

SCIENCE, TECHNOLOGY AND  
TELECOMMUNICATIONS COMMITTEE



REPORT  
to the  
FIFTY-FIRST LEGISLATURE

December 2012  
Legislative Council Service

## **Science, Technology and Telecommunications Committee Executive Summary**

The theme during the 2012 interim for the Science, Technology and Telecommunications Committee was technology transfer; that is to say, what can the legislature do to foster job creation by start-up enterprises that use technology developed at national laboratories or research universities in New Mexico? The committee met in Hobbs, Deming and Albuquerque as well as Santa Fe to hear testimony from various experts on science and technology. Several bills were endorsed by the committee, ranging from approval for commercialization activities to be considered by universities when reviewing professor tenure to tax credits for investments in technology transfer funds. The committee toured the URENCO uranium enrichment plant in Jal and the community of Playas to get a hands-on sense of sites around the state that are technology ventures. The committee heard testimony from officials and contractors of the State Investment Council about the status of state investments in technology ventures and what more the state can do to directly support technology ventures. Committee members also assessed some negative side effects of technology, such as the Kirtland Air Force Base fuel spill. Post-secondary educators explained work force training capacities and programs; university and national laboratory personnel described research and development programs at their respective institutions; entrepreneurs and business people discussed the effects of state policy on their business endeavors; the Department of Information Technology reported the status of state centralization of information and telecommunications systems; and the New Mexico Renewable Energy Transmission Authority reported the status of investments in transmission facilities and their potential impacts on the state economy. The committee endorsed 12 pieces of legislation.

# **Work Plan**

**2012 APPROVED  
WORK PLAN AND MEETING SCHEDULE  
for the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**Members**

Sen. Timothy M. Keller, Chair	Rep. Conrad D. James
Rep. Roberto "Bobby" J. Gonzales, Vice Chair	Sen. Linda M. Lopez
Rep. Cathrynn N. Brown	Sen. Steven P. Neville
Sen. William F. Burt	Rep. Debbie A. Rodella
Sen. Dede Feldman	Rep. Nick L. Salazar
Sen. Phil A. Griego	Rep. James E. Smith
Rep. Jim W. Hall	Rep. Luciano "Lucky" Varela

**Advisory Members**

Rep. Ray Begaye	Rep. Danice Picraux
Sen. Carlos R. Cisneros	Rep. Jane E. Powdrell-Culbert
Rep. Ben Lujan	Sen. John M. Sapien
Sen. Richard C. Martinez	Rep. Don L. Tripp
Sen. William H. Payne	Rep. Richard D. Vigil

**Work Plan**

During the 2012 interim, the committee intends to develop agendas that foster making New Mexico a national leader in technology by asking presenters what the legislature can do to encourage growth through technology and what obstacles are impeding such growth. The intent is not to receive promotional presentations on the presenters' organizations, but what legislation will be constructive to the goal of advancing technological innovation and development in New Mexico. The desire is to pursue technology themes around water, health and biology, work force and technology transfer.

Topics for meeting agendas will include:

1. Department of Information Technology programs;
2. current technology-related tax and financial incentives;
3. centers of excellence;
4. advanced water treatment systems;
5. the role of energy innovation, including solar energy, geothermal energy and electric power grid innovations;
6. telecommunications issues, including deregulation;

7. innovations in oil, natural gas, nuclear and extractive industries;
8. health care technology, medical technology and biotechnology opportunities;
9. agriculture technology advances;
10. opportunities for and obstacles to technology transfer from research to commercialization;
11. development of a high-technology work force;
12. sunshine portal status report from the Department of Information Technology;
13. public/private partnerships for technology transfer;
14. technology financing, i.e., venture capital, concept funding and lending;
15. remediation technology for Kirtland Air Force Base jet fuel leak cleanup; and
16. oversight of Los Alamos work force concerns.

**Science, Technology and Telecommunications Committee  
2012 Approved Meeting Schedule**

<b><u>Date</u></b>	<b><u>Location</u></b>
June 19	Santa Fe
August 1-2	Hobbs
September 13-14	Deming
October 18-19	Albuquerque
November 8-9	Santa Fe

# **Agendas**

Revised: June 7, 2012

**TENTATIVE AGENDA  
for the  
FIRST MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**June 19, 2012  
Room 322, State Capitol**

**Tuesday, June 19**

- 10:00 a.m.     **Call to Order**  
—Senator Timothy M. Keller, Chair
- Department of Information Technology (DOIT) Update**  
—Darryl Ackley, Secretary, DOIT
- 11:00 a.m.     **Sandia National Laboratories Research Highlights**  
—Julia Phillips, Science, Technology and Engineering Innovations and  
Partnerships, Sandia National Laboratories
- 12:00 noon     **Lunch**
- 1:00 p.m.      **Los Alamos National Laboratory (LANL) Research Highlights**  
—Duncan McBranch, Deputy Principal Associate Director, Science, Technology  
and Engineering, LANL
- 2:00 p.m.      **Technology Tax Incentives**  
—Richard Anklam, President and Executive Director, New Mexico Tax Research  
Institute
- 3:00 p.m.      **Seed Funding**  
—Michelle D. Hoeft, Founder and Managing Partner, High Desert Discovery  
District (HD3)
- 4:00 p.m.      **2012 Interim Work Plan and Meeting Schedule**
- 5:00 p.m.      **Adjourn**

Revised: July 31, 2012

**TENTATIVE AGENDA  
for the  
SECOND MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**August 1-2, 2012  
Multipurpose Room, Bob Moran Building  
New Mexico Junior College (NMJC)  
5317 Lovington Highway  
Hobbs**

**Wednesday, August 1 — NMJC**

- 10:00 a.m.     **Call to Order**  
—Senator Timothy M. Keller, Chair
- 10:05 a.m.     **Welcome**  
—Gregg Fulfer, Chair, Lea County Commission
- 10:15 a.m.     **Innovations in Energy and Extractive Industries**  
—Dale Ganaway, Emergent Technologies  
—Dr. Satish Ranade, Ph.D., Klipsch School of Electrical and Computer  
Engineering, New Mexico State University  
—Jeffrey Newton, Aleph Sciences Group (invited)
- 11:30 a.m.     **Lunch**
- 1:00 p.m.     **Telecommunications Issues**  
—Leo Baca, CenturyLink  
—Bill Garcia, Windstream Communications  
—Sam Ray, New Mexico Exchange Carrier Group (NMECG)  
—Charlie Ferrell, NMECG  
—John Badal, Sacred Wind Communications, Inc.
- 2:30 p.m.     **High Technology Work Force Development**  
—Steve McCleery, NMJC  
—Dr. Robert Rhodes, NMJC  
—Dr. Johann van Reenen, Professor and Associate Vice President for Research  
Initiatives, University of New Mexico  
—Diane Burke, Central New Mexico Community College  
—Dr. Greg Fant, Associate Vice President and Deputy Provost, New Mexico  
State University

4:00 p.m.     **Advanced Water Systems**  
                  —Ned Godshall, Altela, Inc.  
                  —Edward Stock, Gator Hydro-Incineration, LLC

5:30 p.m.     **Recess**

**Thursday, August 2 — Tour of URENCO (invitation only)**

8:30 a.m.     **Meet at NMJC Parking Lot**  
                  —Tour of URENCO, Eunice, New Mexico

1:00 p.m.     **Return to NMJC and**  
                  **Adjourn**

Revised: September 7, 2012

**TENTATIVE AGENDA  
for the  
THIRD MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**September 13-14, 2012  
Mimbres Valley Special Events Center  
Deming**

**Thursday, September 13 — Mimbres Valley Special Events Center**

- 10:00 a.m.     **Call to Order**  
—Senator Timothy M. Keller, Chair
- 10:05 a.m.     **Welcome**  
—Representative Dona G. Irwin  
—Senator John Arthur Smith
- 10:15 a.m.     **Public/Private Partnerships for Technology Transfer**  
—Garrey Carruthers, Arrowhead Center, New Mexico State University
- 11:30 a.m.     **Lunch**
- 1:00 p.m.     **Electric Grid Innovations**  
—Jon Hawkins, Public Service Company of New Mexico  
—Drew Setter, ITC  
—Jeremy Turner, Executive Director, New Mexico Renewable Energy  
Transmission Authority  
—Varney Brandt, Xcel Energy  
—Steve Fogel, Assistant General Counsel, Xcel Energy
- 2:30 p.m.     **Health Care Technology, Medical Technology and Biotechnology  
Opportunities**  
—Richard Larson, M.D., Ph.D., Vice Chancellor for Research, University of  
New Mexico Health Sciences Center
- 4:00 p.m.     **Geothermal Power Development**  
—Mark Persons, New Mexico Institute of Mining and Technology  
—Nicholas Goodman, Chief Executive Officer, Cyrq Energy, Inc.  
—Chuck Smiley, Lightning Dock Site Manager, Cyrq Energy, Inc.  
—Hugh Dangler, State Land Office

5:00 p.m.      **Recess**

**Friday, September 14 — Tour of Playas Training and Research Center (PTRC)**

8:30 a.m.      **Meet at Special Events Center Parking Lot**  
—Tour of the PTRC in Playas, New Mexico

1:00 p.m.      **Return to Special Events Center Parking Lot**

**Adjourn**



4:00 p.m.     **Energy Storage**  
—Albert Migliori, Los Alamos National Laboratory

5:00 p.m.     **Recess**

**Friday, October 19**

9:00 a.m.     **UNM Economic Summit**  
—Dr. Robert G. Frank, President, UNM

10:00 a.m.    **New Mexico Technology Council**  
—Eric Renz-Whitmore

11:00 a.m.    **Power from the Sun**  
—David Blivin, Cottonwood Ventures

12:00 noon    **Lunch**

1:00 p.m.     **Sustainable Albuquerque**  
—Art Gardenschwartz  
—Allan Oliver

2:30 p.m.     **Technology Enterprise Funding**  
—David Buchholtz  
—Perry Bendicksen

3:30 p.m.     **Kirtland Jet Fuel Remediation Technologies and Timetables**  
—John Kubinec, Colonel, United States Air Force  
—Jim Davis, Department of Environment  
—Mark Sanchez, Director, Albuquerque-Bernalillo County Water Utility  
  Authority  
—Bruce Thompson, Professor of Civil Engineering, UNM

5:00 p.m.     **Adjourn**

Revised: November 1, 2012

**TENTATIVE AGENDA  
for the  
FIFTH MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**November 8-9, 2012  
Room 307, State Capitol**

**Thursday, November 8**

- 9:00 a.m.     **Call to Order**  
—Senator Timothy M. Keller, Chair
- 9:05 a.m.     **Compressed Natural Gas**  
—Jason Sandel
- 10:00 a.m.    **Santa Fe Microgrid Systems Lab**  
—Randy Grissom, Santa Fe Community College  
—David Brecker
- 11:00 a.m.    **Public Regulation Commission Action on Telecommunications**  
—Patrick Lyons, Commission Chair
- 12:00 noon    **Lunch**
- 1:30 p.m.     **State Investment in Economic Development**  
—Vince Smith, Deputy Director, State Investment Council  
—Brian Burk, Managing Partner, Sun Mountain Capital
- 2:30 p.m.     **Legislative Proposals**  
1. Student Brain Drain  
2. Tenure for Commercialization and Community Service  
3. Endowment Investments for Technology Transfer  
4. Solar Tax Credits for Less Than One Megawatt  
5. Storage Included Under Renewable Energy Act  
6. State Land Office Royalties  
7. Right of First Refusal for Transmission Lines  
8. Telecommunications; Utility Carrier Inspection Fee  
9. Telecommunications; Incumbent Carriers  
10. Hydrogen Tax Incentives
- 5:00 p.m.     **Recess**

**Friday, November 9**

- 9:00 a.m.     **Electricity Transmission Capacity**  
—Toney Anaya
- 10:00 a.m.    **Information Technology Commission and PCC Status**  
—Darryl Ackley, Secretary of Information Technology  
—Mike Baca, Department of Information Technology
- 12:00 noon    **Lunch**
- 1:00 p.m.     **Smart Grid Research**  
—Dennis Morrison, New Mexico Institute of Mining and Technology
- 2:00 p.m.     **El Dorado Biofuels**  
—Paul Laur
- 3:00 p.m.     **National Laboratories Staffing Demographics and Budget Status**  
—Richard A. Marquez, Executive Director, Los Alamos National Laboratory  
—Bonnie Apodaca, Vice President, Business Operations and Chief Financial  
Officer, Sandia National Laboratories
- 4:00 p.m.     **New Mexico Business Incubator Group**  
—Marie Longserre  
—Tony Gallegos  
—Agnes Noonan
- 5:00 p.m.     **Adjourn**

# Minutes

**MINUTES  
of the  
FIRST MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**June 19, 2012  
Santa Fe**

The first meeting of the Science, Technology and Telecommunications Committee was called to order by Senator Timothy M. Keller, chair, at 10:05 a.m. on Tuesday, June 19, 2012, in Room 322 of the State Capitol in Santa Fe.

**Present**

Sen. Timothy M. Keller, Chair  
Rep. Roberto "Bobby" J. Gonzales, Vice Chair  
Sen. Phil A. Griego  
Rep. Jim W. Hall  
Sen. Linda M. Lopez  
Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Rep. James E. Smith  
Rep. Luciano "Lucky" Varela

**Absent**

Rep. Cathrynn N. Brown  
Sen. William F. Burt  
Sen. Dede Feldman  
Rep. Conrad D. James  
Sen. Steven P. Neville

**Advisory Members**

Sen. Carlos R. Cisneros  
Sen. Richard C. Martinez  
Rep. Danice Picraux  
Rep. Jane E. Powdrell-Culbert

Rep. Ray Begaye  
Rep. Ben Lujan  
Sen. William H. Payne  
Sen. John M. Sapien  
Rep. Don L. Tripp  
Rep. Richard D. Vigil

**Staff**

Gordon Meeks, Legislative Council Service (LCS)  
Ralph Vincent, LCS  
Jeret Fleetwood, LCS  
Elizabeth Shaw, LCS

**Guests**

The guest list is in the original meeting file.

**Handouts**

All handouts and other written testimony are in the original meeting file.

**Tuesday, June 19**

Senator Keller began the meeting by having members of the committee and staff introduce themselves.

**Department of Information Technology (DOIT) Update**

Darryl Ackley, secretary, DOIT, provided the committee with an update regarding the DOIT, beginning with an overview and the DOIT's various duties and functions.

Secretary Ackley also discussed stabilization and operation of the SHARE system, noting the disaster recovery work and hardware reworking are proceeding on the system. He pointed out that reworking the system's hardware would provide sufficient room for system testing.

Secretary Ackley then discussed the DOIT's mainframe computer, explaining that although it will be repartitioned, agencies will continue to use it. He also noted that the platform on which the mainframe operates will be upgraded in the near future. Secretary Ackley did acknowledge that some state agencies have opted not to remain on the mainframe. He also noted that the DOIT plans to perform triage on the existing ONGARD system while work is performed on transferring operations to the upgraded platform, after which that system should be fine.

Secretary Ackley also touched on the progress of upgrading analog communications towers to digital microwave ones; narrowband land mobile radio reprogramming; upgrades to the state's core phone services; and revisions to the department's billing system and policies.

Questions and comments by the committee included:

- the Information Technology Commission's inactive status, although the governor's administration is working to get the commission appointed and working as quickly as possible;
- the status of upgrades to the SHARE system;
- the assistance provided to the State Land Office for the ONGARD system;
- that off-site backup of some systems, including ONGARD, is at a facility in New Jersey;
- the status of the state supercomputer, including the possibility of relocating or selling it;
- additional functions available through SHARE updates;
- the ONGARD system accounting for about \$1.3 billion in income for the state;
- the lack of bandwidth availability throughout much of rural New Mexico; and
- the implementation of changes to the Sunshine Portal that allow for increased access to information.

**Sandia National Laboratories (SNL) Research Highlights**

Dr. Julia Phillips, Science, Technology and Engineering Innovations and Partnerships Division, SNL, provided the committee with testimony regarding SNL. She began by reviewing

SNL's core national security mission and its strong research programs.

Dr. Phillips went on to discuss the technology transfer tools that help SNL move technology from the laboratory to the private sector. She explained that some of the technology transfer tools include:

- license agreements;
- cooperative research and development agreements;
- funds-in agreements;
- technology development centers; and
- local and regional partnerships.

Dr. Phillips provided the committee with examples of projects that have utilized each type of technology transfer tool. She also provided the committee with a map listing by county the various local and regional partnerships, pointing out that \$29.8 million worth of assistance has been provided to small New Mexico businesses since 2000.

Questions and comments from the committee included:

- SNL's partnerships with public schools on a number of projects, including family math and science nights, the New Mexico Hydrogen Fuels Challenge and the Department of Energy Science Bowl;
- business incubation and technology transfer processes employed by SNL;
- intellectual property agreements and profit agreements that are typically negotiated for each technology transfer project;
- the diversity of the SNL work force, including male-to-female employee ratios;
- the ability of SNL to perform post-wildfire flood modeling for communities affected by large and severe wildfires;
- the assistance that the legislature can offer to help SNL, particularly with regard to small business development and technology transfer, including small business tax credits, capital outlay and infrastructure improvements and assistance with the "valley of death" that businesses face before they can secure venture capital or angel investor funding; and
- issues regarding retention of companies that find some success in New Mexico but nevertheless move elsewhere.

### **Work Plan**

Mr. Meeks, provided the committee with suggested work plan topics and meeting dates.

### **Public Comment**

Several members of the audience suggested topics about which the committee could receive testimony.

## **Los Alamos National Laboratory (LANL) Research Highlights**

Dr. Duncan McBranch, LANL, provided the committee with testimony regarding the laboratory's changing mission and work force issues.

Dr. McBranch began by discussing LANL's plutonium issues. He explained that construction of a proposed facility dedicated to plutonium and advanced metal research has been deferred for the immediate future and that the laboratory is developing a plan for moving forward.

Dr. McBranch went on to discuss LANL's nuclear security mission, which he characterized as still very strong. He explained that LANL's global security mission is still closely tied to nuclear security and that research conducted by the laboratory had recently developed advanced radiography technology that uses background radiation, rather than traditional, larger sources, to detect and pinpoint radiation sources. Dr. McBranch noted that use of this type of radiography could significantly shorten the expected cleanup time of the Fukushima nuclear reactor that was seriously damaged by an earthquake and tsunami in Japan.

Dr. McBranch also discussed LANL's involvement in nuclear fuel repository issues; energy demand growth and its impact on infrastructure; and biofuel development.

Dr. McBranch went on to discuss LANL work force and budget issues. He noted that 557 laboratory employees have chosen to retire through the voluntary separation program initiated by the laboratory. Dr. McBranch also indicated that another 60 contractors will be cut from the laboratory's budget, adding to the already significant economic impact faced by the LANL community. He also discussed the budget for the upcoming fiscal year, noting that while funding looks steady, there is no way to be certain.

Dr. McBranch then discussed facility upgrades at LANL, noting that some older buildings are still in use by the laboratory.

Questions and comments by the committee included:

- the number and amount of small business assistance loans issued by the laboratory;
- the process of technology transfer, from invention to commercialization, employed by LANL;
- the patent process for technology transfer;
- funding provided by LANL for the small business consortium;
- the potential impact of significant federal budget cuts on New Mexico's national laboratories;
- the funding source for LANL's Venture Acceleration Fund;
- an analysis of the LANL work force; and
- the University of New Mexico as the largest source of technical degrees for LANL employees.

## **Seed Funding**

Michelle Hoeft and Greg Edwards of HD3 provided the committee with testimony regarding the early stages of seed funding of start-up businesses. Ms. Hoeft explained that the business accelerator represents the current mode of start-up business development. She noted that while the approach is similar to that of business incubators, it differs in its emphasis on mentoring scientists to be business savvy and its three-stage system of choosing businesses to help. Ms. Hoeft went on to provide the committee with an overview of the business accelerator process, beginning with the application process and on through a 12-week "camp" where selected applicants make presentations to potential investors. She also pointed out that selected applicants are provided with a stipend to help them prepare to make their presentations to potential investors, which, she explained, is a critical step in the accelerator approach because it provides start-ups with much-needed funding before investors provide additional money. Ms. Hoeft also noted that the 12-week camp also provides investors the opportunity to offer advice to start-ups.

Mr. Edwards echoed Ms. Hoeft's remarks, adding that HD3 is a pipeline developer in that it feeds companies into the venture capital pipeline. He pointed out that HD3 is the only such accelerator in New Mexico. Mr. Edwards also explained that there are very few funds in New Mexico that offer gap funding, which comes between the time a start-up begins and the time it receives venture capital funding. He also emphasized that New Mexico has a significant resource in its research and development assets, but that potential needs to be better harnessed.

Questions and comments from the committee included:

- how potential businesses discover HD3;
- that applicants range from individuals to small companies; and
- how it would be helpful to have some type of mechanism similar to the one in Texas that would help pay people at HD3.

## **Technology Tax Incentives**

Richard Anklam, president and executive director, New Mexico Tax Research Institute (NMTRI), provided the committee with testimony regarding New Mexico's tax policy, particularly as it relates to new business development. He began with an outline of the NMTRI's principles of good tax policy, which emphasize adequacy, efficiency, equity, simplicity, comprehensiveness and accountability. Mr. Anklam went on to explain that New Mexico imposes a fairly high burden on new business development, comparing the state's various taxes to those of nearby states. He also noted that New Mexico tax policy toward development of technology-related business is very piecemeal and that while the state's corporate income tax has remained largely unchanged for decades, its gross receipts taxes have seen explosive growth in narrow deductions and erosion of the retail base.

Mr. Anklam went on to discuss tax pyramiding, which he explained occurs when a general tax, such as New Mexico's gross receipts tax, is charged on things like business-to-business sales and becomes embedded as part of the cost of the ultimate goods or services. He

offered several examples of this.

Next, Mr. Anklam discussed New Mexico's use of tax incentives, which he explained tend to be a little more broadly based than narrowly focused gross receipts tax legislation. He indicated that New Mexico is more reliant on incentives than other states to be competitive because the incentives reduce the otherwise high effective tax rate imposed by the general tax structure.

Mr. Anklam went on to note that it is difficult to use targeted tax credits to make New Mexico's taxes more competitive with other states, pointing out that firms considering new investments in New Mexico must navigate through a complex and uncertain tax credit and incentive system to understand the cost of doing business in the state. He also indicated that the state and local business tax system is almost certainly impeding economic growth and that without any incentives, New Mexico is simply not competitive with other states.

Mr. Anklam concluded by noting that while New Mexico's tax policy worked well in the 1960s, the world has changed. He suggested that the state's overall tax structure should be thoughtfully reviewed and perhaps incrementally reformed.

Questions and comments from the committee included:

- the large size of the complete list of tax incentives that New Mexico offers;
- the effect of the single sales factor;
- how some pyramiding relief was offered by a bill passed during the 2012 session, but the bill also contained other tax policy changes; and
- the fact that companies do exist in New Mexico that use most, if not all, of the technology-related gross receipts tax incentives.

There being no further business, the committee adjourned at 3:30 p.m.

**MINUTES  
of the  
SECOND MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**August 1-2, 2012  
Multipurpose Room, Bob Moran Building  
New Mexico Junior College (NMJC)  
5317 Lovington Highway  
Hobbs**

The second meeting of the Science, Technology and Telecommunications Committee was called to order by Senator Timothy M. Keller, chair, on Wednesday, August 1, 2012, at 10:00 a.m. in the Multipurpose Room of the Bob Moran Building at the NMJC.

**Present**

Sen. Timothy M. Keller, Chair  
Rep. Cathrynn N. Brown  
Sen. William F. Burt  
Rep. Jim W. Hall  
Rep. Debbie A. Rodella  
Rep. James E. Smith

**Absent**

Rep. Roberto "Bobby" J. Gonzales, Vice Chair  
Sen. Dede Feldman  
Sen. Phil A. Griego  
Rep. Conrad D. James  
Sen. Linda M. Lopez  
Sen. Steven P. Neville  
Rep. Nick L. Salazar  
Rep. Luciano "Lucky" Varela

**Advisory Members**

Rep. Ray Begaye (8/1)  
Sen. Richard C. Martinez  
Rep. Jane E. Powdrell-Culbert

Sen. Carlos R. Cisneros  
Rep. Ben Lujan  
Sen. William H. Payne  
Rep. Danice Picraux  
Sen. John M. Sapien  
Rep. Don L. Tripp  
Rep. Richard D. Vigil

**Guest Legislators**

Rep. Sandra D. Jeff (8/1)  
Sen. Gay G. Kernan (8/1)

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

**Staff**

Gordon Meeks, Legislative Council Service (LCS)  
Ralph Vincent, LCS  
Elizabeth Shaw, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and are posted on the New Mexico Legislature web site.

## **Wednesday, August 1**

Senator Keller asked the members to introduce themselves, and after doing so, he welcomed the first speaker, Greg Fulfer, chair of the Lea County Commission, and asked that he introduce his staff.

## **Welcome**

Mr. Fulfer introduced himself and his staff to the committee and thanked the members for making the trip down to Hobbs. He then relayed to the committee what is happening within Lea County. He stated that the county is currently working very hard to diversify its economic base. URENCO has been a huge success for Lea County; it has been a core business that has allowed for the growth of the nuclear energy industry. The presence of URENCO has brought Nuclear Isotopes to Lea County, which will reuse the waste generated by URENCO. Mr. Fulfer assured the committee that the waste generated by Nuclear Isotopes would be harmless, and he stated that it can be used as fertilizer. Jewel is another energy harvesting plant that is expected to begin operation in September 2012. This plant will focus on the use of algal bacteria to transform algae to biofuel. Wildcat Wind is currently installing wind tunnels in Lovington that are combined with natural gas and yield a very high ratio of electricity production.

Mr. Fulfer informed the committee that Lea County has lost the Pegasus CITE Project, but regardless of the loss, the project has done many positive things for the county. Mr. Fulfer then continued on to state that the NMJC has formed a foundation for research and development that focuses on working with virtual technology.

## **Innovations in Energy and Extractive Industries**

Dale Ganaway of Emergent Technologies introduced himself to the committee. He stated that Emergent Technologies originated in West Texas and currently has \$50 million under 19 portfolio companies spread across three universities. Emergent is in Lea County because of the appetite that the county has for innovation. Mr. Ganaway informed the committee that one of Emergent's primary goals is to license technologies. He gave the example of Eclad coatings, which are pulse-plasma coatings used to coat nanoparticles, making them a functional surface for the attachment of other particles. He stated that the first area of application for this technology is sports apparel and goose down.

Mr. Ganaway then provided the committee with some suggestions on how to encourage and improve the technology industry in New Mexico. He stated that giving larger tax credits to

early stage technology companies would be very beneficial in encouraging companies to make the move into New Mexico. He said that consideration of a tenure track for early commercialization in New Mexico's universities would help recruit bright young researchers. He also suggested that New Mexico should support innovative new approaches to technology transfer.

Dr. Satish Ranade of the Klipsch School of Electrical and Computer Engineering at New Mexico State University (NMSU) introduced himself to the committee. He began his presentation by informing the committee that the electric power system that the state has always known is now being called the electric energy system. Dr. Ranade stated that the current system is an adjustment system and is interconnected throughout the eastern and western United States. He stated that many people today feel that the current energy system has become unreliable. Dr. Ranade explained that as systems become extremely complicated, they are able to deal with standard situations easily, but when more dramatic events take place, the system may become less reliable. These dramatic events have increased in frequency.

Dr. Ranade then read from the vision document that the federal Department of Energy produced and asked what the new power grid would look like. He stated that everyone has to have access to abundant and affordable electricity. He discussed the importance of the development of nuclear energy as an energy source, and that during the interim developmental period, the state will still be substantially invested in oil and renewables. According to Dr. Ranade, the current problem with renewable energy sources is that there are three components of the overall system that need to be taken into account: the consumer, the utility companies and the renewable energy industry. He stated that the biggest change to the energy system is the demand; the consumer is trying to use different amounts of energy, and a challenge that faces the electric industry is how to accommodate demand. One solution to the problem of demand that Dr. Ranade provided to the committee is that more wire will be needed to accommodate an increase in demand.

One innovation that Dr. Ranade brought to the attention of the committee is the Smart Grid. He stated that the Smart Grid concept refers to devices, software and processes that use extensive communication and control capability with the goal of using components in a system to their full capabilities. Smart Grid components will have inherently better response times, thus contributing to better control and protection. He continued on to state that energy storage is the biggest innovation that has the potential to change the future.

Committee questions and discussion included:

- concerns that overlapping regulation is slowing the development of energy companies that are coming to New Mexico;
- the potential for adding additional wires to existing towers;
- the issue of cyber security with relation to the implementation of a Smart Grid system; and
- pricing of various energy storage technologies.

## **Telecommunications Issues**

Leo Baca, lobbyist for CenturyLink, told the committee that his company employs nearly 625 people in New Mexico, with approximately 350 working in the Albuquerque metro area, and that in 2010, CenturyLink paid approximately \$55 million in payroll, with another \$18 million in property and other taxes. He said that over the past 10 years, Qwest/CenturyLink has invested over \$1 billion in its New Mexico infrastructure, much of it in areas also served by competitors where capital recovery is subject to market forces. He gave a complete description of CenturyLink's investments in New Mexico and its economic impacts to the state over the last few years.

He said that competition is real and growing in New Mexico and that CenturyLink faces competition from large competitors, including wireless providers such as AT&T, Verizon, Sprint and T-Mobile; cable companies such as Comcast and Cable One; voice-over-internet-protocol (VoIP) providers such as Vonage and MagicJack; wireline companies such as tw telecom, City Link and Cyber Mesa; and many others. He testified that in other states, policymakers have relaxed incumbent local exchange carriers' (such as CenturyLink) regulations in recognition of competitive forces. He said New Mexico is rather unique in its lack of regulatory relief. CenturyLink filed a petition with the Public Regulation Commission (PRC) on September 9, 2011, based on Section 63-9A-8 NMSA 1978, which requires the PRC to determine if public telecommunications services are subject to effective competition. If CenturyLink's markets are found to be effectively competitive, the PRC must determine the appropriate regulatory changes to "modify, reduce or eliminate rules, regulations and other requirements applicable to the provision of such service, pursuant to the statute". Bills have been introduced to update the statute to reflect today's competitive environment; however, CenturyLink's competitors have succeeded in stalling any legislation. CenturyLink is currently a highly regulated company in a mostly unregulated communications environment. Large, well-funded competitive local exchange carriers (CLECs) and wireless, VoIP and cable television competitors are either lightly regulated, he said, or not regulated at all by the PRC. Wireless phone numbers in New Mexico now outnumber landlines by more than two to one. The U.S. Census Bureau reports that New Mexico's population has grown from 1,819,041 in 2000 to 2,059,179 in 2010, an increase of 13.2%, at a time that CenturyLink's access lines have fallen from 883,302 to 541,955 — a decrease of 39%.

Additionally, he said that hundreds of millions of dollars in government grants and stimulus funds are supporting competition in much of CenturyLink's service area in New Mexico, and many of these deployments are nearly on top of existing CenturyLink fibers, thus using public funding to create artificial competition against private investment.

He said CenturyLink is seeking modification of existing regulation (not deregulation) of service quality of retail telecommunications services throughout New Mexico to be in parity with all CLECs in the state and recognize the power of competitive markets to produce increased innovation and investment at fair prices.

The petition filed with the PRC in 2011 requests authority to withdraw Verizon's tariffs for competitive intrastate retail communications services in New Mexico and to eliminate antiquated regulations that no longer serve a valid public purpose. On July 24, 2012, a PRC hearing examiner ruled that an "effective competition" determination was not required in order to allow Verizon to withdraw its tariffs and not be required to file individual contracts.

Mr. Baca also addressed the Federal Communication Commission's (FCC's) Universal Service Fund (USF) policies and carrier-of-last-resort obligations.

Bill Garcia, Windstream, addressed the committee about the Connect America Fund, part of the National Broadband Plan. Phase 1 allocates more than \$60 million to Windstream, but the criteria includes a \$775 per customer limit. Windstream has already deployed broadband in most of its service areas, including New Mexico, but the remaining areas for deployment are the most expensive areas, and the limit is not reasonable. Windstream is seeking a waiver from this limit and is prepared to invest \$12 million of its own in exchange for the waiver. He asked for the committee's support for this waiver request to the FCC.

Charlie Ferrell, executive director for the New Mexico Exchange Carrier Group (NMECG), explained that the NMECG is an industry association that has 11 rural telecommunications companies that provide service covering over 63% of the state's geography, or nearly 77,124 square miles, and to about 17% of New Mexico's wireline telecommunications service consumers. He said the combination of large areas served and low population density means that the average rural New Mexico telephone company serves fewer than 2.24 customers per square mile and that it is extremely costly to provide high-quality telecommunications service to customers in rural areas of the state. He went on to explain to the committee that in the 1950s and 1960s, it was clear that the only large telephone provider in the state was unwilling to spend the money needed to provide phone service in remote rural areas. Therefore, rural residents banded together and formed cooperatives and small companies, he said, to provide service to their communities and surrounding rural areas. Because of the extraordinarily high cost of service, the only way these small rural providers could keep customer rates affordable was by obtaining low-interest federal government loans and financial support from a USF, which was established by the federal government and administered by the FCC, expressly to assure that residents and businesses in the rural areas of the country had access to telephone service at affordable rates. The FCC's rules have historically provided rural telecommunications companies and cooperatives with USF support to reimburse to these companies a portion of the costs that they incur to provide service in high-cost rural areas, he said. Mandatory contributions to the USF are made by all companies that provide certain interstate communications services. Rural telecommunications companies and cooperatives have relied on the USF to build and maintain broadband-capable networks throughout the country, including New Mexico. He told the committee that the NMECG member companies have invested over \$216 million in capital investments in improving their networks and replacing facilities that are old and have reached their useful life span with new copper and fiber optic cables. Over 95% of the rural company customers can have broadband service if they want it. He said predictable and sustainable

support from the USF continues to be needed, not only to deploy broadband to the remaining unserved consumers, but also for ongoing network maintenance and upgrades. As a result of reforms to the USF announced by the FCC in 2011 and early 2012, he said, the FCC is extending the USF support funding that led to the success of the small rural telecommunications companies and cooperatives to areas served by much larger telephone companies that serve both urban and rural areas. While the NMECG believes that this goal could have been accomplished in ways that provide access to broadband service for all Americans, the FCC is instead reducing support for rural companies and redistributing those resources to companies that have not historically made comparable investments in their rural service areas. This policy is likely to make existing network investments of rural telecommunication companies and cooperatives unsustainable, he testified. The NMECG companies may be forced to raise the rates they charge their customers to unaffordable levels in order to cover costs, he said, or they may be forced to cut spending on broadband deployment and network maintenance. Therefore, he said, the rural carriers may find that they need to seek support from the New Mexico USF, which was established by the legislature to ensure that universal service at affordable rates is preserved and advanced in rural areas of the state. The burden of providing sufficient, predictable and sustainable support in rural areas may partially shift to New Mexico. The NMECG is hopeful that such assistance can be obtained with the help of the PRC with a minimum amount of regulatory expense and without unnecessary delay if it becomes necessary for rural carriers to seek assistance to ensure that affordable telecommunications services continue to be available to customers in rural high-cost areas of the state. He described HJM 9, passed during the last regular session, recognizing the reforms being implemented by the FCC and requesting the appropriate interim legislative committee to consider reduced regulation for incumbent rural telecommunications carriers. The memorial asks that the committee look at further streamlining regulation for rural carriers with the objectives of further reducing the costs and burdens of regulation, permitting pricing flexibility and expediting required rate approvals. He provided summaries of changes to several sections of law seeking to meet the objectives of the memorial and asked the committee to endorse the legislation at its last meeting during the interim.

John Badal, Sacred Wind Communications, described a case his company has been involved in before the PRC. The PRC took 20 months, incurring \$750,000 in costs to the company with over 42 boxes of data and 17 rounds of discovery, to make an adverse ruling against the company. Mr. Badal said that no small company should have to face this kind of regulatory proceeding. He gave the committee three statutory citations requiring relaxed rules for rural telephone companies, yet the PRC ruled that Sacred Wind is not an incumbent rural telecommunications carrier or a rural local exchange carrier under the Rural Telecommunications Act of New Mexico. He said that the PRC ruling is inconsistent and contradicts the intent of the law. He asked for an amendment to state law to clarify definitions of rural incumbent carriers, require disparate or relaxed procedures for rural incumbent carriers, allow parties to communicate with public regulation commissioners under specific conditions and require written and electronic disclosure.

Questions and discussion by the committee addressed:

- the decline of landline usage and its effect on capital cost per customer;
- the reduction of employees and service as a result of landline service abandonment;
- the service area of Sacred Wind;
- the status of broadband service to the Navajo Nation;
- the request of public regulation commissioners to attend the November meeting; and
- letters from the chair on deregulation, Sacred Wind issues and rural exchange carrier funding.

### **High Technology Work Force Development**

Steve McCleery and Dr. Robert Rhodes, NMJC, described the college's educational and training program to the committee.

Dr. Johann A. Van Reneen, professor and associate vice president for research initiatives at the University of New Mexico, explained the role of his university in basic or pure research, applied research, high-technology training and community-based research.

Diane Burke, dean of workforce and economic development at the Central New Mexico Community College Workforce Training Center, described the New Mexico Energy Consortium of Community Colleges that received a \$15 million grant from the federal Department of Labor.

Greg Fant, associate vice president and deputy provost at NMSU, told the committee that his university is the state's land grant institution and one of three research universities in the state. Along with 12 agricultural science centers, cooperative extension connections in all 33 counties and four community college campuses, he said that NMSU celebrates a diverse approach to education. Work force development grows out of a strong educational foundation where students learn how to thrive not only in the known opportunities of today, but also to have the ability to continue growing for the unknown opportunities of the future, he explained.

Questions and comments from the committee addressed:

- the Silicon Mesa Company;
- the use of electronic medical health records;
- customized training;
- remedial education needs;
- refresher training and continuing education;
- the percentage of foreign-born students in science, math and engineering compared to New Mexico natives;
- charter high schools for energy;
- the number of students enrolled in science and technology disciplines and graduate programs;
- the institutions' visions for research and development in New Mexico;
- national laboratory rates of hiring New Mexico graduates;
- the consortium of universities and national laboratories; and

- the efficacy of tax credits for science, technology and mathematics training.

### **Advanced Water Treatment Systems**

Ned Godshall, Altela, Inc., told the committee that Altela employs 50 people in New Mexico to treat salty water using evaporation rather than reverse osmosis. He said that the venture capital money to start Altela came from the state severance tax revenues devoted to venture equity investments provided in statute.

Edward Stock, Gator Hydro-Incineration, LLC, described his company's technology as a green alternative for the disposal of produced water on oil and gas well locations. He characterized his company's process as one that "incinerates" the production water. He said that Gator Hydro-Incineration is seeking funding to ensure that the infrastructure, inventory and manufacturing facilities are ready to meet demand.

Questions and comments by the committee addressed:

- the number of employees from New Mexico;
- how the State Investment Council directs its investments in venture capital;
- the benefits of tax credits; and
- the definition of produced water.

The chair said he would entertain a request to the committee to clarify the state's policy on produced water.

The committee recessed at 5:00 p.m.

### **Thursday, August 2**

Interested committee members met at the Bob Moran Building parking lot to be driven to the URENCO USA facility outside Eunice for a tour. They returned to the parking lot, and the committee adjourned at 1:00 p.m.

**MINUTES  
of the  
THIRD MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**September 13-14, 2012  
Mimbres Valley Special Events Center  
Deming**

The third meeting of the Science, Technology and Telecommunications Committee was called to order by Senator Timothy M. Keller, chair, at 10:20 a.m. on Thursday, September 13, 2012, in the Mimbres Valley Special Events Center in Deming.

**Present**

Sen. Timothy M. Keller, Chair  
Sen. William F. Burt (Sept. 13)  
Rep. Jim W. Hall  
Rep. Conrad D. James  
Rep. Debbie A. Rodella

**Absent**

Rep. Roberto "Bobby" J. Gonzales, Vice Chair  
Rep. Cathrynn N. Brown  
Sen. Dede Feldman  
Sen. Phil A. Griego  
Sen. Linda M. Lopez  
Sen. Steven P. Neville  
Rep. Nick L. Salazar  
Rep. James E. Smith  
Rep. Luciano "Lucky" Varela

**Advisory Members**

Sen. Carlos R. Cisneros  
Sen. Richard C. Martinez  
Rep. Jane E. Powdrell-Culbert  
Rep. Don L. Tripp

Rep. Ray Begaye  
Rep. Ben Lujan  
Sen. William H. Payne  
Rep. Danice Picraux  
Sen. John M. Sapien  
Rep. Richard D. Vigil

**Guest Legislators**

Rep. Dona G. Irwin (Sept. 13)  
Sen. John Arthur Smith (Sept. 13)

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

**Staff**

Gordon Meeks, Legislative Council Service (LCS)  
Jeret Fleetwood, LCS

**Guests**

The guest list is in the original meeting file.

## **Handouts**

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

## **Thursday, September 13**

Senator Keller began by having members of the committee and staff introduce themselves.

Representative Irwin welcomed the committee to Deming, noting that the Mimbres Valley Special Events Center was actually an old K-Mart building that had been converted using capital outlay funds.

### **Public/Private Partnerships for Technology Transfer**

Former Governor Garrey Carruthers, Arrowhead Center, New Mexico State University (NMSU), provided the committee with testimony regarding how public/private partnerships can be used to speed technology transfer from research to the marketplace. He began by offering a brief history of the Arrowhead Center, noting that it began when former NMSU President Mike Martin wanted separate research and economic development deans at the school, and that Governor Carruthers was named as economic development dean. In developing a business plan for economic development at the school, Governor Carruthers noticed a program at Rice University that used public/private partnerships to convert intellectual property into business development plans, which he adapted to the NMSU plan in the form of the Arrowhead Center.

Governor Carruthers went on to explain that the Arrowhead Center offers a number of services to help develop innovative ideas as actual products or services, including:

- research to help move ideas to the marketplace;
- start-up company launches;
- support for growth of successful companies at the NMSU research park;
- directed learning experiences for students to help expand their skill sets and prepare them for the technology innovation work force; and
- analysis of the impact of public policies on the economy.

Governor Carruthers also discussed some of the other ways the Arrowhead Center helps with technology transfer, such as offering college credit to those students who successfully obtain patents for inventions they have developed and offering classes on goals and objectives. He also discussed some of the collaborative efforts between the center and New Mexico's two national laboratories, noting that Los Alamos National Laboratory has been particularly generous with helping the center with patent applications.

Governor Carruthers went on to note that patent ideas may be taken from the Arrowhead Center to NMSU's Manufacturing Technology and Engineering Center, where they can be tested and improved. He also discussed the school's business park, which he explained is a public/private land development partnership between NMSU and industry that recruits both

private sector and government tenants. Governor Carruthers pointed out that a current tenant of the park is an early college high school, which offers college credit to high school students while simultaneously addressing the high school dropout problem in Dona Ana County. He indicated the school is about two years old and has a zero percent dropout rate.

Questions and comments from the committee included:

- in addition to the one in Las Cruces, early college high schools have been successfully implemented in Texas and North Carolina;
- tax structure and the work force are often cited as reasons businesses choose neighboring states over New Mexico;
- remodeling the tax structure should involve some tracking of whether incentives actually work and possibly moving to a grant program;
- the Arrowhead Center tends to focus more on small start-up companies than on large established companies;
- both graduate and undergraduate students from all six NMSU schools work together at the Arrowhead Center;
- venture capital funding tends to follow ideas, while the bigger problem in New Mexico seems to be at the angel investor level;
- early college high schools have no impact on school budgets and came about through a public/private partnership;
- emphasis currently seems to be on bigger high schools, but research shows that the most productive schools tend to be much smaller;
- developing a consistent conduit for technology transfer partnerships will cost additional money, but it could help speed up the technology transfer process;
- the early college high school was built with private funds and uses some new architectural concepts;
- the process for college credit at early college high schools may need to be streamlined at the major college level;
- on average, most New Mexico universities seem to have older students; and
- the legislature is willing to help encourage more public/private partnerships.

### **Electric Grid Innovations**

Mark D'Antonio, Public Service Company of New Mexico (PNM), began by noting the importance of renewable energy to PNM and its overall portfolio.

Jon Hawkins, manager of advanced technology and strategy, PNM, discussed battery storage research being conducted by PNM. He explained that solar energy is an intermittent power resource, with output changing in seconds, rather than minutes, on a cloudy day. Mr. Hawkins also pointed out that peak electricity demand hours do not coincide with peak solar output times, noting that the goal of battery storage is to be able to smooth intermittency and create a dispatchable renewable resource that successfully integrates with utility operations.

Mr. Hawkins went on to discuss tests that PNM has run on solar batteries at its test

facility near Mesa del Sol in Albuquerque. He explained that battery storage has shown promise in being able to smooth intermittency and shift loads so that power demands can be met. However, he cautioned that cost is still a major challenge for battery technology.

Drew Setter, a lobbyist for ITC Holdings, provided the committee with an overview of the company, explaining that it is the largest independently owned electricity transmission company in the country, with operations in seven states. He went on to note that the company is interested in New Mexico because it believes that the state can benefit from a more comprehensive planning process for transmission. Mr. Setter also discussed a project that ITC worked on in Kansas and Oklahoma that expanded transmission capabilities in that area, noting that Kansas' adoption of clear policies that allowed competition on a level playing field helped pave the way for the project. He recommended that prior to moving forward with further transmission development in New Mexico, the state actively participate in interregional planning through a regional transmission organization.

Varney Brandt, Xcel Energy, provided the committee with an overview of Xcel's operations, noting that it has operations in Colorado, Michigan, Minnesota, New Mexico, North Dakota, South Dakota, Texas and Wisconsin.

Steve Fogal, assistant general counsel for Xcel Energy, provided the committee with testimony regarding right-of-first-refusal legislation involving electricity transmission. He explained that the legislation would make it clear that New Mexico prefers that local utilities have the first opportunity to build transmission lines in the state. Mr. Fogal went on to explain that the legislation would help avoid any disruption to the current New Mexico regulatory oversight structure, as well as help the state maintain the quality of transmission service to customers by ensuring that local utilities have control over their own infrastructure.

Jeremy Turner, executive director of the New Mexico Renewable Energy Transmission Authority (RETA), provided the committee with a brief history and overview of the RETA, then discussed the Central New Mexico Collector System Project. He explained that the project involves construction of about 200 miles of transmission lines in New Mexico, which would allow the state to move and export electricity to other states. Mr. Turner pointed out that while the project would cost about \$350 million in initial investments, it would result in about \$3 billion in renewable energy development in the state, translating to income and jobs for the state. He acknowledged that while this was the first time the RETA has sought additional funding from the legislature, the agency will become completely self-sufficient if the project is completed.

Questions and comments from the committee included:

- that right-of-first-refusal legislation only gives utilities the chance to build transmission lines that interconnect to their generation systems;
- that PNM does have some plans to meet New Mexico's transmission needs and is trying to protect against an outside entity building transmission lines that serve out-of-state customers;

- incentives that might encourage building transmission lines and storage;
- the largest issue in building transmission lines is financing them;
- whether there is a system of incentives in place for renewable energy sources;
- that some federal American Recovery and Reinvestment Act of 2009 funds were used by PNM to build the Mesa del Sol facility;
- development of a business model for charging kiosks for electric cars in Albuquerque;
- the RETA has worked closely with New Mexico military bases on transmission project siting;
- how wind turbines are tied into electric grids;
- work between PNM and Los Alamos National Laboratory on electricity storage legislation;
- the RETA's funding request is for \$1.5 million; and
- that right-of-first-refusal legislation exists in at least three other states.

### **Geothermal Power Development**

Nicholas Goodman, chief executive officer of Cyrq Energy, Incorporated, and Chuck Smiley, lightning dock site manager for Cyrq, provided the committee with testimony regarding a geothermal power project that the company is developing in southwestern New Mexico. They began by providing the committee with an overview of geothermal power, explaining that this energy source is used in 24 countries around the world, with the United States having the largest geothermal capacity at 3,187 megawatts. Mr. Goodman and Mr. Smiley went on to note that New Mexico sits atop a world-class geothermal resource but currently produces no geothermal energy. They also discussed geothermal energy as a renewable resource capable of producing baseload capacity, which most other renewable sources cannot do. Mr. Goodman and Mr. Smiley went on to explain that the lightning dock facility, near Lordsburg, is a closed "binary" geothermal system, which features fluid with a low boiling point being pumped at high pressure through a heat exchanger, vaporizing and propelling a turbine. They also provided the committee with a time line for the lightning dock facility, noting that several wells have already been dug and should produce power by the end of 2013. Mr. Goodman and Mr. Smiley indicated that the project would generate about 700 construction jobs, 10 full-time jobs and have an economic impact of about \$11 million a year.

Questions and comments from the committee included:

- that no other utility scale geothermal projects exist in New Mexico;
- a bill passed during the 2012 legislative session that helped streamline the process for geothermal power;
- some examination of the royalties process might produce a bill for the 2013 session;
- geothermal wells are expensive to drill and involve some uncertainty as to whether they will be productive;
- once the lightning dock facility is completed, other facilities might be built elsewhere in New Mexico;
- since there is no consumptive use, geothermal power wells do not require a permit from the state engineer; and

- geothermal projects in Los Alamos and Seattle use a different system that relies on hot rocks rather than hot water.

Mark Persons, professor of hydrology for the New Mexico Institute of Mining and Technology (NMIMT), and Shari Kelley, New Mexico Bureau of Geology and Mineral Resources, provided the committee with an overview of geothermal resources in New Mexico. They explained that the state is ranked sixth nationally in geothermal resource potential and is already a leader in the geothermal greenhouse and aquiculture industries. Dr. Persons and Dr. Kelley went on to discuss several geothermal projects in New Mexico, including ones at Rincon and the Pueblo of Jemez. They also discussed the national geothermal database and concerns about geothermal sustainability.

Questions and comments from the committee included:

- a geothermal heating system at NMIMT was never installed because the funding for it was vetoed;
- installing the geothermal heating system at NMIMT would save the state about \$800,000 a year in heating costs;
- parasites in Jemez hot springs are mostly a surface phenomenon and likely will not affect the Jemez geothermal project;
- the Jemez geothermal project should not affect flows at Jemez hot springs; and
- issues related to the springs at Truth or Consequences and a moratorium the mayor there placed on additional wells.

Michelle Henry, an attorney with Cyrq, provided the committee with testimony regarding royalties and geothermal projects. She explained that there are basically three types of minerals: privately owned, state-owned and federally owned, and that there are differences between how the federal government and some state governments pay royalties. Ms. Henry went on to note that because the way royalties are calculated by the federal government and New Mexico differ, Cyrq would have to use two separate accounting methods unless New Mexico changes the way it calculates royalties to match the federal government's method.

Hugh Dangler, State Land Office (SLO), explained that the SLO had been involved in meetings regarding different types of rate structures. He noted that the federal method relies more on gross receipts while New Mexico's involves deductions and audits, indicating that since there are some advantages to the federal method, the SLO would prefer to switch to that method.

Questions and comments from the committee included:

- advantages of keeping the royalties system simple to encourage development;
- state statute does not preclude switching royalty calculation methods, but it could still be cleaned up; and
- geothermal energy is used in New Mexico for tilapia farms.

## **Health Care Technology, Medical Technology and Biotechnology Opportunities**

Dr. Richard Larson, vice chancellor for research at the University of New Mexico (UNM) Health Sciences Center, provided the committee with testimony regarding the center's research, social impact and public/private partnerships. He explained that the center has created signature programs in:

- brain and behavioral health research;
- cardiovascular and metabolic diseases;
- infectious diseases and immunity;
- environmental health sciences;
- child health research; and
- cancer.

Dr. Larson also discussed the team problem-solving approach that the center has been using lately, which involves gathering individuals from various medical and non-medical backgrounds and presenting them with a problem. He explained that engineers and laboratory scientists often have useful ways of diagnosing, approaching and solving problems that can translate to medical uses. Dr. Larson also noted the drug re-purposing work being done by the center, explaining that since the average drug costs about \$1 billion to produce, it pays to find out if it might be good for more than one use.

Finally, Dr. Larson discussed Project ECHO, which he said uses information technology resources to empower primary care clinicians in rural and underserved areas to safely and effectively manage patients with complex chronic conditions.

Questions and comments from the committee included:

- Medicaid costs that might be saved by Project ECHO;
- patented and generic drug differences;
- patents and the federal Food and Drug Administration process for drug re-purposing;
- the epidemic of prescription drug abuse;
- the biotechnology component of the new UNM president's listening tour;
- that federal money helped increase seed money for more public/private partnerships; and
- UNM does not make much money from patents, as most schools actually lose money on the process.

The committee recessed at 5:25 p.m.

## **Friday, September 14**

The committee toured the Playas Training and Research Center.

**MINUTES  
of the  
FOURTH MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**October 18-19, 2012  
Centennial Engineering Center, University of New Mexico Main Campus  
Albuquerque**

The fourth meeting of the Science, Technology and Telecommunications Committee was called to order by Senator Timothy M. Keller, chair, on October 18, 2012 at 9:10 a.m. in the Centennial Engineering Center at the University of New Mexico in Albuquerque.

**Present**

Sen. Timothy M. Keller, Chair  
Rep. Roberto "Bobby" J. Gonzales, Vice  
Chair  
Rep. Jim W. Hall (10/18)  
Rep. Conrad D. James  
Sen. Linda M. Lopez  
Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Rep. James E. Smith  
Rep. Luciano "Lucky" Varela (10/18)

**Absent**

Rep. Cathrynn N. Brown  
Sen. William F. Burt  
Sen. Dede Feldman  
Sen. Phil A. Griego  
Sen. Steven P. Neville

**Advisory Members**

Sen. Carlos R. Cisneros  
Sen. Richard C. Martinez  
Rep. Danice Picraux  
Rep. Jane E. Powdrell-Culbert

Rep. Ray Begaye  
Rep. Ben Lujan  
Sen. William H. Payne  
Sen. John M. Sapien  
Rep. Don L. Tripp  
Rep. Richard D. Vigil

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

**Staff**

Gordon Meeks, Legislative Council Service (LCS)  
Ralph Vincent, LCS  
Elizabeth Katz, LCS  
Cassandra Jones, LCS

**Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

## **Thursday, October 18**

Chaouki Abdallah, Ph.D., provost and vice president for academic affairs at the University of New Mexico (UNM), welcomed the committee to the Centennial Engineering Center at UNM. He then gave the committee an overview of the engineering program at UNM. He informed the committee on the various ways that the program is supporting student success and is providing New Mexico with a skilled work force, which Dr. Abdallah stated will ultimately aid in economic development.

## **Centers of Excellence Status**

Lisa Kuutila, president and chief executive officer (CEO) of the Science and Technology Center (STC) at UNM, introduced herself to the committee and directed the committee members' attention to a provided handout titled, "Rainforest in the Desert". She then gave an overview of the STC and all of its New Mexico-based start-up companies.

Next, Fred Mondragon, founding chair of the Governor's Science and Technology Advisory Committee (STAC), addressed the committee. He spoke about the history of the Centers of Technical Excellence (CTE), founded in the 1980s from state surplus funds with an initial appropriation of \$35 million. The CTE consisted of seven centers at three research universities, and oversight was provided by the STAC. Mr. Mondragon informed the committee that of those seven centers, two have thrived over the years, the Center for High Technology Materials (CHTM) and the Center for Energetic Technology Research (CETR).

The CHTM was created at UNM to promote economic development through research in optoelectronics, microelectronics and nanotechnology. Mr. Mondragon stated that the CHTM received initial state funding in the amount of \$9.1 million and was able to secure an additional \$178 million from outside grants and contracts. There are currently 48 professional and administrative staff members and more than 80 students employed at the CHTM, which has had 119 patents issued, 40% of which have been licensed, and 11 companies spun off through technology transfer. Mr. Mondragon informed the committee that as an arena for future growth, the CHTM has contemplated collaboration with the Centers for Integrated Nanotechnology (CINT), which is a joint venture of Los Alamos National Laboratory (LANL) and Sandia National Laboratories (SNL), and would require a \$4 million investment.

The CETR was created at New Mexico Institute of Mining and Technology to promote economic development in explosive materials and technology and subsequently merged with the Energetic Materials Research and Testing Center (EMRTC). The initial state investment was \$5 million, with a current revenue stream of \$25 million per year that is related to the CETR. Mr. Mondragon informed the committee that the CETR employs approximately 200 people a year

with an additional 50 student employees and interns. As for plans for future expansion, Mr. Mondragon stated that the CETR is considering a \$2 million investment to expand offerings in explosive research. Mr. Mondragon then made suggestions to the committee for possible future CTEs, including a center for astronomy and astrophysics, a center for astronomy and astrophysics, a center for space commercialization, a center for radioactive materials technology and a center for cybersecurity/asset management protection.

Questions and comments from the committee included:

- actions needed to retain companies that start up in New Mexico;
- the lack of State Investment Council (SIC) investment in seed companies since 2008;
- New Mexico's access to venture capital funds;
- how to ease the transition from high school to college and how to prepare students for a larger course load; and
- recommendations for the committee as far as action that can be taken.

### **Opportunities and Obstacles to Technology Transfer**

Antonio Sandoval from Technology Ventures Corporation (TVC) addressed the committee and gave background on TVC. TVC is a nonprofit 501(c)(3) corporation whose aim is to commercialize federally funded technologies. He then outlined a few obstacles that face technology transfer, namely the broad definition of technology transfer, the execution of existing laws regarding technology transfer and the culture of entrepreneurship in New Mexico. Mr. Sandoval also discussed with the committee a couple of recommendations to encourage technology transfer in New Mexico. The first recommendation is to support and enact a technology development fund as suggested by a 2009 report developed by the Economic Development Department. He stated that the New Mexico Small Business Assistance Program should be expanded and further developed and that the creation of a provisional company should be considered. Mr. Sandoval informed the committee that this provisional company status would provide formal protection to people in the exploratory process of forming a new start-up.

Tom Brennan from LabStart introduced himself to the committee and reported on the companies that LabStart has founded in New Mexico. He then provided the committee with an overview of the LabStart process, which begins at the TRL 3 stage with laboratory technology, then moves on to the TRL 4, 5 and 6 stages with the identification of technology with commercial potential, due diligence, market assessment, prototype development and, finally, investment-ready technology.

Mr. Brennan then presented the committee with obstacles facing technology transfer, which include insufficient opportunity maturation and value creation, limited peer-to-peer interactions, insufficient available capital and a lack of clear mission uptake by the parent organization. The proposed solutions to these obstacles are an effort similar to LabStart at each national lab and university, a technology maturation fund and a proof of concept (POC) fund. He then outlined the specifics of the POC and technology maturation funds.

Questions and comments from the committee included:

- clarification on the POC fund and the amount of funding being requested;
- anti-donation clauses in statute and how that would affect funding;
- the significance of TRL levels; and
- federal technology transfer programs.

### **Path to Technology Leadership**

Stuart Rose, Ph.D., founder of the BioScience Center, introduced himself to the committee and gave the committee background on the center. He stated that it is an incubator/accelerator for start-ups in the field of biotechnology. He informed the committee that the main difference between the BioScience Center and other incubators is that it is a for-profit incubator and, as such, will not be applying for grants from any government agencies. The overall concept is to provide low-cost office and laboratory space for start-ups and generate profit by helping make those companies successful, then cashing in on shares in said companies.

Dr. Rose then made a few proposals that the state could implement to help not only the BioScience Center, but every entrepreneur in New Mexico, and make New Mexico a place of innovation in the United States. His first suggestion was to implement an angel tax credit for non-New Mexico residents, and he provided the Minnesota Angel Tax Credit program as an example. He then proposed the creation of a new legal form of company entity, or a provisional corporation, that would allow start-up founders to begin to work without high liability. His last two suggestions were to invest in a start-up fund for New Mexico and to develop a better system for licensing intellectual property.

Questions and comments from the committee included:

- state requirements for start-up funds;
- further explanation of an angel tax credit for non-New Mexico residents;
- estimates of starting a new business in New Mexico;
- reimbursement of patent costs over time; and
- the relocation of New Mexico start-ups.

### **Approval of Minutes and Committee Business**

A motion was made and seconded that the committee approve the minutes from the first, second and third meetings.

### **Energy Storage**

Albert Migliori, Ph.D., LANL, and Representative Hall addressed the committee on the topic of possible energy storage legislation for New Mexico. Dr. Migliori stated that without energy storage, the renewable generation industry will reach market saturation at around 25%. He then explained the function of a utility grid electrical energy storage system (UGEESS) to the committee. A UGEESS stores excess electrical energy from the utility grid until needed and can deliver its stored energy to the utility grid on command. He informed the committee that there is an inevitable loss in storing renewable electrical energy and that the goal is to mitigate those

losses and to increase the ceiling on renewable energy generation by providing renewable energy certificates (RECs) to qualified energy storage systems. Dr. Migliori stated that this would permit a UGEESS to count toward compliance with the renewable portfolio standard (RPS) on the same footing as solar and wind generation. He then presented the committee with possible legislative proposals and how this new legislation would benefit the utility grid as a whole as well as New Mexico.

Representative Hall pointed out that there is no proposal for tax credits but only a proposal for the expansion of RECs. He stated that New Mexico has always encouraged renewable energy expansion, and two large components of that expansion are energy storage and the smart grid. If the legislature can provide incentives, New Mexico may see a future where PNM will build energy storage facilities that will enable the use of generated renewable energy.

Questions and comments from the committee included:

- the applicability of energy storage to individual homes;
- the technical improvements in battery and other storage technologies;
- participation in energy storage by rural electric co-ops;
- the location of storage facilities;
- time of use pricing;
- the encouragement of utilities to meet RPSs; and
- the position of the New Mexico Renewable Energy Transmission Authority (RETA).

### **Cluster Industries**

Gary Goodman, CEO of Goodman Realty Group, introduced himself to the committee and stated that there is great potential in New Mexico to develop nanotechnology, the type of industry that can be seen in Albany, New York, in Silicon Valley in California and in the research triangle park of North Carolina. He attested that New Mexico has yet to capitalize on that opportunity. He pointed out that states surrounding New Mexico have been experiencing a job growth rate that is almost double New Mexico's. Mr. Goodman stated that one of the main reasons that New Mexico has been unable to capitalize on its potential is that it is a "state of separation". From his experience, the business community does not work with the political community or the scientific community, and LANL and SNL operate independently of the state. He also reported that this separation is beginning to subside.

Mr. Goodman informed the committee that what he believed New Mexico is in need of is a big idea to rally around. Again, he pointed to the ideas of Albany, New York, and Silicon Valley and suggested that New Mexico's big idea should be resource management. He stated that there is a great need for resource management, that it is a growth industry and that New Mexico is already a leader. He then spoke about cluster industries and stated that after one cluster has formed, related industries gather at the same location and form cultures that feed off of each other.

Questions and comments from the committee included:

- how New Mexico would go about encouraging cluster industries, whether through tax credits or incentives; and
- whether government should focus on providing infrastructure rather than tax credits.

### **International Comparison**

Susan Keith, New Mexico-Israel Business Exchange (NMIBE), introduced herself to the committee and provided some background on her organization. She outlined the mission of NMIBE as raising awareness about Israel's innovative entrepreneurial activities within the state, creating a network of individuals and organizations interested in pursuing opportunities with Israeli businesses and organizations, encouraging collaborative relationships between New Mexico and Israel and improving infrastructure support for successful ventures. She outlined the factors that have contributed to Israel's success as well as some Israeli technologies that would be of particular interest to New Mexico. Finally, she summarized how the NMIBE supports collaboration between New Mexico and Israeli technology developers.

Lawrence Chavez, CEO, Lotus Leaf Coatings, presented the committee with a handout that made a comparison between Israel and New Mexico in the areas of innovation; global activity and exports; entrepreneurial activity and human capital; and access to capital. He then made a few recommendations to the committee. He suggested that New Mexico increase its entrepreneurial education and create an entrepreneurial environment. He also proposed that New Mexico facilitate technology commercialization and access to capital.

Next, David Abell, chief operating officer of TriLumina, addressed the committee and gave an overview of TriLumina's laser technology. He informed the committee that TriLumina's facilities are located at the STC at UNM, which has provided great building facilities at a price that could not be found elsewhere. With the help of the STC, TriLumina has been able to form the Manufacturing, Training and Technology Center, which has enabled it to grow and expand. He highly encouraged support of the STC and all it does for the scientific community. Mr. Abell concluded his presentation by informing the committee that a continued struggle for companies in New Mexico is to gain access to capital.

Questions and comments from the committee included:

- cooperation of the state in trade missions and conferences;
- specific advice from Israel;
- state investment rules; and
- Israel's resource management.

### **Connecting Technology and Economic Development**

Dale Dekker introduced himself to the committee and stated that, as an architect and planner, he is seeing water become not only a national but an international issue in development, and he is placing before the committee a big idea, the Rio Grande Watershed Collaborative. He gave the committee statistics regarding water scarcity and outlined the challenges that businesses

will face in the growing water shortage. He then reviewed regional New Mexico water issues and the opportunity surrounding those issues, namely a global research and development initiative focused on water, utilizing the Rio Grande watershed as a full-scale test bed for planning, research and new technologies. Mr. Dekker then outlined three factors that give New Mexico such a unique position in the water issue, the presence of the Rio Grande watershed, the location of the national laboratories and the proximity of a number of research and development universities. Finally, he addressed the preliminary efforts needed to undertake the formation of the collaborative.

Questions and comments from the committee included:

- a discussion of SNL's role in water transfer and ground water storage;
- New Mexico's history of coping with drought; and
- water technology-based economic development.

The meeting recessed at 4:00 p.m.

### **Friday, October 19**

Senator Keller reconvened the meeting at 9:10 a.m. and introduced Robert G. Frank, Ph.D., president of UNM.

### **UNM Economic Summit**

Dr. Frank welcomed committee members to UNM and gave the committee an overview of his own personal background and goals for UNM. He stated that he would like UNM to be recognized as one of the great public research universities, and, to that end, UNM hosted an economic summit on September 21, 2012. For the summit, UNM brought in Victor Hwang and featured a recent publication of his, titled "The Rainforest: The Secret to Building the Next Silicon Valley". Dr. Frank outlined some of the most salient points of the rainforest model for the committee. He then reviewed some of the outcomes of the summit, which are to strengthen public-private relationships and communication between the community and the university, to realize a need for mentoring in the areas of entrepreneurship and start-ups and to partner with SNL to create new models for collaboration.

Dr. Frank then reviewed UNM's 120 Days of Listening Campaign, which ended on October 15, 2012. During the campaign, UNM was able to hear from internal stakeholders, the UNM faculty, staff and students. He outlined some of the themes of the campaign and UNM's plans for after the listening campaign. He stated that the UNM 2020 plan will roll out after November. The 2020 plan will capitalize on the richness of UNM and New Mexico to position UNM for the future; ask for the support of the legislature, the state and partnerships in driving economic development in New Mexico; and ask for support for the endowment bill and creation of department chairs during the 2013 legislative session.

Questions and comments from the committee included:

- specific legislative proposals;
- the need to match private donors for the faculty endowment fund;
- a comparison of New Mexico and North Carolina tax structures and the tax structures of their bordering states; and
- providing support for the development of entrepreneurial skills in students.

### **New Mexico Technology Council**

Eric Renz-Whitmore from the New Mexico Technology Council presented to the committee what the council believes New Mexico needs to do in order to become competitive in the technology industries. He defined the problem as being increased competition for scarce resources, and he outlined the major areas of importance in economic development as the costs of doing business, available work force, access to capital, a professional business community and the quality of life that New Mexico has to offer. He then highlighted two areas that need immediate attention: access to capital, which Mr. Renz-Whitmore stated should have a portfolio approach; and encouraging a more active tech business community in New Mexico through collaboration and partnership between different communities — political, scientific, business and educational.

Questions and comments from the committee included:

- the quality of services from the state, specifically the business assistance program;
- a possible partnership between the labs and entrepreneurs; and
- specific regulations that are inhibitory to economic development.

### **Power from the Sun**

David Blivin, founder of the Cottonwood Technology Fund, addressed the committee and stated that New Mexico's greatest job creation opportunity lies in technology commercialization. He reviewed New Mexico's assets with regard to technology innovation and commercialization potential but stated that the majority of New Mexico's generated intellectual property is licensed out of state. He then outlined who is involved in tech commercialization and gave the committee a few examples of what other states are doing to encourage commercialization. According to Mr. Blivin, New Mexico needs to focus on creating a better environment for the maturation of ideas, gaining access to capital and producing a sound work force in order to encourage tech commercialization.

In order to support greater idea creation and development, Mr. Blivin suggested that New Mexico approve increased funding to the universities for endowed chairs to attract more research dollars; make tech maturation funding available; and approve loans from the Severance Tax Permanent Fund (STPF), to be converted to equity or repaid should the company choose to leave the state. Recommendations regarding an increase in resident capital and resources at the seed and Series A stages include an increase in Small Business Investment Corporation (SBIC) funding from 1% to 2% of STPF; placing all economically targeted investments (ETIs) under separate governance from the SIC and acknowledging the multiple returns of ETI funds beyond a

strict financial return criteria; implementing an angel tax credit extension; and increasing the SIC allocation from 9% to 10% for the Fund of Funds program.

Questions and comments from the committee included:

- where ETIs would be placed if not with the SIC;
- how venture capital dollars flow in New Mexico;
- the approximate dollar amount it takes to successfully start a company;
- the relationship between public and private investors; and
- seed stage funding received from out-of-state investors.

### **Sustainable Albuquerque**

Art Gardenschwartz from Sustainableabq.com introduced himself and made a presentation on sustainability specifically as it relates to solar energy. He stated that as New Mexico is able to attract companies and jobs, energy demand will increase and the need to create that energy in a sustainable manner will rise. Mr. Gardenschwartz then pointed out that Section 7-9-114 NMSA 1978 gives a tax exemption to solar installations that are over 1,000 kilowatts. He suggested that that exemption include solar installations that are smaller in size as well, in order to encourage sustainable energy growth in New Mexico.

Allan Oliver, CEO of the New Mexico Green Chamber of Commerce (NMGCC), gave an overview of the NMGCC. He stated that New Mexico's renewable energy potential is very high, ranking second in the nation in solar potential, seventh in geothermal power potential and eleventh in wind energy potential. He made five proposals to the committee, the first involving the creation of a model code for solar installations so that there is a uniform code from county to county. His second proposal was to decouple utility profit from energy sales. He also suggested investing in renewable energy storage, facilitating biofuel innovation and granting lower interest rates for energy-efficient and renewable-energy projects. Finally, Mr. Oliver advocated for a homebuyers tax credit, which is a jobs and revenue producing plan that marries the homebuyer refundable state tax credit with building energy reduction targets in order to dramatically increase private spending, stimulate new building construction and expand the local tax base. The tax credit will be available for three years for purchasing newly constructed energy-efficient homes and for purchasing and then renovating existing homes to high-efficiency standards.

Questions and comments from the committee included:

- whether local variations in solar ordinances are unique to New Mexico;
- ranking of the state in "green capital";
- further discussion of the \$15 million in tax credits for homebuyers in newly constructed energy-efficient homes and upgraded homes; and
- inhibitory regulations surrounding biofuel innovation.

### **Technology Enterprise Funding**

David Buchholtz and Perry Bendicksen from Brownstein Hyatt Farber Schreck, LLP, made a presentation to the committee on technology enterprise funding. They reviewed who

specifically invests in tech enterprises and at what stage. They also discussed where venture capital funds are typically found and where they usually are invested. They then gave an overview of New Mexico investors, including the SIC, which invests in venture capital funds that will remain in the state; the Public Employees Retirement Association, which has invested in five venture capital funds, none of which is located in New Mexico; the Educational Retirement Board, where funds must be \$50 million in size before investment and, as such, none is located in New Mexico; and the UNM Foundation, which no longer makes investments in venture capital. Mr. Bendicksen then reported on the track record of the state investment fund program, which outperformed the national program but has not been investing in local venture capital since 2009. Currently in New Mexico, there are only three venture capital funds that are making new investments, primarily only in later stage investment rounds. The outlook, if this current trends continues, is that there will likely be no meaningful funding available for New Mexico technology companies in two to three years.

Questions and comments from the committee included:

- returns on investments that have been made;
- the SIC's position or intent with differential investment funds;
- the conservative philosophy behind the lack of new investments;
- further discussion of the proof of concept fund and the out-of-state angel investment tax credit; and
- action to homogenize county regulations across New Mexico.

### **Kirtland Jet Fuel Remediation Technologies and Timetables**

Bruce Thomson, Ph.D., director of the Water Resources Program and professor of civil engineering at UNM, made a presentation to the committee on his own involvement and personal interest in the Kirtland Air Force Base (KAFB) fuel plume. He informed the committee of his observations regarding the fuel plume and what KAFB has done thus far to mitigate the problem. While he did state that KAFB was slow to act, he also outlined seven factors that reduced the immediacy of the threat. Finally, he made suggestions to the committee regarding regulatory, management and institutional gaps.

Colonel Jeffrey Lanning from KAFB stated that the U.S. Air Force has a sincere concern in ensuring that there is proper characterization and remediation of the fuel plume. He then introduced Tom Cooper from Shaw Environmental, the company performing the remediation. Mr. Cooper first described the regulatory framework to the committee and stated that the Department of Environment (NMED) issued a permit that outlines very specific steps that must be taken in the remediation process: characterization, evaluation and a final remedy. KAFB is currently in the evaluation stage, with some initial steps being taken toward remediation. Mr. Cooper then reviewed the various technologies in use at KAFB and stated that soil vapor extraction has been in use the longest and will most likely be a part of the final remedy.

Jim Davis, Ph.D., director, Resource Protection Division, NMED, gave an overview of the department's regulatory authority that is being imposed through permit with regard to the

KAFB fuel spill. He then outlined the water quality regulations, requirements and standards. He reviewed the KAFB bulk fuels facility history and stated that fuel was identified in the subsurface in 1999. The current primary focus of the bulk fuels facility spill is the installation and operation of new soil vapor extraction units at two wells and the characterization of the northern extent and the northern core of the ethylene dibromide plume in the ground water. Finally, Dr. Davis addressed the current status of the spill and what can be expected looking ahead.

Rick Shean, Albuquerque-Bernalillo County Water Utility Authority, introduced himself to the committee and stated that the top priority for the authority is to maintain a safe and sustainable water supply. Mr. Shean informed the committee that the authority is acutely aware of the KAFB situation and has been monitoring drinking water production in the area of the spill. The authority is currently working on emergency measures to keep drinking water safe and replace any water that has been contaminated. The authority requires that KAFB bring the aquifer back to the standards that were enforced before the spill.

Questions and comments from the committee included:

- the frequency of public hearings;
- the presence of illnesses related to the spill and the fact that none has been reported to date;
- the role of the federal Environmental Protection Agency in remediation;
- further discussion of the nine new wells that are being put into place in order to determine the northeast boundary of the fuel plume;
- expected final completion date of the remediation;
- various factors that could possibly affect sampling from the wells that have been put into place;
- the effect that the fuel spill has had on property values in the affected areas; and
- the fact that no contaminants have been detected in the drinking water to date.

The committee provided members of the public an opportunity to comment on the KAFB jet fuel spill.

Charlie Bennet introduced himself to the committee, informed the committee that he lives in the affected area and stated that there is need for an oversight body to be established by the state for the duration of the cleanup. Next, Dave McCoy addressed the committee and provided the members with a citizen action statement that outlined areas in which KAFB has been negligent and proposed action that he believes needs to be taken. Jim McKay came before the committee and stressed the need for quicker action by KAFB in the remediation of the spill. Finally, Dan McGregor from the Bernalillo County Water Resources Program addressed the committee and stated that there is no expected decline in property value and that there is funding available for emergency water treatment should the drinking water become contaminated.

### **Adjournment**

There being no further business, the fourth meeting of the Science, Technology and Telecommunications Committee for the 2012 interim adjourned at 5:30 p.m.

**MINUTES  
of the  
FIFTH MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**November 8-9, 2012  
Room 307, State Capitol**

**D** The fifth meeting of the Science, Technology and Telecommunications Committee was called to order by Senator Timothy M. Keller, chair, on November 8, 2012 at 9:30 a.m. in Room 307 of the State Capitol in Santa Fe, New Mexico.

**Present**

Sen. Timothy M. Keller, Chair (11/8)  
Rep. Roberto "Bobby" J. Gonzales, Vice  
Chair  
Rep. Cathrynn N. Brown (11/9)  
Rep. Conrad D. James  
Sen. Linda M. Lopez  
Sen. Steven P. Neville  
Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Rep. Luciano "Lucky" Varela

**Absent**

Sen. William F. Burt  
Sen. Dede Feldman  
Sen. Phil A. Griego  
Rep. Jim W. Hall  
Rep. James E. Smith

**Advisory Members**

**A**  
Rep. Ray Begaye (11/9)  
Sen. Carlos R. Cisneros  
Sen. Richard C. Martinez (11/9)  
Rep. Jane Powdrell-Culbert  
Rep. Richard D. Vigil (11/8)

Rep. Ben Lujan  
Sen. William H. Payne  
Rep. Danice Picraux  
Sen. John M. Sapien  
Rep. Don L. Tripp

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

**Staff**

**F**  
Gordon Meeks, Legislative Council Service (LCS)  
Ralph Vincent, LCS  
Elizabeth Katz, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

**T**  
Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

**Thursday, November 8**

### **Compressed Natural Gas**

Jason Sandel, executive vice president, Aztec Well family of companies, introduced himself to the committee. He provided the committee with his own personal background as well as background on Aztec Well Servicing. He gave an overview of the company's position before 2008, which included 13 drilling rigs, 33 well servicing units, 88 fluid and equipment hauling trucks, 100% utilization of the drilling rigs for 10 years, 400% company growth and 100% located in the San Juan Basin. After the 2008 economic crisis, Aztec Well Services experienced an immediate shutdown of 75% of its equipment in San Juan and 750 jobs dwindled to 225. Mr. Sandel informed the committee that the low commodity price of natural gas is causing both the community and the employees to suffer and that a New Mexico natural gas vehicle coalition has been formed to advance natural gas infrastructure and vehicle growth in New Mexico. He then spoke about the positive economic and local impact of natural gas in New Mexico.

Mr. Sandel informed the committee that the largest problem facing the natural gas industry today is a lack of demand, which has roots in many identifiable causes, including historical instability, lack of infrastructure, public fear campaigns and powerful lobbies. He stated that compressed natural gas (CNG) has become a much more viable fuel option as it consistently has the lowest retail price. He also stated that the U.S. market has responded to these lower prices with a 32% increase in CNG fueling stations since 2009 and an additional 95 stations planned. He provided the committee with a list of who is converting to natural gas in New Mexico, as well as a list of current natural gas vehicle legislation in New Mexico. He then outlined the natural gas vehicle memorandum of understanding, which is joining states together to use natural gas vehicles in state fleets, and gave the committee his own recommendations to help further the natural gas industry in New Mexico.

Questions and comments from committee members included:

- the current price per gallon of natural gas;
- the viability, demand and storage of liquified natural gas;
- possible opportunities for natural gas in the conversion of the schools' buses;
- the initial cost investment in a natural gas vehicle as compared to the long-term benefit of cheaper fuel;
- New Mexico Gas Company's inability to provide adequate pipeline pressure in the San Juan Basin; and
- whether or not the New Mexico natural gas industry would be coming forward with any specific legislation in the 2013 session.

### **Santa Fe Microgrid Systems Lab**

Randy Grissom, dean of economic and workforce development, Santa Fe Community College (SFCC), and David Breecker, president, Santa Fe Innovation Park (SFIP), addressed the committee. Mr. Breecker provided the committee with background on microgrids. He stated that microgrids are modern, small-scale versions of the centralized electricity system. They achieve specific local goals, such as reliability, carbon emission reduction, diversification of energy sources and cost reduction. Like the bulk power grid, microgrids generate, distribute and regulate the flow of electricity to consumers, but they do so locally.

Mr. Grissom gave background on the Santa Fe Microgrid Systems Laboratory (MSL), which is a new initiative with a mission to accelerate the commercial deployment of microgrid systems worldwide. He stated that the key elements of the lab are: the Microgrid Innovation Consortium, developed and operated by the SFIP for applied research and development, cross-sector collaboration, human factors and simulation and modeling; the Global Microgrid Center, a comprehensive testing and certification facility for performance and interoperability standards at the system and subsystem module levels; and a Workforce Training and Professional Development Program, operated by SFCC to meet future human resource needs. He provided the committee with a status and funding update for the MSL. He told the committee that initial funding has come from the college and that it will need help from the state in the second round of funding. He then directed the committee's attention to a proposed piece of legislation, asking for a \$1 million appropriation to SFCC to aid in the development of the laboratory.

Questions and comments from committee members included:

- whether or not energy storage will be a component of the microgrid;
- what other states are doing with respect to microgrids; and
- how the Mesa del Sol project compares with the proposed MSL.

### **Public Regulation Commission Action on Telecommunications**

Patrick Lyons, chair, Public Regulation Commission (PRC), and Theresa Becenti-Aguilar, vice chair, PRC, introduced themselves to the committee. They discussed some of the issues with Sacred Wind Communications and addressed a couple of the committee's concerns regarding proposed changes to the Rural Telecommunications Act of New Mexico. Mr. Lyons stated that the PRC's goal is to maintain balance to ensure that public interest is protected. He also addressed the utility and carrier inspection fee, which, he stated, would make the fee applicable to all telecommunications carriers, effectively leveling the playing field.

Jason Marks, commissioner, PRC, and Douglas Howe, commissioner, PRC, informed the committee that they are available to answer any questions regarding their report on House Memorial 63. Mr. Marks agreed that rural New Mexico is in need of further telecommunications development, but he pointed out that the Rio Grande corridor is also a hot spot for telecommunications development. He also discussed the growing competition between cellular phones and landlines in the residential market but stated that as of yet there is no competition between the two where businesses are concerned. He expressed the need to look at what is currently in place and regulate or deregulate, as necessary, while still protecting the users.

A motion was made and seconded to endorse the proposed legislation, titled "Telecommunications; Incumbent Carriers". The committee then discussed the next proposed piece of legislation, titled "Telecommunications; Utility Carrier Inspection Fee". A motion was made and seconded to endorse that proposed piece of legislation.

Questions and comments from committee members included the PRC's perspective on the passing of constitutional amendments.

### **State Investment in Economic Development**

Vince Smith, deputy state investment officer, State Investment Council (SIC), made a presentation to the committee. He directed committee members' attention to a handout that detailed third-quarter results for SIC funds. He then informed the committee that he would be speaking about the New Mexico Private Equity Investment Program (NMPEIP). He gave the committee background on the NMPEIP and made a comparison between the early investment approach and the current approach. In the early years, NMPEIP was seen as a catalyst to help build a venture community in New Mexico. The focus was not on returns but on stimulating the New Mexico economy, and the returns prior to 2004 were poor. Currently, the program is being operated under the Uniform Prudent Investor Act, and investment returns have improved significantly. He stated that the SIC is now looking at how to handle the program in the future. The council has advised Sun Mountain Capital to bring new fund investments for consideration. He also stated that the NMPEIP is still deploying funds to New Mexico companies primarily through the New Mexico Co-Investment Fund. This fund has been operated by Sun Mountain Capital since 2006 and has had slightly positive returns since 2006, with -3% returns overall.

Brian Birk, managing partner, Sun Mountain Capital, addressed the committee and provided an update on the NMPEIP. He informed the committee that over \$350 million has been committed to 28 different venture capital funds that support New Mexico-based companies and that, since inception, these funds have been directly or indirectly invested in 62 different companies based in New Mexico. He stated that the NMPEIP is widely regarded as one of the top programs in the country and a leader in introducing best practices that are now used across the industry. He then discussed the reasons the program has made no new investments since 2008. He stated that the lack of new investments can be primarily attributed to the 2008 market crash but that improving financial performance and strong distributions have replenished the NMPEIP so that it is now in a position to make new commitments. Mr. Birk stated that the SIC has directed Sun Mountain Capital to begin reviewing funds for possible investment and that it is actively looking for good investments for the program. He then outlined the investments made in New Mexico companies from the NMPEIP from 2009 to 2012 and laid out investment amounts by sector. He highlighted the fact that the majority of investment funds go to technology-related companies. Finally, he summarized future steps for the NMPEIP.

Questions and comments from committee members included:

- job creation over time with small startups;
- intellectual property generation by companies that have received investments;
- the consolidation of small startups with larger companies;
- the intent of venture capital to focus on technology enterprises;
- expectation of returns on investments;
- how to balance the prudent investment mandate with the purpose to further economic development; and
- whether any legislative action is being requested.

### **Approval of Minutes**

Upon a motion made and seconded, the minutes of the October meeting were approved.

### **Legislative Proposals**

After some discussion, the committee endorsed the following proposed legislation:

- right of first refusal for transmission lines;
- student brain drain;
- tenure for commercialization and community service;
- gross receipts deductions for technology transfer;
- gross receipts tax credit for donations to endowment funds;
- endowment investments for technology transfer;
- State Land Office royalties;
- hydrogen tax incentives;
- solar tax credits for less than one megawatt; and
- appropriation for microgrid work force training.

D

The meeting recessed at 4:00 p.m.

## **Friday, November 9**

### **Electricity Transmission Capacity**

Former Governor Toney Anaya addressed the committee on a topic that, he stated, is very important for New Mexico in terms of economic development and further development of renewable energy sources. The Tres Amigas project, he informed the committee, is a \$1.5 billion project in Clovis that is looking to set up headquarters in Albuquerque. The purpose of the Tres Amigas project is to link together the three electric grids in the U.S. Currently, New Mexico is only capable of selling electricity to the western U.S.; the Tres Amigas project would enable New Mexico to sell energy throughout the U.S. and into Canada. Governor Anaya stated that a lack of available transmission lines is a major problem in New Mexico and has caused many wind and solar developments to be put on hold. He highlighted some of the issues with interstate transmission and made some suggestions on how to improve transmission in New Mexico. He then recommended that a memorial be generated to direct the New Mexico Legislative Council to form an interim committee or subcommittee to deal with this issue in the 2014 session.

Questions and comments from committee members included:

- New Mexico's potential for exporting power out of state;
- the role of the New Mexico Renewable Energy Transmission Authority in the transmission issue;
- a balanced energy market;
- the difficulties associated with building transmission lines; and
- potential electricity sales to Mexico.

### **Information Technology Commission and Project Certification Process Status**

Darryl Ackley, secretary, Department of Information Technology (DoIT), provided the committee with an overview of the information technology life cycle and the project oversight process. He then directed the committee's attention to the quarterly report and FY14 requests, which were provided as handouts. He discussed the Enterprise Project Portfolio and the functions that it performs and gave a detailed overview of the project certification process and how it works. He then provided the committee with an operations update in which he discussed the need for mainframe stabilization and the replacement of the z9 mainframe with a z114 mainframe, disaster recovery, public safety radio communications, core phone servicing

upgrades, the Tivoli Usage Account Manager billing system and service development and gave a supercomputer update. For the SHARE update portion of the presentation, Mr. Ackley introduced David Holmes, SHARE systems manager.

Mr. Holmes informed the committee that SHARE is the organization that delivers a core set of centralized enterprise business capabilities to the state, its agencies and other customers. He stated that SHARE has not yet reached its full potential to deliver valuable capabilities that agencies want and need and that SHARE should improve and extend its capabilities to better serve agencies. He gave an overview of current SHARE projects and special projects. He then discussed SHARE staffing levels and stated that turnover and new positions have resulted in seven positions, to be filled immediately. He compared SHARE with similar programs in seven other states, pointing out the discrepancy between the number of citizens supported by SHARE in New Mexico and SHARE's staff size as compared with other similarly sized organizations. He stated that while SHARE does have technical and infrastructure support, it is in need of functional support that would provide business process support, application configuration and troubleshooting and a design for new functionality that would test new system features and functions and that would train users.

Questions and comments from committee members included:

- the makeup of the Information Technology Commission and the status of appointments;
- the need for an external review of the SHARE system;
- how to disseminate information to rural communities and the need for training;
- a discussion of E911 centers;
- identified dead zones for communication; and
- the Native American community's emergency preparedness.

### **Smart Grid Research**

Dennis Morrison, Ph.D., New Mexico Institute of Mining and Technology (NMIMT), introduced himself to the committee and stated that he would be making a presentation on grid reliability and renewable energy. Research on these two topics was primarily funded by the U.S. Department of Energy with some funds coming from the New Mexico Hydrogen Initiative, internal NMIMT funds and private sector participation. He outlined the areas of interest in the research being done and informed the committee that he would focus on microgrid reliability, instrumentation and testing during the presentation. He discussed the energy research at Playas, New Mexico, and outlined the project goals. The Playas Training and Research Center is a 640-acre town site that is owned by NMIMT. In this town site, there are 259 single-family homes, 25 apartment units, a community center, a daycare center, an RV park, a fire station, a fully equipped medical clinic, an airstrip, wide streets and street lights, three water wells, a wastewater treatment plant and a gigabit fiber optic network installed at every building. He provided the committee with specifics regarding grid connection and the types of renewable energy generated and used at the Playas site. Finally, he addressed the conclusions generated from the research performed at Playas.

### **National Laboratories Staffing Demographics and Budget Status**

Bonnie Apodaca, vice president of business operations and chief financial officer, Sandia National Laboratories, began her presentation with a brief history of the lab and stated that Sandia's primary mission areas are nuclear weapons, nonproliferation and international security, pathfinding research for broader national security and energy research. She presented the committee with a breakdown of the operational funding for the lab and the FY13 budget. Ms. Apodaca reviewed Sandia's work force, stating that the lab has 9,238 regular employees and a gross payroll of \$981 million. She also discussed Sandia's diversity strategy in staffing and its community outreach. She gave an overview of the lab's scholarship and tuition assistance programs and stated that the Masters Fellowship Program is specifically designed for minority participation and advancement. She also informed the committee that Sandia had a substantial economic impact on New Mexico in FY 2012, with a total of \$400 million in contract-related payments, \$250 million in small business payments, \$146 million in payments outside of small businesses and \$11 million in procurement card purchases.

Rich Martinez, executive director, Los Alamos National Laboratory (LANL), introduced himself to the committee. He addressed the difficult fiscal year and the impact that it has had on the lab. He stated that LANL finished 2012 with \$383 million less funding than in 2011, and with 1,295 fewer employees. He informed the committee that attrition was spread across the lab, with 557 leaving in the Voluntary Separation Program, and he attributed the remaining job loss to contractor cuts, normal attrition and slightly fewer students. He also informed the committee that vendor contracts are down \$200 million from FY11. He reviewed the FY13 estimated budget and stated that efforts to control costs have been successful. He then provided the committee with LANL's work force statistics regarding ethnicity and gender and stated that the work force at LANL is significantly populated by New Mexico-educated graduates and native New Mexicans. Of the 6,507 employees with degrees at the lab, 2,907 received at least one of their degrees from a New Mexico college or university. He gave an overview of LANL's student and post-doc pipeline and demographics and concluded his presentation by stating that the Los Alamos National Security Board has approved Community Commitment Plan 2.0, which includes more than \$3 million per year in spending for education, economic development and charitable giving.

Questions and comments from committee members included:

- efforts that have been made in technology transfer;
- the percentage of Hispanic individuals in professional positions at the labs and efforts being made by the labs to get minorities into the science and engineering fields;
- limited-term positions at LANL;
- the lack of promotion from within LANL;
- security issues;
- whether there is any specific job category at LANL that was significantly affected by the Voluntary Separation Program; and
- the labs' recruitment methods.

### **Eldorado Biofuels**

Paul Laur, chief executive officer (CEO), Eldorado Biofuels, made a presentation to the committee on growing algae in treated produced water. He stated that Eldorado Biofuels is an algae production company, located in Santa Fe, that produces algae biomass, feedstock oil

(lipids) for processing into biofuel, lipid extracted algae and biogas. He reviewed the products that can be generated from algae and from Eldorado Biofuel's current products. He then provided the committee with a list of the company's strategic partners within the National Alliance for Advanced Biofuels and Bioproducts. He stated that Eldorado's unique niche is in using produced water to cultivate algae, or Jalgae, as he referred to it, that can be sold for biofuels. He then outlined the current method for disposal of produced water and how Jalgae will offer petroleum companies a new, inexpensive way to dispose of it. He informed the committee that infrastructure costs for algae cultivation are significant and that these costs, coupled with low-cost fossil fuel alternatives, are a major barrier to commercialization. He then made a few recommendations to the committee on what will be required of the legislature in order to expand the presence of biofuel companies in New Mexico.

### **New Mexico Business Incubator Group**

Marie Longserre, president and CEO, New Mexico Business Incubator, addressed the committee and introduced Tim Nisly, operations manager from the South Valley Economic Development Center. She gave the committee background on the incubator program and talked about the number of companies founded and jobs created through the program. She reviewed the funding that has been received, to date, and the economic impact that the program has had on New Mexico. She then presented the committee with proposed legislation for a \$200,000 appropriation to the Economic Development Department for certified business incubators statewide. The committee endorsed the legislation.

### **Adjournment**

There being no further business before the committee, the fifth meeting of the Science, Technology and Telecommunications Committee for the 2012 interim adjourned at 4:30 p.m.

# **Endorsed Legislation**

underscoring material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE ECONOMIC DEVELOPMENT DEPARTMENT  
FOR CERTIFIED BUSINESS INCUBATORS STATEWIDE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--Two hundred thousand dollars  
(\$200,000) is appropriated from the general fund to the  
economic development department for expenditure in fiscal year  
2014 to support certified business incubators statewide. Any  
unexpended or unencumbered balance remaining at the end of  
fiscal year 2014 shall revert to the general fund.

.190548.2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING A SECTION OF CHAPTER 21,  
ARTICLE 1 NMSA 1978 TO PROVIDE FOR EQUITY INVESTMENTS OF  
EDUCATIONAL INSTITUTIONS' ENDOWMENT FUNDS FOR ECONOMIC  
DEVELOPMENT IN NEW MEXICO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 21-1-38 NMSA 1978 (being Laws 1991,  
Chapter 69, Section 1, as amended) is amended to read:

"21-1-38. [~~DEFINITION~~] DEFINITIONS--REQUIREMENTS FOR  
ADOPTION OF INVESTMENT POLICY FOR INVESTING ENDOWMENT FUNDS.--

A. As used in this section:

(1) "endowment funds" means funds:

(a) acquired by gift by an educational  
institution with respect to which the donors or other outside  
agencies have stipulated as a condition of the gift, and the

underscoring material = new  
~~[bracketed material]~~ = delete

underscored material = new  
~~[bracketed material] = delete~~

1 stipulation is expressed specifically in the gift instrument,  
2 that the principal is to be maintained and invested for the  
3 purpose of producing current and future income that may either  
4 be added to the principal or expended, and the maintenance of  
5 the principal may be either: 1) held in perpetuity; or 2)  
6 expended after the passage of a stated period of time or upon  
7 the happening of a specified event; and

8 (b) notwithstanding the source of  
9 acquisition, that the governing board of the educational  
10 institution has determined and has designated by a written  
11 instrument, either revocable or irrevocable, to be retained for  
12 long-term investment; and

13 (2) "educational institution" means an  
14 educational institution designated in Article 12, Section 11 of  
15 the constitution of New Mexico and any post-secondary  
16 educational institution, which term includes an academic,  
17 vocational, technical, business, professional or other school,  
18 college or university or other organization or person offering  
19 or purporting to offer courses, instruction, training or  
20 education through correspondence or in person to any individual  
21 within this state over the compulsory school attendance age, if  
22 that post-secondary educational institution is directly  
23 supported in whole or in part by state or local taxation.

24 B. The board of finance, as that term is defined in  
25 Section 6-10-9 NMSA 1978, for each of the educational

.190197.1

underscored material = new  
[bracketed material] = delete

1 institutions:

2 (1) shall adopt regulations governing the  
3 investment and distribution of endowment funds by the  
4 institution's board of finance, which regulations shall provide  
5 at least for:

6 (a) the application of the standard of  
7 loyalty described in Section 45-7-606 NMSA 1978 and the Uniform  
8 Prudent Management of Institutional Funds Act;

9 (b) the appointment of an investment  
10 advisory committee made up of individuals having demonstrated  
11 experience and skill in the field of the investment of  
12 endowment funds; and

13 (c) the development of a comprehensive  
14 investment policy for the investment of endowment funds by the  
15 institution, with the advice and upon the recommendation of the  
16 investment committee, including equity investments for economic  
17 development in New Mexico pursuant to Subsection D of Section  
18 14 of Article 9 of the constitution of New Mexico; and

19 (2) may employ an institutional endowment  
20 funds investment manager and delegate to the manager the power  
21 to make purchases, sales, exchanges, investments and  
22 reinvestments of endowment funds."

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING A SECTION OF CHAPTER 21  
NMSA 1978 TO PROVIDE FOR CONDITIONS FOR FACULTY TENURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 21-1-7.3 NMSA 1978 (being Laws 1995,  
Chapter 150, Section 3) is amended to read:

"21-1-7.3. [~~TEMPORARY PROVISIONS~~] TENURE [~~STUDY~~].--The  
boards of regents of all state baccalaureate degree-granting  
educational institutions shall study the options, advantages  
and disadvantages of developing a procedure for granting tenure  
based [~~solely~~] on a faculty member's:

A. teaching ability;

B. scholarship;

C. community service; and

D. entrepreneurial or commercialization

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

activities."

- 2 -

.190195.2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING A NEW SECTION OF THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE FOR A HYDROGEN FUEL PRODUCTION CORPORATE INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] HYDROGEN FUEL PRODUCTION CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return may claim the hydrogen fuel production corporate income tax credit if the taxpayer holds title to a qualified hydrogen fuel or hydrogen resource generator that first produced and sold hydrogen on or before January 1, 2019.

B. The tax credit provided in this section may be

.190108.1

underscored material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 referred to as the "hydrogen fuel production corporate income  
2 tax credit". The purpose of the hydrogen fuel production  
3 corporate income tax credit is to stimulate the production and  
4 sale of hydrogen as a renewable fuel and energy source.

5 C. The tax credit provided in this section shall  
6 not be claimed as an addition to the renewable energy  
7 production tax credit pursuant to Section 7-2-18.18 or 7-2A-19  
8 NMSA 1978.

9 D. The amount of the tax credit shall equal the  
10 cost of generating the hydrogen but shall not exceed one dollar  
11 (\$1.00) per kilogram of the first four million kilograms of  
12 hydrogen fuel produced and sold by the qualified hydrogen fuel  
13 or hydrogen resource generator in the taxable year.

14 E. A taxpayer eligible for a hydrogen fuel  
15 production corporate income tax credit shall be eligible for  
16 the tax credit for five consecutive years, beginning on the  
17 date the qualified hydrogen fuel or hydrogen resource generator  
18 begins producing hydrogen. Any portion of the tax credit  
19 allowed pursuant to this section that remains unused at the end  
20 of the taxpayer's taxable year may be carried forward for five  
21 consecutive years.

22 F. No later than October 30 of each year, the  
23 department shall compile a report in regard to the hydrogen  
24 fuel production corporate income tax credit provided pursuant  
25 to the Corporate Income and Franchise Tax Act for the revenue

.190108.1

underscored material = new  
~~[bracketed material] = delete~~

1 stabilization and tax policy committee that includes:

2 (1) the number of people applying for a  
3 hydrogen fuel production corporate income tax credit;

4 (2) the number and amount of hydrogen fuel  
5 production corporate income tax credits allowed;

6 (3) the number of new jobs created in New  
7 Mexico in the taxable year by construction and installation of  
8 hydrogen fuel or resource systems, the level of production of  
9 hydrogen fuel by qualified hydrogen fuel or hydrogen resource  
10 generators claiming the tax credit and the total production  
11 level in the state;

12 (4) the number of people employed in the  
13 generation of hydrogen for fuel and the average and median  
14 wages of those employed; and

15 (5) any other data or information deemed  
16 necessary by the department to aid the committee in determining  
17 the impact of the hydrogen fuel production corporate income tax  
18 credit.

19 G. Notwithstanding any other section of law to the  
20 contrary, the department may reveal to the revenue  
21 stabilization and tax policy committee the number of applicants  
22 seeking hydrogen fuel production corporate income tax credits  
23 pursuant to this section and the amount of each tax credit  
24 approved.

25 H. The revenue stabilization and tax policy

.190108.1

underscored material = new  
[bracketed material] = delete

1 committee shall review the impact of the hydrogen fuel  
2 production corporate income tax credit every five years  
3 beginning in 2015.

4 I. Acceptance by a person of a hydrogen fuel  
5 production corporate income tax credit pursuant to this section  
6 is authorization by the person receiving the credit for the  
7 department to reveal information to the legislature necessary  
8 to analyze the impact of the tax credit on state revenues.

9 J. As used in this section, "qualified hydrogen  
10 fuel or hydrogen resource generator" means a hydrogen fuel  
11 generator or hydrogen resource generator that is certified by  
12 the taxation and revenue department, pursuant to information  
13 from the energy, minerals and natural resources department, to  
14 use renewably powered thermolysis or electrolysis such as that  
15 which is:

- 16 (1) solar-light-derived;
- 17 (2) solar-heat-derived;
- 18 (3) plasma-derived;
- 19 (4) wind-derived;
- 20 (5) hydroelectric-derived; or
- 21 (6) geothermal-derived."

22 SECTION 2. APPLICABILITY.--The provisions of this act  
23 apply to taxable years beginning on or after January 1, 2013.

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE  
AND THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO UTILITIES; ENACTING A NEW SECTION OF THE PUBLIC  
UTILITY ACT TO PROVIDE FOR A PUBLIC UTILITY, INCLUDING A  
GENERATION AND TRANSMISSION COOPERATIVE, TO HAVE FIRST RIGHT TO  
CONSTRUCT, OWN AND MAINTAIN CERTAIN TRANSMISSION FACILITIES  
APPROVED FOR CONSTRUCTION BY A FEDERALLY REGISTERED REGIONAL  
TRANSMISSION PLANNING AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public Utility Act is  
enacted to read:

"[NEW MATERIAL] TRANSMISSION RIGHT OF FIRST REFUSAL BY  
PUBLIC UTILITY.--

A. An electric transmission line that has been  
approved for construction by a federally registered regional  
transmission planning authority shall be built by the public

1 utility that the transmission line is interconnecting with if  
2 that public utility is willing and able to construct, own and  
3 maintain the approved transmission line. If the transmission  
4 line has been approved for construction by a federally  
5 registered regional transmission planning authority, the public  
6 utility, in its sole discretion, may give notice to the  
7 commission, in writing, within one hundred twenty days of  
8 approval by the federally registered regional transmission  
9 planning authority, of its intent to construct, own and  
10 maintain the approved transmission line. If no notice is  
11 provided within the one-hundred-twenty-day period, the public  
12 utility shall surrender its first right to construct, own and  
13 maintain the approved transmission line.

14 B. As used in this section:

15 (1) "electric transmission line" means an  
16 electric transmission line and associated facilities designed  
17 for or capable of operations at a nominal voltage of one  
18 hundred fifteen kilovolts or more that will interconnect with  
19 transmission lines owned or operated by a public utility; and

20 (2) "public utility" has the meaning defined  
21 in Subsection G of Section 62-3-3 NMSA 1978 and, for the  
22 purposes of this section, includes a generation and  
23 transmission cooperative as defined in Subsection E of Section  
24 62-6-4 NMSA 1978."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO PUBLIC LANDS; AMENDING SECTIONS OF THE GEOTHERMAL RESOURCES ACT TO PROVIDE FOR CONDITIONS OF LEASES OF GEOTHERMAL RESOURCES TO SUSTAIN THE RESOURCE AND FOR TERMS BASED ON FAIR MARKET VALUE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 19-13-2 NMSA 1978 (being Laws 1967, Chapter 158, Section 2) is amended to read:

"19-13-2. DEFINITIONS.--As used in the Geothermal Resources Act:

A. "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees, or the energy in whatever form below the surface of the earth present in, resulting from, ~~[or]~~ created by or which may be extracted from this natural heat in excess of two hundred fifty degrees, and

.190309.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 all minerals in solution or other products obtained from  
2 naturally heated fluids, brines, associated gases and steam in  
3 whatever form found below the surface of the earth, but  
4 excluding oil, hydrocarbon gas and other hydrocarbon substances  
5 and excluding the heating and cooling capacity of the earth not  
6 resulting from the natural heat of the earth in excess of two  
7 hundred fifty degrees, as may be used for the heating and  
8 cooling of buildings through an on-site geexchange heat pump  
9 or similar on-site system;

10 B. "commissioner" means the commissioner of public  
11 lands;

12 C. "state lands" includes all land owned by the  
13 state, all land owned by school districts, beds of navigable  
14 rivers and lakes, submerged lands and lands in which mineral  
15 rights have been reserved to the state;

16 D. "lease" means a lease for the extraction and  
17 removal of geothermal resources from state lands; and

18 E. "well" means any well for the discovery of  
19 geothermal resources or any well on lands producing geothermal  
20 resources or reasonably presumed to contain geothermal  
21 resources."

22 SECTION 2. Section 19-13-3 NMSA 1978 (being Laws 1967,  
23 Chapter 158, Section 3) is amended to read:

24 "19-13-3. ADMINISTRATION OF ACT.--Administration of the  
25 Geothermal Resources Act shall be based on the principle of

.190309.1

underscored material = new  
[bracketed material] = delete

1 multiple use of state land and resources and shall allow  
2 coexistence of other leases on the same lands for deposits of  
3 other minerals, and the existence of leases issued pursuant to  
4 the Geothermal Resources Act shall not preclude other uses of  
5 the land covered thereby. Geothermal resources may be  
6 administered as a renewable energy resource, in which case any  
7 leases for and regulations of a geothermal resource as a  
8 renewable energy resource shall require that the geothermal  
9 resource not be diminished beneath applicable natural seasonal  
10 fluctuations in the measurable quantity, quality or temperature  
11 of any area classified as a known geothermal resources field.

12 However, operations under other leases or for other uses shall  
13 not unreasonably interfere with or endanger operations under  
14 any lease issued pursuant to the Geothermal Resources Act, nor  
15 shall operations under leases issued pursuant to the Geothermal  
16 Resources Act unreasonably interfere with or endanger  
17 operations under any lease issued pursuant to any other law.

18 The Geothermal Resources Act shall not be construed to  
19 supersede the authority ~~[which]~~ that any state department or  
20 agency has with respect to the management, protection and  
21 utilization of the state lands and resources under its  
22 jurisdiction."

23 SECTION 3. Section 19-13-7 NMSA 1978 (being Laws 1967,  
24 Chapter 158, Section 7, as amended) is amended to read:

25 "19-13-7. LEASES--TERMS--RENTALS AND ROYALTIES.--

.190309.1

underscored material = new  
[bracketed material] = delete

1           A. Each lease issued pursuant to the Geothermal  
2 Resources Act shall provide for the following base rentals  
3 [~~and~~], royalties and percentage rentals with respect to  
4 geothermal resources produced [~~saved and~~] or sold from the  
5 lands included within the lease:

6                   (1) a [~~royalty of ten percent, except as~~  
7 ~~provided in Paragraph (4) of this subsection, of the gross~~  
8 ~~revenue, exclusive of charges approved by the commissioner made~~  
9 ~~or incurred with respect to transmission or other services or~~  
10 ~~processes, received from the sale or use of steam, brines or~~  
11 ~~hot water from which no minerals have been extracted and~~  
12 ~~associated gases or any other form of heat or energy derived~~  
13 ~~from production under the lease at the point of delivery to the~~  
14 ~~purchaser thereof; provided, however, as to new leases issued~~  
15 ~~and old leases stipulated pursuant to Section 19-13-11.1 NMSA~~  
16 ~~1978 after the effective date of this act, which leases~~  
17 ~~embraced land then classified as being in a "known geothermal~~  
18 ~~resource field", the royalty shall be at a rate of not less~~  
19 ~~than ten percent nor more than fifteen percent, the exact~~  
20 ~~amount thereof to be set by the commissioner either by rule or~~  
21 ~~regulation or in the posted notice of sale required for the~~  
22 ~~sale of leases at public auction] base lease rent to be charged  
23 under each lease based upon fair market value at the time of  
24 leasing as determined by the commissioner;~~

25                   (2) a royalty or percentage rent to be charged

.190309.1

underscored material = new  
[bracketed material] = delete

1 as a percentage of gross revenue derived from the production,  
2 sale or use of geothermal resources, or the energy produced  
3 therefrom, under the lease as determined by the commissioner  
4 based on fair market value of the geothermal resource or use of  
5 the geothermal resource at the time of leasing. The  
6 commissioner may require an escalation of the royalty or  
7 percentage rent over time; and

8 [~~(2)~~] (3) a royalty of [~~not less than two~~  
9 ~~percent nor more than five percent of~~] the gross revenue  
10 received from the sale of mineral products or chemical  
11 compounds recovered from geothermal fluids [~~in the first~~  
12 ~~marketable form as to each such mineral product or chemical~~  
13 ~~compound for the primary term of the lease~~], if any, based on  
14 fair market value of the mineral product as determined by the  
15 commissioner, except that as to any by-product or minerals  
16 covered by other mineral leasing statutes administered by the  
17 commissioner or rules or regulations of the commissioner, the  
18 rate of royalty for such mineral or by-product shall be the  
19 same as the then-existing rate of royalty under leases  
20 currently being issued by the commissioner.

21 [~~(3)~~] ~~a royalty of eight percent of the net~~  
22 ~~revenue received from the operation of an energy-producing~~  
23 ~~plant on the leased land;~~

24 [~~(4)~~] ~~a royalty of not less than two percent nor~~  
25 ~~more than ten percent of the gross revenue received from the~~

.190309.1

underscored material = new  
[bracketed material] = delete

1 ~~operation of the geothermal resources for recreational, space~~  
2 ~~heating or health purposes;~~

3 ~~(5) an annual rental, payable in advance, of~~  
4 ~~one dollar (\$1.00) an acre or fraction thereof for each year of~~  
5 ~~the lease;~~

6 ~~(6) if, after the discovery of geothermal~~  
7 ~~resources in commercial quantities, the total royalties paid~~  
8 ~~during any calendar year do not equal or exceed a sum equal to~~  
9 ~~two dollars (\$2.00) an acre for each acre or fraction thereof~~  
10 ~~then included in the lease, the person holding the lease shall,~~  
11 ~~within sixty days after the end of the year, pay such sum as is~~  
12 ~~necessary to equal the minimum royalty of two dollars (\$2.00)~~  
13 ~~an acre;~~

14 ~~(7) the royalties specified pursuant to this~~  
15 ~~section shall be subject to renegotiation after twenty years~~  
16 ~~from the effective date of a lease and at ten-year intervals~~  
17 ~~thereafter; however, the new royalty rate shall not vary more~~  
18 ~~than fifty percent from the previous royalty rate, and in no~~  
19 ~~event shall the total royalty be less than five percent nor~~  
20 ~~more than twenty-two and one-half percent. At any time, upon~~  
21 ~~good cause shown, the commissioner may reduce the royalty on~~  
22 ~~any lease; and~~

23 ~~(8) except for royalties on minerals, royalties~~  
24 ~~and rentals may be negotiated at other rates than that provided~~  
25 ~~in this section where the surface has heretofore been sold with~~

.190309.1

underscored material = new  
[bracketed material] = delete

1 ~~minerals reserved; provided, however, a public hearing shall be~~  
2 ~~held thereon before any such rates are approved by the~~  
3 ~~commissioner.~~

4 ~~B. Royalty payments shall be made pursuant to~~  
5 ~~Paragraphs (1) and (2) of Subsection A of this section for all~~  
6 ~~geothermal resources used and not sold by a person holding a~~  
7 ~~lease, with the gross revenue therefrom to be determined as~~  
8 ~~though the geothermal resources had been sold to a third person~~  
9 ~~at the then-prevailing market price in the same market area and~~  
10 ~~under the same marketing conditions; provided, however, that no~~  
11 ~~royalties shall be payable for steam used by a person holding a~~  
12 ~~lease in the production of any geothermal resources subject to~~  
13 ~~the payment of royalties pursuant to Paragraphs (1) and (2) of~~  
14 ~~Subsection A of this section.~~

15 ~~G.]~~ B. The commissioner shall have the authority in  
16 leasing lands pursuant to the Geothermal Resources Act to  
17 prescribe a development program. In prescribing the program,  
18 the commissioner shall consider all applicable economic  
19 factors, including market conditions and the cost of drilling  
20 for, producing, processing and utilizing [of] geothermal  
21 resources."

22 SECTION 4. Section 19-13-11 NMSA 1978 (being Laws 1967,  
23 Chapter 158, Section 11, as amended) is amended to read:

24 "19-13-11. LEASES--DURATION.--

25 A. Any lease entered into pursuant to the Geothermal

.190309.1

underscored material = new  
[bracketed material] = delete

1 Resources Act shall be for a primary term of five years and so  
2 long thereafter as geothermal resources are being produced or  
3 utilized or are capable of being produced or utilized in  
4 commercial quantities from such lands or from lands unitized  
5 therewith, subject to continued payment of [~~annual~~] rentals as  
6 provided in Section 19-13-7 NMSA 1978. If the lessee fails to  
7 produce or utilize geothermal resources or to discover  
8 geothermal resources capable of being produced or utilized in  
9 commercial quantities from the lands or from lands unitized  
10 therewith during the initial five-year term, the lessee may  
11 continue the lease in full force and effect as to the portion  
12 held by [~~him~~] the lessee for a secondary term of five years and  
13 so long thereafter as geothermal resources are being produced  
14 or utilized or are capable of being produced or utilized in  
15 commercial quantities from such lands or from lands unitized  
16 therewith by continued payment each year, in advance, of  
17 [~~annual~~] rentals at the rate [~~of five dollars (\$5.00) per acre~~  
18 annually] set by the lease. Provided that if for any reason  
19 beyond the control of the lessee production or utilization of  
20 geothermal resources in commercial quantities [~~shall cease~~  
21 ceases or if the capability to so produce is temporarily lost  
22 after the secondary term has expired, the producing lessee may,  
23 with the written permission of the commissioner [~~of public~~  
24 lands], continue such lease as to the acreage held by [~~him~~] the  
25 lessee in effect from year to year for an additional period not

.190309.1

underscored material = new  
~~[bracketed material] = delete~~

1 to exceed three years by continued payment of [~~annual~~] rentals  
2 as provided in the lease at the rate provided in the secondary  
3 term of the lease.

4 B. If commercial production or capability of  
5 commercial production [~~be had~~] occurs during the primary term  
6 and thereafter ceases before the primary term would have  
7 expired, the lease shall be deemed to be a "nonproducing or  
8 incapable of producing lease" from that date, and the lessee  
9 shall have the unexpired portion of the primary term and any  
10 subsequent terms within which to resume such production or  
11 capability of production. If commercial production or  
12 capability of commercial production [~~is had~~] occurs during the  
13 primary term and ceases during the secondary term, the lease  
14 shall be deemed to be a "nonproducing or incapable of producing  
15 lease" from that date and, upon payment of rentals as provided  
16 in Subsection A of this section, the lessee shall have the  
17 unexpired portion of the secondary term within which to resume  
18 such production or capability of production. When such  
19 production or capability of production is resumed, the term of  
20 the lease shall continue so long thereafter as geothermal  
21 resources are being produced or utilized or are capable of  
22 being produced or utilized in commercial quantities from the  
23 leased land or from land unitized therewith. In such cases,  
24 the rental rate for the lease or the portion thereof shall be  
25 the rental rate provided in the term or portion of the term in

.190309.1

underscored material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

which such production or capability of production is resumed."

- 10 -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE GROSS RECEIPTS  
AND COMPENSATING TAX ACT TO CHANGE THE DEFINITIONS OF  
"QUALIFYING SOLAR PHOTOVOLTAIC ELECTRIC GENERATING FACILITY"  
AND "SOLAR THERMAL ELECTRIC GENERATING FACILITY" TO EXPAND THE  
ELIGIBILITY FOR THE ADVANCED ENERGY DEDUCTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-114 NMSA 1978 (being Laws 2010,  
Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1, as  
amended) is amended to read:

"7-9-114. ADVANCED ENERGY DEDUCTION--GROSS RECEIPTS AND  
COMPENSATING TAXES.--

A. Receipts from selling or leasing tangible personal  
property or services that are eligible generation plant costs  
to a person that holds an interest in a qualified generating

.190524.1

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
~~[bracketed material] = delete~~

1 facility may be deducted from gross receipts if the holder of  
2 the interest delivers an appropriate nontaxable transaction  
3 certificate to the seller or lessor. The department shall  
4 issue nontaxable transaction certificates to a person that  
5 holds an interest in a qualified generating facility upon  
6 presentation to the department of a certificate of eligibility  
7 obtained from the department of environment pursuant to  
8 Subsection G of this section for the deduction created in this  
9 section or a certificate of eligibility pursuant to Section 7-  
10 2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978. The deduction created in  
11 this section may be referred to as the "advanced energy  
12 deduction".

13 B. The purpose of the advanced energy deduction is to  
14 encourage the construction and development of qualified  
15 generating facilities in New Mexico and to sequester or control  
16 carbon dioxide emissions.

17 C. The value of eligible generation plant costs from  
18 the sale or lease of tangible personal property to a person  
19 that holds an interest in a qualified generating facility for  
20 which the department of environment has issued a certificate of  
21 eligibility pursuant to Subsection G of this section may be  
22 deducted in computing the compensating tax due.

23 D. The maximum tax benefit allowed for all eligible  
24 generation plant costs from a qualified generating facility  
25 shall be sixty million dollars (\$60,000,000) total for eligible

.190524.1

underscoring material = new  
~~[bracketed material]~~ = delete

1 generation plant costs deducted or claimed pursuant to this  
2 section or Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

3 E. Deductions taken pursuant to this section shall be  
4 reported separately on a form approved by the department. The  
5 nontaxable transaction certificates used to obtain tax-  
6 deductible tangible personal property or services shall display  
7 clearly a notice to the taxpayer that the deduction shall be  
8 reported separately from any other deductions claimed from  
9 gross receipts. A taxpayer deducting eligible generation plant  
10 costs from the costs on which compensating tax is imposed shall  
11 report those eligible generation plant costs that are being  
12 deducted.

13 F. The deductions allowed for a qualified generating  
14 facility pursuant to this section shall be available for a ten-  
15 year period for purchases and a twenty-five-year period for  
16 leases from the year development of the qualified generating  
17 facility begins and expenditures are made for which nontaxable  
18 transaction certificates authorized pursuant to this section  
19 are submitted to sellers or lessors for eligible generation  
20 plant costs or deductions from the costs on which compensating  
21 tax are calculated are first taken for eligible generation  
22 plant costs.

23 G. An entity that holds an interest in a qualified  
24 generating facility may request a certificate of eligibility  
25 from the department of environment to enable the requester to

.190524.1

underscored material = new  
~~[bracketed material] = delete~~

1 obtain a nontaxable transaction certificate for the advanced  
2 energy deduction. The department of environment shall:

3 (1) determine if the facility is a qualified  
4 generating facility;

5 (2) require that the requester provide the  
6 department of environment with the information necessary to  
7 assess whether the requester's facility meets the criteria to  
8 be a qualified generating facility;

9 (3) issue a certificate from sequentially  
10 numbered certificates to the requester stating that the  
11 facility is or is not a qualified generating facility within  
12 one hundred eighty days after receiving all information  
13 necessary to make a determination;

14 (4) issue:

15 (a) rules governing the procedures for  
16 administering the provisions of this subsection; and

17 (b) a schedule of fees in which no fee  
18 exceeds one hundred fifty thousand dollars (\$150,000);

19 (5) deposit fees collected pursuant to this  
20 subsection in the state air quality permit fund created  
21 pursuant to Section 74-2-15 NMSA 1978; and

22 (6) report annually to the appropriate interim  
23 legislative committee information that will allow the  
24 legislative committee to analyze the effectiveness of the  
25 advanced energy deduction, including the identity of qualified

.190524.1

underscored material = new  
~~[bracketed material] = delete~~

1 generating facilities, the energy production means used, the  
2 amount of emissions identified in this section reduced and  
3 removed by those qualified generating facilities and whether  
4 any requests for certificates of eligibility could not be  
5 approved due to program limits.

6 H. The economic development department shall keep a  
7 record of temporary and permanent jobs at all qualified  
8 generating facilities in New Mexico. The economic development  
9 department and the taxation and revenue department shall  
10 measure the amount of state revenue that is attributable to  
11 activity at each qualified generating facility in New Mexico.  
12 The economic development department shall coordinate with the  
13 department of environment to report annually to the appropriate  
14 interim legislative committee on the effectiveness of the  
15 advanced energy deduction. A taxpayer who claims an advanced  
16 energy deduction shall provide the economic development  
17 department, the department of environment and the taxation and  
18 revenue department with the information required to compile the  
19 report required by this section. Notwithstanding any other  
20 section of law to the contrary, the economic development  
21 department, the department of environment and the taxation and  
22 revenue department may disclose the number of applicants for  
23 the advanced energy deduction, the amount of the deduction  
24 approved, the number of employees of the taxpayer and any other  
25 information required by the legislature or the taxation and

.190524.1

underscored material = new  
~~[bracketed material] = delete~~

1 revenue department to aid in evaluating the effectiveness of  
2 that deduction.

3 I. If the department of environment issues a  
4 certificate of eligibility to a taxpayer stating that the  
5 taxpayer holds an interest in a qualified generating facility  
6 and the taxpayer does not sequester or control carbon dioxide  
7 emissions to the extent required by this section by the later  
8 of January 1, 2017 or eighteen months after the commercial  
9 operation date of the qualified generating facility, the  
10 taxpayer's certification as a qualified generating facility  
11 shall be revoked by the department of environment and the  
12 taxpayer shall repay to the state tax deductions granted  
13 pursuant to this section; provided that, if the taxpayer  
14 demonstrates to the department of environment that the taxpayer  
15 made every effort to sequester or control carbon dioxide  
16 emissions to the extent feasible and the facility's inability  
17 to meet the sequestration requirements of a qualified  
18 generating facility was beyond the facility's control, the  
19 department of environment shall determine, after a public  
20 hearing, the amount of tax deduction that should be repaid to  
21 the state. The department of environment, in its  
22 determination, shall consider the environmental performance of  
23 the facility and the extent to which the inability to meet the  
24 sequestration requirements of a qualified generating facility  
25 was in the control of the taxpayer. The repayment as

.190524.1

underscored material = new  
[bracketed material] = delete

1 determined by the department of environment shall be paid  
2 within one hundred eighty days following a final order by the  
3 department of environment.

4 J. The advanced energy deduction allowed pursuant to  
5 this section shall not be claimed for the same qualified  
6 expenses for which a taxpayer claims a credit pursuant to  
7 Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction  
8 pursuant to Section 7-9-54.3 NMSA 1978.

9 K. An appropriate legislative committee shall review  
10 the effectiveness of the advanced energy deduction every four  
11 years beginning in 2015.

12 L. As used in this section:

13 (1) "coal-based electric generating facility"  
14 means a new or repowered generating facility and an associated  
15 coal gasification facility, if any, that uses coal to generate  
16 electricity and that meets the following specifications:

17 (a) emits the lesser of: 1) what is  
18 achievable with the best available control technology; or 2)  
19 thirty-five thousandths pound per million British thermal units  
20 of sulfur dioxide, twenty-five thousandths pound per million  
21 British thermal units of oxides of nitrogen and one hundredth  
22 pound per million British thermal units of total particulate in  
23 the flue gas;

24 (b) removes the greater of: 1) what is  
25 achievable with the best available control technology; or 2)

.190524.1

underscored material = new  
[bracketed material] = delete

1 ninety percent of the mercury from the input fuel;

2 (c) captures and sequesters or controls  
3 carbon dioxide emissions so that by the later of January 1,  
4 2017 or eighteen months after the commercial operation date of  
5 the coal-based electric generating facility, no more than one  
6 thousand one hundred pounds per megawatt-hour of carbon dioxide  
7 is emitted into the atmosphere;

8 (d) all infrastructure required for  
9 sequestration is in place by the later of January 1, 2017 or  
10 eighteen months after the commercial operation date of the  
11 coal-based electric generating facility;

12 (e) includes methods and procedures to  
13 monitor the disposition of the carbon dioxide captured and  
14 sequestered from the coal-based electric generating facility;  
15 and

16 (f) does not exceed a name-plate capacity of  
17 seven hundred net megawatts;

18 (2) "eligible generation plant costs" means  
19 expenditures for the development and construction of a  
20 qualified generating facility, including permitting; lease  
21 payments; site characterization and assessment; engineering;  
22 design; carbon dioxide capture, treatment, compression,  
23 transportation and sequestration; site and equipment  
24 acquisition; and fuel supply development used directly and  
25 exclusively in a qualified generating facility;

.190524.1

underscoring material = new  
~~[bracketed material] = delete~~

1                   (3) "entity" means an individual, estate, trust,  
2 receiver, cooperative association, club, corporation, company,  
3 firm, partnership, limited liability company, limited liability  
4 partnership, joint venture, syndicate or other association or a  
5 gas, water or electric utility owned or operated by a county or  
6 municipality;

7                   (4) "geothermal electric generating facility"  
8 means a facility with a name-plate capacity of one megawatt or  
9 more that uses geothermal energy to generate electricity,  
10 including a facility that captures and provides geothermal  
11 energy to a preexisting electric generating facility using  
12 other fuels in part;

13                   (5) "interest in a qualified generating  
14 facility" means title to a qualified generating facility; a  
15 lessee's interest in a qualified generating facility; and a  
16 county or municipality's interest in a qualified generating  
17 facility when the county or municipality issues an industrial  
18 revenue bond for construction of the qualified generating  
19 facility;

20                   (6) "name-plate capacity" means the maximum  
21 rated output of the facility measured as alternating current or  
22 the equivalent direct current measurement;

23                   (7) "qualified generating facility" means a  
24 facility that begins construction not later than December 31,  
25 2015 and is:

.190524.1

underscored material = new  
~~[bracketed material] = delete~~

1 (a) a solar thermal electric generating  
2 facility that begins construction on or after July 1, 2010 and  
3 that may include an associated renewable energy storage  
4 facility;

5 (b) a solar photovoltaic electric generating  
6 facility that begins construction on or after July 1, 2010 and  
7 that may include an associated renewable energy storage  
8 facility;

9 (c) a geothermal electric generating  
10 facility that begins construction on or after July 1, 2010;

11 (d) a recycled energy project if that  
12 facility begins construction on or after July 1, 2010; or

13 (e) a new or repowered coal-based electric  
14 generating facility and an associated coal gasification  
15 facility;

16 (8) "recycled energy" means energy produced by a  
17 generation unit with a name-plate capacity of not more than  
18 fifteen megawatts that converts the otherwise lost energy from  
19 the exhaust stacks or pipes to electricity without combustion  
20 of additional fossil fuel;

21 (9) "sequester" means to store, or chemically  
22 convert, carbon dioxide in a manner that prevents its release  
23 into the atmosphere and may include the use of geologic  
24 formations and enhanced oil, coaled methane or natural gas  
25 recovery techniques;

.190524.1

underscoring material = new  
~~[bracketed material] = delete~~

1                   (10) "solar photovoltaic electric generating  
2 facility" means an electric generating facility [~~with a name-~~  
3 ~~plate capacity of one megawatt or more~~] that uses solar  
4 photovoltaic energy to generate electricity; and

5                   (11) "solar thermal electric generating  
6 facility" means an electric generating facility [~~with a name-~~  
7 ~~plate capacity of one megawatt or more~~] that uses solar thermal  
8 energy to generate electricity, including a facility that  
9 captures and provides solar thermal energy to a preexisting  
10 electric generating facility using other fuels in part."

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE AND THE  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO RURAL TELECOMMUNICATIONS; AMENDING THE RURAL  
TELECOMMUNICATIONS ACT OF NEW MEXICO TO AMEND REGULATION OF  
INCUMBENT RURAL TELECOMMUNICATIONS CARRIERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 63-9H-1 NMSA 1978 (being Laws 1999,  
Chapter 295, Section 1) is amended to read:

"63-9H-1. SHORT TITLE.--~~[This act]~~ Chapter 63, Article 9H  
NMSA 1978 may be cited as the "Rural Telecommunications Act of  
New Mexico".

**SECTION 2.** Section 63-9H-3 NMSA 1978 (being Laws 1999,  
Chapter 295, Section 3) is amended to read:

"63-9H-3. DEFINITIONS.--As used in the Rural  
Telecommunications Act of New Mexico:

A. "affordable rates" means rates for basic service

underscoring material = new  
~~[bracketed material] = delete~~

1 that promote universal service within a local exchange service  
2 area, giving consideration to the economic conditions and costs  
3 to provide service in the area in which service is provided;

4 B. "basic service" means service that is provided to  
5 a rural end-user customer that is consistent with the federal  
6 act;

7 C. "cable service" means the transmission to  
8 subscribers of video programming or other programming service  
9 and subscriber interaction, if any, that is required for the  
10 selection or use of the video programming or other programming  
11 service;

12 D. "commission" means the public regulation  
13 commission;

14 E. "eligible telecommunications carrier" means an  
15 eligible telecommunications carrier as defined in the federal  
16 act;

17 F. "federal act" means the federal Telecommunications  
18 Act of 1996;

19 G. "fund" means the state rural universal service  
20 fund;

21 H. "incumbent local exchange carrier" means a person  
22 that:

23 (1) was designated as an eligible  
24 telecommunications carrier by the state corporation commission  
25 in Docket #97-93-TC by order dated October 23, 1997, or that

.190500.3

underscored material = new  
[bracketed material] = delete

1 provided local exchange service in this state on February 8,  
2 1996; or

3 (2) became a successor or assignee of an  
4 incumbent local exchange carrier;

5 I. "incumbent rural telecommunications carrier" means  
6 [a] an incumbent local exchange carrier that serves fewer than  
7 fifty thousand access lines within the state and [~~was~~] has been  
8 designated as an eligible telecommunications carrier by the  
9 state corporation commission [~~on or before November 1, 1997,~~  
10 ~~including any successor in interest thereto~~] or the public  
11 regulations commission;

12 J. "local exchange area" means a geographic area  
13 encompassing one or more local communities, as described in  
14 maps, tariffs or rate schedules filed with the commission,  
15 where local exchange rates apply;

16 K. "local exchange service" means the transmission of  
17 two-way interactive switched voice communications furnished by  
18 a telecommunications carrier within a local exchange area;

19 L. "long distance service" means telecommunications  
20 service between local exchange areas that originate and  
21 terminate within the state;

22 M. "private telecommunications service" means a  
23 system, including its construction, maintenance or operation  
24 for the provision of telecommunications service, or any portion  
25 of that service, by a person for the sole and exclusive use of

.190500.3

underscoring material = new  
~~[bracketed material] = delete~~

1 that person and not for resale, directly or indirectly. For  
2 purposes of this definition, the person that may use the  
3 service includes any affiliates of the person if at least  
4 eighty percent of the assets or voting stock of the affiliates  
5 is owned by the person. If any other person uses the  
6 telecommunications service, whether for hire or not, the  
7 private telecommunications service is a public  
8 telecommunications service;

9 N. "public telecommunications service" means the  
10 transmission of signs, signals, writings, images, sounds,  
11 messages, data or other information of any nature by wire,  
12 radio, lightwaves or other electromagnetic means originating  
13 and terminating in this state regardless of actual call  
14 routing. "Public telecommunications service" does not include  
15 the provision of terminal equipment used to originate or  
16 terminate the service; private telecommunications service;  
17 broadcast transmissions by radio, television and satellite  
18 broadcast stations regulated by the federal communications  
19 commission; radio common carrier services, including mobile  
20 telephone service and radio paging; or cable service; and

21 O. "telecommunications carrier" means a person that  
22 provides public telecommunications service."

23 SECTION 3. Section 63-9H-4 NMSA 1978 (being Laws 1999,  
24 Chapter 295, Section 4) is amended to read:

25 "63-9H-4. REGULATION BY COMMISSION.--

.190500.3

underscored material = new  
[bracketed material] = delete

1           A. Except as otherwise provided in the Rural  
2 Telecommunications Act of New Mexico or the federal act, each  
3 public telecommunications service is declared to be affected  
4 with the public interest and, as such, subject to the  
5 provisions of those acts, including the regulation thereof as  
6 provided in those acts.

7           B. The commission has exclusive jurisdiction to  
8 regulate incumbent rural telecommunications carriers only in  
9 the manner and to the extent authorized by the Rural  
10 Telecommunications Act of New Mexico, and Section 63-7-1.1 NMSA  
11 1978 does not apply; provided, however, that the commission's  
12 jurisdiction includes the regulation of wholesale rates,  
13 including access charges and interconnection agreements  
14 consistent with federal law and its enforcement and a  
15 determination of participation in low-income telephone service  
16 assistance programs pursuant to the Low Income Telephone  
17 Service Assistance Act.

18           C. The commission shall adopt rules consistent with  
19 the requirement for relaxed regulation for incumbent rural  
20 telecommunications carriers set forth in the Rural  
21 Telecommunications Act of New Mexico that provide for:

22                   (1) reduced filing requirements for applicants  
23 in rate increase proceedings under the Rural Telecommunications  
24 Act of New Mexico and proceedings under that act seeking  
25 payments from the fund; and

.190500.3

1                   (2) expedited consideration in all proceedings  
2 initiated pursuant to the Rural Telecommunications Act of New  
3 Mexico in order to reduce the cost and burden for incumbent  
4 rural telecommunications carriers."

5           SECTION 4. Section 63-9H-6 NMSA 1978 (being Laws 1999,  
6 Chapter 295, Section 6, as amended) is amended to read:

7           "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--  
8 ESTABLISHMENT.--

9           A. No later than January 1, 2000, the commission  
10 shall implement a "state rural universal service fund" to  
11 maintain and support at affordable rates those public  
12 telecommunications services as are determined by the  
13 commission. All of the balances in the existing New Mexico  
14 universal service fund as of July 1, 1999 shall be transferred  
15 into the state rural universal service fund.

16           B. The fund shall be financed by a surcharge on  
17 intrastate retail public telecommunications services to be  
18 determined by the commission, excluding services provided  
19 pursuant to a low-income telephone assistance plan billed to  
20 end-user customers by a telecommunications carrier, and  
21 excluding all amounts from surcharges, gross receipts taxes,  
22 excise taxes, franchise fees and similar charges. For the  
23 purpose of funding the fund, the commission has the authority  
24 to apply the surcharge on intrastate retail public  
25 telecommunications services provided by telecommunications

.190500.3

underscoring material = new  
~~[bracketed material] = delete~~

1 carriers and to comparable retail alternative services provided  
2 by telecommunications carriers, including commercial mobile  
3 radio services, at a competitively and technologically neutral  
4 rate or rates to be determined by the commission. In  
5 prescribing competitively and technologically neutral surcharge  
6 rates, the commission may make distinctions between services  
7 subject to a surcharge, but it shall require all carriers  
8 subject to the surcharge to apply uniform surcharge rates for  
9 the same or comparable services. Money deposited in the fund  
10 is not public money, and the administration of the fund is not  
11 subject to the provisions of law regulating public funds. The  
12 commission shall not apply this surcharge to a private  
13 telecommunications network; to the state, a county, a  
14 municipality or other governmental entity; to a public school  
15 district; to a public institution of higher education; or to an  
16 Indian nation, tribe or pueblo.

17 C. The fund shall be competitively and  
18 technologically neutral, equitable and nondiscriminatory in its  
19 collection and distribution of funds, portable between eligible  
20 telecommunications carriers and additionally shall provide a  
21 specific, predictable and sufficient support mechanism as  
22 determined by the commission that reduces intrastate switched  
23 access charges to interstate switched access charge levels in a  
24 revenue-neutral manner and ensures universal service in the  
25 state.

.190500.3

underscored material = new  
~~[bracketed material] = delete~~

1 D. The commission shall:

2 (1) establish eligibility criteria for  
3 participation in the fund consistent with federal law that  
4 ensure the availability of service at affordable rates. The  
5 eligibility criteria shall not restrict or limit an eligible  
6 telecommunications carrier from receiving federal universal  
7 service support;

8 (2) provide for the collection of the  
9 surcharge on a competitively neutral basis and for the  
10 administration and disbursement of money from the fund;

11 (3) determine those services requiring support  
12 from the fund;

13 (4) provide for the separate administration  
14 and disbursement of federal universal service funds consistent  
15 with federal law; and

16 (5) establish affordability benchmark rates  
17 for local residential and business services that shall be  
18 utilized in determining the level of support from the fund.  
19 The process for determining subsequent adjustments to the  
20 benchmark shall be established through a rulemaking.

21 E. All incumbent telecommunications carriers and  
22 competitive carriers already designated as eligible  
23 telecommunications carriers for the fund shall be eligible for  
24 participation in the fund. All other carriers that choose to  
25 become eligible to receive support from the fund may petition

.190500.3

underscoring material = new  
~~[bracketed material] = delete~~

1 the commission to be designated as an eligible  
2 telecommunications carrier for the fund. The commission may  
3 grant eligible carrier status to a competitive carrier in a  
4 rural area upon a finding that granting the application is in  
5 the public interest. In making a public interest finding, the  
6 commission shall consider at least the following items:

7 (1) whether granting eligible carrier status  
8 to multiple carriers in a designated area is likely to result  
9 in more customer choice;

10 (2) the impact of designation of an additional  
11 eligible carrier on the size of the fund;

12 (3) the unique advantages and disadvantages of  
13 the competitor's service offering;

14 (4) any commitments made regarding the quality  
15 of telephone service; and

16 (5) the competitive carrier's willingness and  
17 ability to offer service throughout the designated service  
18 areas within a reasonable time frame.

19 F. The commission shall adopt rules, including a  
20 provision for variances, for the implementation and  
21 administration of the fund in accordance with the provisions of  
22 this section no later than November 1, 2005.

23 G. The commission shall, upon implementation of the  
24 fund, select a neutral third party administrator to collect,  
25 administer and disburse money from the fund under the

.190500.3

underscoring material = new  
~~[bracketed material] = delete~~

1 supervision and control of the commission pursuant to  
2 established criteria and rules promulgated by the commission.  
3 The administrator may be reasonably compensated for the  
4 specified services from the surcharge proceeds to be received  
5 by the fund pursuant to Subsection B of this section. For  
6 purposes of this subsection, the commission shall not be a  
7 neutral third party administrator.

8 H. The fund established by the commission shall  
9 ensure the availability of local telecommunications service as  
10 determined by the commission at affordable rates in rural high  
11 cost areas of the state.

12 I. Beginning April 1, 2006, the commission shall  
13 commence the phase-in of reductions in intrastate switched  
14 access charges. By May 1, 2008, the commission shall ensure  
15 that intrastate switched access charges are equal to interstate  
16 switched access charges established by the federal  
17 communications commission as of January 1, 2006. Nothing in  
18 this section shall preclude the commission from considering  
19 further adjustments to intrastate switched access charges based  
20 on changes to interstate switched access charges after May 1,  
21 2008.

22 J. To ensure that providers of intrastate retail  
23 communications service contribute to the fund and to further  
24 ensure that the surcharge to be paid by the end-user customer  
25 will be held to a minimum, no later than November 1, 2005, the

.190500.3

underscored material = new  
[bracketed material] = delete

1 commission shall adopt rules, or take other appropriate action,  
2 to require all such providers to participate in a plan to  
3 ensure accurate reporting.

4 K. The commission shall authorize payments from the  
5 fund to incumbent local exchange carriers in combination with  
6 revenue-neutral rate rebalancing up to the affordability  
7 benchmark rates, in an amount equal to the reduction in  
8 revenues that occurs as a result of reduced intrastate switched  
9 access charges. The commission shall determine the methodology  
10 to be used to authorize payments to all other carriers that  
11 apply for and receive eligible carrier status. Any reductions  
12 in charges for access services resulting from compliance with  
13 this section shall be passed on for the benefit of consumers in  
14 New Mexico.

15 L. ~~[In a rate proceeding filed pursuant to~~  
16 ~~Subsection F of Section 63-9H-7 NMSA 1978]~~ The commission may  
17 also authorize payments from the fund to incumbent rural  
18 telecommunications carriers serving in high-cost areas of the  
19 state ~~[that have reduced access charges]~~ upon a finding by the  
20 commission that such payments are needed to ensure the  
21 widespread availability and affordability of residential local  
22 exchange service. The commission shall decide cases filed  
23 pursuant to this subsection with reasonable promptness, with or  
24 without a hearing, but no later than six months following the  
25 filing of an application seeking payments from the fund.

.190500.3

underscored material = new  
[bracketed material] = delete

1 M. By December 1, 2008, the fund administrator  
2 shall make a report to the commission and the legislature. The  
3 report shall include the effects of access reductions. The  
4 report shall also make recommendations for any changes to the  
5 structure, size or purposes of the fund."

6 SECTION 5. Section 63-9H-7 NMSA 1978 (being Laws 1999,  
7 Chapter 295, Section 7, as amended) is amended to read:

8 "63-9H-7. REGULATION OF RETAIL RATES OF INCUMBENT RURAL  
9 TELECOMMUNICATIONS CARRIER.--

10 A. Rates for retail rural public telecommunications  
11 services provided by an incumbent rural telecommunications  
12 carrier shall be subject to regulation by the commission only  
13 in the manner and to the extent authorized by this section.

14 B. An incumbent rural telecommunications carrier  
15 shall file tariffs for all retail public telecommunications  
16 services that, other than residential local exchange service,  
17 [~~which~~] shall be effective after ten days' notice to its  
18 customers and the commission [~~and publication in a local~~  
19 ~~newspaper in the incumbent service area~~]. An incumbent rural  
20 telecommunications carrier shall remain subject to complaint by  
21 an interested party subject to Section 63-9H-10 NMSA 1978.

22 C. An incumbent rural telecommunications carrier  
23 may increase its rates for residential local exchange service  
24 in the manner provided in Subsection B of this section to  
25 comply with requirements imposed by any federal or state law or

underscored material = new  
[bracketed material] = delete

1 rule. The procedures of Subsections D, E and F of this section  
2 shall not apply to increases under this subsection.

3 D. Except as provided in Subsection C of this  
4 section, rates for residential local exchange service may be  
5 increased by an incumbent rural telecommunications carrier only  
6 after sixty days' notice to all affected subscribers. The  
7 notice of increase shall include:

8 (1) the reasons for the rate increase;

9 (2) a description of the affected service;

10 (3) an explanation of the right of the  
11 subscriber to petition the commission for a public hearing on  
12 the rate increase;

13 (4) a list of local exchange areas that are  
14 affected by the proposed rate increase; and

15 (5) the dates, times and places for the public  
16 informational meetings required by this section.

17 ~~[D. An incumbent rural telecommunications carrier~~  
18 ~~may increase its rates for residential local exchange service~~  
19 ~~in the manner otherwise provided in this section as necessary~~  
20 ~~to recover a reasonable allocation of costs incurred due to~~  
21 ~~requirements imposed by any federal or state law or rule.]~~

22 E. An incumbent rural telecommunications carrier  
23 that proposes to increase its rates for residential local  
24 exchange service pursuant to Subsection D of this section shall  
25 hold at least one public informational meeting in each public

.190500.3

underscored material = new  
[bracketed material] = delete

1 regulation commissioner's district as established by the Public  
2 Regulation Commission Apportionment Act in which there is a  
3 local exchange area affected by the rate change.

4 ~~[E.]~~ F. Residential local exchange service rates  
5 increased by an incumbent rural telecommunications carrier  
6 pursuant to ~~[Subsection]~~ Subsections D and E of this section  
7 shall be reviewed by the commission only upon written protest  
8 signed by two and one-half percent of all affected subscribers  
9 ~~[or upon the commission staff's own motion for good cause].~~  
10 The protest shall specifically set forth the particular rate or  
11 charge as to which review is requested, the reasons for the  
12 requested review and the relief that the persons protesting  
13 desire. If a proper protest is presented to the commission  
14 within sixty days from the date notice of the rate change was  
15 sent to affected subscribers of an incumbent rural  
16 telecommunications carrier, the commission may accept and file  
17 the complaint and, upon proper notice, may suspend the rates at  
18 issue during the pendency of the proceedings and reinstate the  
19 rates previously in effect and shall hold and complete a  
20 hearing thereon within ninety days after filing to determine if  
21 the rates as proposed are fair, just and reasonable. The  
22 commission may, within sixty days after close of the hearing,  
23 enter an order adjusting the rates at issue, except that the  
24 commission shall not set any rate below the intrastate cost of  
25 providing the service, which shall include the cost methodology

.190500.3

underscored material = new  
[bracketed material] = delete

1 and rate of return authorized by the federal communications  
2 commission. In the order, the commission may order a refund of  
3 amounts collected in excess of the rates and charges as  
4 approved at the hearing, which may be paid as a credit against  
5 billings for future services. If the complaint is denied, the  
6 commission shall enter an order denying the complaint within  
7 sixty days after the close of the hearing, and the rates shall  
8 be deemed approved. For purposes of this section, cost shall  
9 also include a reasonable amount of joint and common costs  
10 incurred by the telecommunications carrier in its operations  
11 and may include other accounting adjustments authorized by the  
12 commission.

13 ~~[F.]~~ G. An incumbent rural telecommunications  
14 carrier ~~[that serves less than five percent of the state's~~  
15 ~~aggregate statewide subscriber lines]~~ may at any time elect to  
16 file an application with the commission requesting the  
17 commission to prescribe fair, just and reasonable rates for the  
18 carrier ~~[based on the carrier's revenue, expenses and~~  
19 ~~investment in accordance with traditional rate-making~~  
20 ~~principles]~~ in a manner consistent with the policy calling for  
21 relaxed regulation of incumbent rural telecommunications  
22 carriers expressed in Section 63-9H-2 NMSA 1978 and Subsection  
23 C of Section 63-9H-4 NMSA 1978. The commission shall decide  
24 cases filed under this subsection with reasonable promptness  
25 but no later than nine months following the filing of an

.190500.3

underscored material = new  
[bracketed material] = delete

1 application, unless the commission finds that a longer time  
2 will be required, in which case the commission may extend the  
3 period for an additional three months.

4           [~~G.~~] H. Rates for local exchange, vertical and long  
5 distance service to retail end-user customers may be reduced to  
6 a level equal to, but not below, the intrastate cost, which  
7 shall include the cost methodology and rate of return  
8 authorized by the federal communications commission. If an  
9 incumbent rural telecommunications carrier loses its exemption  
10 pursuant to Section 251 of the federal act, the rate for a  
11 service, excluding basic service, must cover the cost of the  
12 service, including the imputed rate of wholesale service  
13 elements as may be required by the commission. The cost of  
14 long distance service must also include any interexchange  
15 access rates charged to another telecommunications carrier for  
16 the service.

17           [~~H.~~] I. An incumbent rural telecommunications  
18 carrier operating pursuant to this section shall have the  
19 ability to offer or discontinue offering special incentives,  
20 discounts, packaged offerings, temporary rate waivers or other  
21 promotions, or to offer individual contracts."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE AND THE  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE UTILITY AND  
CARRIER INSPECTION FEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 63-7-20 NMSA 1978 (being Laws 1951,  
Chapter 194, Section 1, as amended) is amended to read:

"63-7-20. UTILITY AND CARRIER INSPECTION--FEE.--

A. Each utility and carrier doing business in this  
state ~~[which]~~ that is subject to the ~~[control and]~~ jurisdiction  
of the commission ~~[by virtue of the provisions of Article 11 of  
the constitution of New Mexico with respect to its rates and  
service]~~ shall pay annually to the commission a fee in  
performance of its duties as now provided by law. The fee for  
carriers shall not exceed two hundred fifty-six thousandths  
percent of its gross receipts from business transacted in New

.190501.3

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 Mexico for the preceding calendar year. The fee for utilities  
2 shall not exceed five hundred eleven thousandths percent of its  
3 gross receipts from business transacted in New Mexico for the  
4 preceding calendar year. This sum shall be payable annually on  
5 or before April 1 in each year. No similar fee shall be  
6 imposed upon the utility or carrier. In the case of utilities  
7 or carriers engaged in interstate business, the fees shall be  
8 measured by the gross receipts of the utilities or carriers  
9 from intrastate business only for the preceding calendar year  
10 and not in any respect upon receipts derived wholly or in part  
11 from interstate business. As used in this section, "utility"  
12 includes [~~telephone companies and transmission companies~~]  
13 telecommunications providers, including any telephone company,  
14 telecommunications transmission company, commercial mobile  
15 radio services company, other provider of comparable  
16 alternative services or pay telephone provider regulated in  
17 whole or in part by the commission under law, but "utility"  
18 does not include public utilities subject to the Public Utility  
19 Act.

20 B. When a fee is not paid on the date it is due,  
21 interest shall be paid to the state on the amount due. The  
22 interest on the amount due shall start to accrue on the day  
23 following the due date and shall continue to accrue until the  
24 total amount due is paid. The rate of interest on a late fee  
25 payment shall be fifteen percent per year, computed at the rate

.190501.3

underscoring material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

of one and one-fourth percent per month.

C. In addition to any interest due on a late fee payment, a penalty shall be paid to the state for failure to pay the fee when it is due. The penalty imposed shall be two percent of the amount of the fee due.

D. The attorney general, in the name of the state, shall bring suit to collect fees, interest and penalties that remain unpaid."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; CREATING THE STATE GRADUATE EMPLOYMENT TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] STATE GRADUATE EMPLOYMENT TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is the owner of a New Mexico sole proprietorship, partnership or limited liability company may claim a credit in an amount equal to five thousand dollars (\$5,000) of the gross wages paid to each qualified state graduate who is employed full time in New Mexico by the taxpayer for at least seven

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 months during the first taxable year for which the return is  
2 filed and for twelve months during the second taxable year for  
3 which the return is filed. The tax credit provided by this  
4 section may be referred to as the "state graduate employment  
5 tax credit".

6 B. The purpose of the state graduate employment tax  
7 credit is to encourage the full-time employment of qualified  
8 state graduates within eighteen months of graduation from one  
9 of the state educational institutions enumerated in Article 12,  
10 Section 11 of the constitution of New Mexico.

11 C. A taxpayer who is the owner of a New Mexico sole  
12 proprietorship, partnership or limited liability company may  
13 claim the state graduate employment tax credit provided in this  
14 section for each taxable year in which the taxpayer employs one  
15 or more qualified state graduates; provided that the taxpayer  
16 may not claim the state graduate employment tax credit for any  
17 individual qualified state graduate for more than two taxable  
18 years or if the qualified state graduate upon whom the credit  
19 is predicated is replacing or performing the job or functional  
20 equivalent of a previous qualified state graduate who is no  
21 longer employed by the taxpayer. A taxpayer shall apply for  
22 approval for a credit within one year following the end of the  
23 calendar year in which the taxpayer employs the qualified state  
24 graduate upon whom the credit is predicated.

25 D. That portion of a state graduate employment tax

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1 credit approved by the department that exceeds a taxpayer's  
2 income tax liability in the taxable year in which the state  
3 graduate employment tax credit is claimed shall not be refunded  
4 to the taxpayer. The state graduate employment tax credit  
5 shall not be carried forward or transferred to another  
6 taxpayer.

7 E. A husband and wife filing separate returns for a  
8 taxable year for which they could have filed a joint return may  
9 each claim only one-half of the state graduate employment tax  
10 credit that would have been claimed on a joint return.

11 F. A taxpayer who otherwise qualifies and claims a  
12 state graduate employment tax credit in New Mexico that may be  
13 claimed by a partnership or limited liability company of which  
14 the taxpayer is a member may claim a credit only in proportion  
15 to the taxpayer's interest in the partnership or limited  
16 liability company. The total credit claimed by all members of  
17 the partnership or limited liability company shall not exceed  
18 the allowable credit pursuant to Subsection A of this section.

19 G. The taxpayer shall submit to the higher  
20 education department with respect to each employee for whom the  
21 state graduate employment tax credit is claimed:

22 (1) information required by the secretary of  
23 higher education with respect to the employee's employment by  
24 the taxpayer during the taxable year for which the state  
25 graduate employment tax credit is claimed; and

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1                   (2) information required by the secretary of  
2 higher education establishing that the employee is a qualified  
3 state graduate and was not also employed in the same taxable  
4 year by another taxpayer claiming a state graduate employment  
5 tax credit for that employee pursuant to this section or the  
6 Corporate Income and Franchise Tax Act.

7                   H. The higher education department shall adopt  
8 rules establishing procedures to certify qualified state  
9 graduates for purposes of obtaining a state graduate employment  
10 tax credit. The rules shall ensure that not more than one  
11 state graduate employment tax credit per qualified state  
12 graduate shall be allowed in a taxable year and that the  
13 credits allowed per qualified state graduate are limited to a  
14 maximum of two years. The higher education department shall  
15 issue a dated certificate of eligibility containing a list of  
16 the qualified state graduates employed by the taxpayer claiming  
17 the state graduate employment tax credit, including identifying  
18 information such as the social security number of the employee,  
19 the date of graduation and the name of the state educational  
20 institution from which the employee graduated, the date of  
21 employment of the employee by the taxpayer and the number of  
22 hours worked per week by the employee. All certificates of  
23 eligibility issued pursuant to this subsection shall be  
24 sequentially numbered, and an account of all certificates  
25 issued or destroyed shall be maintained by the higher education

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1 department. The taxation and revenue department shall audit  
2 the records of the state graduate employment tax credit  
3 maintained by the higher education department on a periodic  
4 basis to ensure effective administration of the state graduate  
5 employment tax credit and compliance with the Tax  
6 Administration Act and this section.

7 I. To claim a state graduate employment tax credit,  
8 the taxpayer shall provide to the taxation and revenue  
9 department the certificate of eligibility issued by the higher  
10 education department pursuant to this section to the taxpayer  
11 for the taxable year for which the state graduate employment  
12 tax credit is claimed.

13 J. A taxpayer who claims and is granted approval  
14 for the state graduate employment tax credit shall not apply  
15 for or be granted approval for the rural job tax credit, the  
16 high-wage jobs tax credit or the additional credit pursuant to  
17 the Technology Jobs Tax Credit Act.

18 K. The department may allow a maximum annual  
19 aggregate of two million dollars (\$2,000,000) in state graduate  
20 employment tax credits provided by this section and the  
21 Corporate Income and Franchise Tax Act. Applications for the  
22 state graduate employment tax credit shall be considered in the  
23 order received by the department.

24 L. The department shall compile an annual report  
25 that includes the number of taxpayers approved by the

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1 department to receive a state graduate employment tax credit.  
2 Notwithstanding any other section of law to the contrary, the  
3 department and the higher education department may disclose the  
4 number of applicants for the state graduate employment tax  
5 credit, the amount of each credit approved, the number of  
6 qualified state graduates hired, the length of time that the  
7 qualified state graduate is employed while the taxpayer  
8 received the state graduate employment tax credit and any other  
9 information required by the legislature or the taxation and  
10 revenue department to aid in evaluating the effectiveness of  
11 the state graduate employment tax credit.

12 M. An appropriate legislative committee shall  
13 review the effectiveness of the state graduate employment tax  
14 credit every four years beginning in 2017.

15 N. As used in this section:

16 (1) "benefits" means any employee benefit plan  
17 as defined in Title 1, Section 3 of the federal Employee  
18 Retirement Income Security Act of 1974, 29 U.S.C. 1002; and

19 (2) "qualified state graduate" means an  
20 individual who:  
21 (a) is a New Mexico resident;  
22 (b) files an individual New Mexico  
23 income tax return;  
24 (c) is hired prior to June 1, 2018 and  
25 within eighteen months of graduation from one of the state

underscored material = new  
[bracketed material] = delete

1 educational institutions of higher learning enumerated in  
2 Article 12, Section 11 of the constitution of New Mexico;

3 (d) completed a post-secondary graduate  
4 master's or professional degree within three years or, if part-  
5 time, within the credit equivalent, or a doctoral degree within  
6 six years or, if part-time, within the credit equivalent, in  
7 the discipline of physical or life sciences, technology,  
8 engineering, mathematics or a health-related field; and

9 (e) receives benefits and works at least  
10 forty hours per week for at least seven months during the first  
11 taxable year and for twelve months during the second taxable  
12 year for which the state graduate employment tax credit is  
13 claimed."

14 SECTION 2. A new section of the Corporate Income and  
15 Franchise Tax Act is enacted to read:

16 "[NEW MATERIAL] STATE GRADUATE EMPLOYMENT TAX CREDIT.--

17 A. A taxpayer that is a New Mexico corporation and  
18 that files a corporate income tax return may claim a credit in  
19 an amount equal to five thousand dollars (\$5,000) of the gross  
20 wages paid to each qualified state graduate who is employed  
21 full time in New Mexico by the taxpayer for at least seven  
22 months during the first taxable year for which the return is  
23 filed and for twelve months during the second taxable year for  
24 which the return is filed. The tax credit provided by this  
25 section may be referred to as the "state graduate employment

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1 tax credit".

2 B. The purpose of the state graduate employment tax  
3 credit is to encourage the full-time employment of qualified  
4 state graduates within eighteen months of graduation from one  
5 of the state educational institutions enumerated in Article 12,  
6 Section 11 of the constitution of New Mexico.

7 C. A taxpayer may claim the state graduate  
8 employment tax credit provided in this section for each taxable  
9 year in which the taxpayer employs one or more qualified state  
10 graduates; provided that the taxpayer may not claim the state  
11 graduate employment tax credit for any individual qualified  
12 state graduate for more than two calendar years from the date  
13 of hire or if the qualified state graduate upon whom the credit  
14 is predicated is replacing or performing the job or functional  
15 equivalent of a previous qualified state graduate who is no  
16 longer employed by the taxpayer. A taxpayer shall apply for  
17 approval for a credit within one year following the end of the  
18 calendar year in which the taxpayer employs the qualified state  
19 graduate upon whom the credit is predicated.

20 D. That portion of a state graduate employment tax  
21 credit approved by the department that exceeds a taxpayer's  
22 corporate income tax liability in the taxable year in which the  
23 credit is claimed shall not be refunded to the taxpayer. The  
24 state graduate employment tax credit shall not be carried  
25 forward or transferred to another taxpayer.

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1           E. The taxpayer shall submit to the higher  
2 education department with respect to each employee for whom the  
3 state graduate employment tax credit is claimed:

4           (1) information required by the secretary of  
5 higher education with respect to the employee's employment by  
6 the taxpayer during the taxable year for which the state  
7 graduate employment tax credit is claimed; and

8           (2) information required by the secretary of  
9 higher education establishing that the employee is a qualified  
10 state graduate and was not also employed in the same taxable  
11 year by another taxpayer claiming a state graduate employment  
12 tax credit for that employee pursuant to this section or the  
13 Income Tax Act.

14           F. The higher education department shall adopt  
15 rules establishing procedures to certify qualified state  
16 graduates for purposes of obtaining a state graduate employment  
17 tax credit. The rules shall ensure that not more than one  
18 state graduate employment tax credit per qualified state  
19 graduate shall be allowed in a taxable year and that the  
20 credits allowed per qualified state graduate are limited to a  
21 maximum of two years. The higher education department shall  
22 issue a dated certificate of eligibility containing a list of  
23 the qualified state graduates employed by the taxpayer claiming  
24 the state graduate employment tax credit, including identifying  
25 information such as the social security number of the employee,

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1 the date of graduation and the name of the state educational  
2 institution from which the employee graduated, the date of  
3 employment of the employee by the taxpayer and the number of  
4 hours worked per week by the employee. All certificates of  
5 eligibility issued pursuant to this subsection shall be  
6 sequentially numbered, and an account of all certificates  
7 issued or destroyed shall be maintained by the higher education  
8 department. The taxation and revenue department shall audit  
9 the records of the state graduate employment tax credit  
10 maintained by the higher education department on a periodic  
11 basis to ensure effective administration of the state graduate  
12 employment tax credit and compliance with the Tax  
13 Administration Act and this section.

14 G. To claim a state graduate employment tax credit,  
15 the taxpayer shall provide to the taxation and revenue  
16 department the certificate of eligibility issued by the higher  
17 education department pursuant to this section to the taxpayer  
18 for the taxable year for which the state graduate employment  
19 tax credit is claimed.

20 H. A taxpayer that claims and is granted approval  
21 for the state graduate employment tax credit shall not apply  
22 for or be granted approval for the rural job tax credit, the  
23 high-wage jobs tax credit or the additional credit pursuant to  
24 the Technology Jobs Tax Credit Act.

25 I. The department may allow a maximum annual

.190295.1

underscoring material = new  
~~[bracketed material] = delete~~

1 aggregate of two million dollars (\$2,000,000) in state graduate  
2 employment tax credits provided by this section and the Income  
3 Tax Act. Applications for the state graduate employment tax  
4 credit shall be considered in the order received by the  
5 department.

6 J. The department shall compile an annual report  
7 that includes the number of taxpayers approved by the  
8 department to receive a state graduate employment tax credit.  
9 Notwithstanding any other section of law to the contrary, the  
10 department and the higher education department may disclose the  
11 number of applicants for the state graduate employment tax  
12 credit, the amount of each credit approved, the number of  
13 qualified state graduates hired, the length of time that the  
14 qualified state graduate is employed while the taxpayer  
15 received the tax credit and any other information required by  
16 the legislature or the taxation and revenue department to aid  
17 in evaluating the effectiveness of the state graduate  
18 employment tax credit.

19 K. An appropriate legislative committee shall  
20 review the effectiveness of the state graduate employment tax  
21 credit every four years beginning in 2017.

22 L. As used in this section:

23 (1) "benefits" means any employee benefit plan  
24 as defined in Title 1, Section 3 of the federal Employee  
25 Retirement Income Security Act of 1974, 29 U.S.C. 1002; and

.190295.1

underscored material = new  
[bracketed material] = delete

- 1                   (2) "qualified state graduate" means an  
2 individual who:  
3                   (a) is a New Mexico resident;  
4                   (b) files an individual New Mexico  
5 income tax return;  
6                   (c) is hired prior to June 1, 2018 and  
7 within eighteen months of graduation from one of the state  
8 educational institutions of higher learning enumerated in  
9 Article 12, Section 11 of the constitution of New Mexico;  
10                   (d) completed a post-secondary graduate  
11 master's or professional degree within three years or, if part-  
12 time, within the credit equivalent, or a doctoral degree within  
13 six years or, if part-time, within the credit equivalent, in  
14 the discipline of physical or life sciences, technology,  
15 engineering, mathematics or a health-related field; and  
16                   (e) receives benefits and works at least  
17 forty hours per week for at least seven months during the first  
18 taxable year and twelve months during the second taxable year  
19 for which the state graduate employment tax credit is claimed."

20                   **SECTION 3. APPLICABILITY.**--The provisions of this act  
21 apply to taxable years beginning on or after January 1, 2013.

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE  
AND THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR A DEDUCTION OF GROSS  
RECEIPTS OF SALES TO A PERSON ENGAGED IN TECHNOLOGY TRANSFER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Gross Receipts and  
Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ DEDUCTION--GROSS RECEIPTS TAX--SALES TO  
PERSONS ENGAGED IN TECHNOLOGY TRANSFERS.--

A. Receipts from selling tangible personal property  
that is used in converting scientific and technological  
advances into marketable goods or services may be deducted from  
gross receipts if the sale is made to a person who is engaged  
in the business of transferring technology during the first  
three years of operations and who delivers a nontaxable  
transaction certificate to the seller. The buyer delivering

.190530.1

underscoring material = new  
~~[bracketed material] = delete~~

1 the nontaxable transaction certificate must use the tangible  
2 personal property to begin operations to develop or create or  
3 in the development or creation of a product.

4 B. The purpose of the deduction provided in this  
5 section is to encourage businesses in the technology  
6 commercialization industry to locate and expand in New Mexico.

7 C. The department shall annually report to the  
8 revenue stabilization and tax policy committee the aggregate  
9 amount of deductions taken pursuant to this section, the number  
10 of taxpayers claiming the deduction and any other information  
11 that is necessary to determine that the deduction is performing  
12 the purpose for which it was enacted.

13 D. A taxpayer deducting gross receipts pursuant to  
14 this section shall report the amount deducted separately for  
15 each deduction provided in this section and shall attribute the  
16 amount of the deduction to the appropriate authorization  
17 provided in this section in a manner required by the department  
18 that facilitates the evaluation by the legislature of the  
19 benefit to the state of these deductions."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE  
AND THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR A CREDIT OF GROSS RECEIPTS  
TAX DUE EQUAL TO FIFTY PERCENT OF CONTRIBUTIONS TO AN ELIGIBLE  
ENDOWMENT FUND OF A FOUR-YEAR PUBLIC POST-SECONDARY EDUCATIONAL  
INSTITUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** A new section of the Gross Receipts and  
Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ CREDIT--GROSS RECEIPTS TAX--TECHNOLOGY  
COMMERCIALIZATION FUNDING.--

A. A taxpayer may claim a credit against gross  
receipts tax due in an amount equal to fifty percent of a  
contribution made to an eligible endowment fund of a New Mexico  
four-year public post-secondary educational institution that  
promotes the commercialization of licensed technology conceived

underscored material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 in a New Mexico four-year public post-secondary educational  
2 institution or federal scientific and engineering laboratory or  
3 test facility located in New Mexico.

4 B. A taxpayer eligible for the tax credit pursuant  
5 to this section may claim the amount of each tax credit by  
6 crediting that amount against gross receipts taxes otherwise  
7 due pursuant to the Gross Receipts and Compensating Tax Act.  
8 The total amount of the tax credit shall be divided by twelve  
9 and taken on each monthly gross receipts tax return filed by  
10 the taxpayer against gross receipts taxes due the state for  
11 twelve consecutive months after the date of contribution. In  
12 no event shall the tax credits taken by an individual taxpayer  
13 exceed five hundred thousand dollars (\$500,000) in a given  
14 calendar year. The department may allow a maximum annual  
15 aggregate of two million dollars (\$2,000,000) in tax credits  
16 provided pursuant to this section. Claims for the tax credit  
17 shall be considered in the order received by the department. A  
18 taxpayer who submits a claim for a tax credit and who is unable  
19 to receive the tax credit because the claims exceed the annual  
20 aggregate limitation in this subsection shall be placed for the  
21 subsequent year ahead of the other taxpayers submitting claims  
22 in the subsequent year in the order of the date on which the  
23 department received the claim.

24 C. An educational institution that receives a  
25 contribution to an eligible endowment fund shall certify to the

.190531.1

underscoring material = new  
~~[bracketed material] = delete~~

1 department the use of money in the fund, the amount of  
2 contribution to the fund and the taxpayer who made the  
3 contribution. The department shall administer the credit  
4 provided pursuant to this section.

5 D. The purpose of the tax credit provided by this  
6 section is to provide an incentive for the technology  
7 commercialization industry to locate and expand in New Mexico.

8 E. On an annual basis starting in fiscal year 2018,  
9 an educational institution that receives a contribution to an  
10 eligible endowment fund shall report to the legislative finance  
11 committee, which shall evaluate and report to the appropriate  
12 legislative interim committee, on the uses of and expenditures  
13 from the fund, including:

14 (1) the number of faculty recruited and  
15 retained;

16 (2) a description of any collaboration among  
17 the universities and between the universities funded by the  
18 fund and other institutions, agencies, entities or persons;

19 (3) a description of current and projected  
20 technology research, development and commercialization and  
21 patent applications, and their economic impact;

22 (4) an analysis of current and projected job  
23 creation and industry incubation and growth; and

24 (5) any other information that the legislative  
25 finance committee deems appropriate or as requested by the

.190531.1

underscored material = new  
~~[bracketed material] = delete~~

1 appropriate legislative interim committee.

2 F. As used in this section, "eligible endowment  
3 fund" means an endowment fund of a New Mexico four-year public  
4 post-secondary educational institution for which money in the  
5 fund is primarily used to:

6 (1) develop and maintain collaboration  
7 agreements with universities or federal laboratories or  
8 research, development, testing and evaluating facilities to  
9 facilitate the transfer and commercialization of technology  
10 licensed or conceived in a New Mexico four-year public  
11 post-secondary educational institution or federal scientific  
12 and engineering laboratory or test facility located in New  
13 Mexico;

14 (2) promote and market federal and state  
15 technology commercialization programs;

16 (3) advise, assist, promote and develop  
17 business relating to technology commercialization or  
18 technology-based new business; or

19 (4) develop early market demand that will  
20 advance the commercialization and widespread application of  
21 technology licensed or conceived in a New Mexico four-year  
22 public post-secondary educational institution or federal  
23 scientific and engineering laboratory or test facility located  
24 in New Mexico."

25 SECTION 2. APPLICABILITY.--The provisions of this act

.190531.1

underscoring material = new  
~~[bracketed material]~~ = delete

1 apply to contributions made on or after July 1, 2013 and  
2 applied to gross receipts tax returns filed on or after August  
3 1, 2013.

4 SECTION 3. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2013.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO SANTA FE COMMUNITY COLLEGE TO FUND A  
SMART GRID WORKFORCE TRAINING PROGRAM AND A MICROGRID  
INNOVATION LABORATORY, RESEARCH PARK AND TESTING CENTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. APPROPRIATION.**--One million dollars  
(\$1,000,000) is appropriated from the general fund to the  
higher education department for expenditure in fiscal year 2014  
for the Santa Fe community college training center corporation  
to design and develop a smart grid workforce training program  
and a microgrid innovation laboratory, research park and  
testing center. Any unexpended or unencumbered balance  
remaining at the end of fiscal year 2014 shall revert to the  
general fund.

.190018.1

underscored material = new  
~~[bracketed material] = delete~~