical Municipal and County Hold Harmless Provisions**		.187935.2	Not Endorsed	Provides a 7% per year reduction in the amount of food and medical GRT hold harmless distributions to municipalities and counties.
14	**Electric Plug-In Drive Vehicle Tax Credit**	**Rep. Trujillo**	.187936.2	Endorsed Rep. Trujillo	Provides an exemption from motor vehicle excise tax for electric drive vehicles. Also exempts purchase of the vehicle from GRT and Comp Tax.
15	**NMSU Nonathletic Event Deduction Extension**	**NMSU**	.187972.1	Endorsed Sen. Cisneros	Extends gross receipts deduction for nonathletic special events, such as concerts, for five years to June 30, 2017.